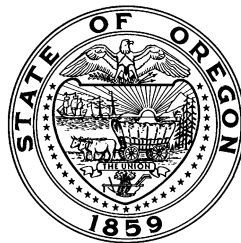


# OREGON BULLETIN

Supplements the 2003 *Oregon Administrative Rules Compilation*

**Volume 42, No. 7**  
**July 1, 2003**

For May 16, 2003–June 13, 2003



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**BILL BRADBURY**  
Secretary of State  
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# INFORMATION AND PUBLICATION SCHEDULE

## General Information

The Administrative Rules Unit, Archives Division, Secretary of State publishes the *Oregon Administrative Rules Compilation* and the *Oregon Bulletin*. The Oregon Administrative Rules Compilation is an annual publication containing the complete text of the Oregon Administrative Rules at the time of publication. The *Oregon Bulletin* is a monthly publication which updates rule text found in the annual compilation and provides notice of intended rule action, Executive Orders of the Governor and Opinions of the Attorney General.

## Background on Oregon Administrative Rules

The *Oregon Attorney General's Administrative Law Manual* defines "rule" to include "directives, standards, regulations or statements of general applicability that implement, interpret or prescribe law or policy or describe the agency's procedure or practice requirements." ORS 183.310(8) Agencies may adopt, amend, repeal or renumber rules, permanently or temporarily (180 days), using the procedures outlined in the *Oregon Attorney General's Administrative Law Manual*. The Administrative Rules Unit, Archives Division, Secretary of State assists agencies with the notification, filing and publication requirements of the administrative rules process. Every Administrative Rule uses the same numbering sequence of a 3 digit agency chapter number followed by a 3 digit division number and ending with a 4 digit rule number. (000-000-0000)

## How to Cite

Citation of the Oregon Administrative Rules is made by chapter and rule number. Example: Oregon Administrative Rules, chapter 164, rule 164-001-0005 (short form: OAR 164-001-0005).

## Understanding an Administrative Rule's "History"

State agencies operate in a dynamic environment of ever-changing laws, public concerns and legislative mandates which necessitate ongoing rulemaking. To track the changes to individual rules, and organize the rule filing forms for permanent retention, the Administrative Rules Unit has developed a "history" for each rule which is located at the end of rule text. An Administrative Rule "history" outlines the statutory authority, statutes being implemented and dates of each authorized modification to the rule text. Changes are listed in chronological order and identify the agency, filing number, year, filing date and effective date in an abbreviated format. For example: "OSA 4-1993, f. & cert. ef. 11-10-93; Renumbered from 164-001-0005" documents a rule change made by the Oregon State Archives (OSA). The history notes that this was the 4th filing from the Archives in 1993, it was filed on November 10, 1993 and the rule changes became effective on the same date. The rule was renumbered by this rule change and was formerly known as rule 164-001-0005. The most recent change to each rule is listed at the end of the "history."

## Locating the Most Recent Version of an Administrative Rule

The annual, bound *Oregon Administrative Rules Compilation* contains the full text of all permanent rules filed through November 15 of the previous year. Subsequent changes to individual rules are listed in the OAR Revision Cumulative Index which is published monthly in the *Oregon Bulletin*. Changes to individual Administrative rules are listed in the OAR Revision Cumulative Index by OAR number and include the effective date, the specific rulemaking action and the issue of the *Oregon Bulletin* which contains the full text of the amended rule. The *Oregon Bulletin* publishes the full text of permanent and temporary administrative rules submitted for publication.

## Locating Administrative Rules Unit Publications

The Oregon Administrative Rules Compilation and the Oregon Bulletin are available in electronic and printed formats. Electronic versions are available through the Oregon State Archives Website at <http://arcweb.sos.state.or.us> Printed copies of these publications are deposited in Oregon's Public Documents Depository Libraries listed in OAR 543-070-0000 and may be ordered by contacting: Administrative Rules Unit, Oregon State Archives, 800 Summer Street NE, Salem, OR 97310, (503) 373-0701 - ext. 240, Julie.A.Yamaka@state.or.us

## 2002-2003 Oregon Bulletin Publication Schedule

The Administrative Rule Unit accepts rulemaking notices and filings Monday through Friday 8:00 a.m. to 5:00 p.m. at the Oregon State Archives, 800 Summer Street NE, Salem, Oregon 97310. To expedite the rulemaking process agencies are encouraged to set the time and place for a hearing in the Notice of Proposed Rulemaking, and submit their filings early in the month to meet the following publication deadlines.

## Submission Deadline — Publishing Date

December 13, 2002	January 1, 2003
January 15, 2003	February 1, 2003
February 14, 2003	March 1, 2003
March 14, 2003	April 1, 2003
April 15, 2003	May 1, 2003
May 15, 2003	June 1, 2003
June 13, 2003	July 1, 2003
July 15, 2003	August 1, 2003
August 15, 2003	September 1, 2003
September 15, 2003	October 1, 2003
October 15, 2003	November 1, 2003
November 14, 2003	December 1, 2003

## Reminder for Agency Rules Coordinators

Each agency that engages in rulemaking must appoint a rules coordinator and file an "Appointment of Agency Rules Coordinator" form, ARC 910-1997, with the Administrative Rules Unit, Archives Division, Secretary of State. Agencies which delegate rulemaking authority to an officer or employee within the agency must also file a "Delegation of Rulemaking Authority" form, ARC 915-1997. It is the agency's responsibility to monitor the rulemaking authority of selected employees and to keep the appropriate forms updated. The Administrative Rules Unit does not verify agency signatures as part of the rulemaking process. Forms ARC 910-1997 and ARC 915-1997 are available from the Administrative Rules Unit, Archives Division, Secretary of State, 800 Summer Street NE, Salem, Oregon 97310.

## Publication Authority

The *Oregon Bulletin* is published pursuant to ORS 183.360(3). Copies of the complete text of permanent and temporary rules may be obtained from the adopting agency or from the Secretary of State, Archives Division, 800 Summer Street, Salem, Oregon, 97310; (503) 373-0701.

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# EXECUTIVE ORDERS

## EXECUTIVE ORDER NO. EO 03-03

### A SUSTAINABLE OREGON FOR THE 21ST CENTURY

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

While Oregon's economy is in distress, it has many assets: natural resources, a clean environment, extensive telecommunications and traditional infrastructure, and an educated and skilled workforce.

Oregon's economic recovery will be aided by establishing a commitment to lasting solutions that simultaneously address economic, environmental and community well-being. We should not continue to trade one essential aspect of well-being off against another, but we should take actions that will sustain Oregon's assets and put Oregon on the path to long-term prosperity in all aspects of life.

Sustainability is doing business with an eye to the triple bottom line — economy, community and environment. Oregon state government must define sustainability, produce goals within state government to achieve sustainability, identify challenges to achieving sustainability and measure our performance based on sustainability.

This executive order is intended to support and drive the goals of the Oregon Sustainability Act (Act) adopted by the Legislature in 2001. Using the powers vested in the Oregon Sustainability Board under the Act, this Order directs the Board and state employees to move us closer to a more "sustainable" state.

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

#### Board Actions

In accordance with the Oregon Sustainability Act (Act), ORS 184.423, Sections 2(5) and 3, the Oregon Sustainability Board (Board) is directed to manage and carry out this Order. To do so, it shall:

1. Constitute and convene a Sustainability Leadership Team ("Team") to provide recommendations to the Board and to manage and deliver Board directives to state agencies as approved by the Board. The Team shall be chaired by the Director appointed by the Board pursuant to Section 7 of the Act, or, in her or his absence, the Director of the Department of Administrative Services (DAS), and shall consist of the following members: the Director of DAS, the Chair of the Board, the Director of the Office of Energy, the Governor's Sustainability Advisor, the Director of the Economic and Community Development Department, the Director of the Oregon Progress Board, the Governor's Natural Resources Advisor, the Director of the Department of Housing and Community Services, and such other members as may be requested by the Board from time to time. The Team shall review, revise and recommend for Board approval the Plans prepared by each Agency Sustainability Coordinator as directed under this Order. Pursuant to its authority under the Act, the Board may request additional agencies to provide similar Plans from time to time, or request other actions consistent with its authority under the Act.

2. Within 90 days of this Order, the Team shall deliver to the Board for its review and approval written guidance ("Sustainability Guidance") to state agencies regarding each agency's actions to comply with this Order. To the extent possible, the Team will seek expertise outside state government to assist in the development of the Sustainability Guidance. The Sustainability Guidance shall include the following:

- 2.1 a working definition of sustainability for state agencies to guide their actions;
- 2.2 suggested strategies for achieving greater sustainability;
- 2.3 a policy directive for economic, social and environmental sustainability that counts for resource constraints and similar financial variables;
- 2.4 performance standards, targets and evaluation methods to determine agency compliance;
- 2.5 identification of key leverage points within and outside state government to enhance sustainability;
- 2.6 identification of cross-agency programs that intersect with sustainability goals;
- 2.7 state agency reporting protocols;
- 2.8 a means to assess the financial impact of proposed actions on state expenditures;
- 2.9 a directive to develop partnerships with other government and private entities;
- 2.10 identification of outreach programs to promote practices endorsed in this Order;
- 2.11 identification of training and staff development methods;
- 2.12 identification of potential incentives and acknowledgement for agencies that exceed performance expectations;
- 2.13 a directive that each state agency develop Implementation Plans ("Plans") to comply with these Sustaining Guidelines and any other directive on sustainability from the Board; and
- 2.14 any other guidance to enable state agencies to carry out this Order and sustainability directives from the Board.

3. Pursuant to Section 3 of the Act, the Board shall develop cooperative programs that involve local government, non-profit entities and private industry to achieve the objectives of the Act and this Order.

4. Under the direction of the Board, DAS shall update and maintain the current Oregon Solutions webpage.

5. Under the direction of the Board, the Economic and Community Development Department shall provide staff assistance for meeting scheduling, notification and drafting of documents for an Interagency Sustainability Network ("Network"). The Network shall be an informal forum of state agency personnel, including the Team and each Sustainability Coordinator, whose purpose is exchanging information and developing new approaches on sustainability among state agencies. State agencies should participate in the Network to the extent needed to support this Order. The Network forum will convene periodically to suggest recommendations to the Board on ways to enhance sustainability in Oregon through modification to the Sustainability Guidance, legislation, and other means.

6. The Board shall recommend for the Governor's approval by December 1, 2003, and after approval for dispersal to all agencies through the Oregon Advisory Committee on Government Performance and Accountability, changes in performance management to better incorporate sustainability into the state's management practices. These recommendations shall include but are not limited to: performance standards for agencies, performance measurement and internal audit standards.

## EXECUTIVE ORDERS

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7. The Board shall provide guidance to state agencies on how to apply and support the Governor's Oregon Solutions and Community Solutions systems for community-based action to achieve the ten community objectives listed in ORS 184.423 (2).

### State Agency Actions

1. Within 90 days of the date of this Order, the director of the agencies identified in paragraph 3 below, shall designate a senior manager within each such agency as the agency's sustainability coordinator ("Sustainability Coordinator"). The Sustainability Coordinator is responsible for the agency's compliance with this Order.

2. Within 90 days of the Board's issuance of the Sustainability Guidance, each Sustainability Coordinator shall prepare a plan to implement such guidance and submit the plan to the Board ("Plan"). The agency's Plan shall include appropriate performance measures, and a strategy for meeting the Sustainability Guidance that is incorporated into the agency's 2- and 6-year strategic plans as well as the agency's biennial budget submission to DAS, as appropriate.

3. In accordance with ORS 184.423 Section 2 (5), the following agencies shall each develop and implement a Plan as described above in paragraph 1.: Administrative Services, Economic and Community Development, Environmental Quality, Land Conservation and Development, Housing, Forestry, Energy, Transportation, Progress Board, Agriculture, Watershed Enhancement, Parks and Recreation, Fish and Wildlife, State Lands, Water Resources, the Public Utilities Commission, Human Services, Corrections, Higher Education, and Community and Business Services.

Done at Salem, Oregon this 17th day of June, 2003

/s/ Theodore R. Kulongoski  
Theodore R. Kulongoski  
GOVERNOR

ATTEST:

/s/ Bill Bradbury  
Bill Bradbury  
SECRETARY OF STATE

## OTHER NOTICES

### A CHANCE TO COMMENT ON... THE STAFF REPORT FOR THE CASCADE WOOD PRODUCTS, INC. (ECSI #20)

The Department of Environmental Quality has issued a Staff Report for the site located at 14th and H Streets in White City, Oregon. The Cascade Facility has operated since 1952. From 1953 to 1985, Cascade applied pentachlorophenol (penta) to finished wood products in a mineral spirit-based carrier.

Based on data from the Phase I remedial investigation, there is no complete groundwater exposure pathway for human or ecological receptors. Because there is no groundwater beneficial use in the facility's locality, there is no complete groundwater exposure pathway. Therefore, the operation of the on-site groundwater extraction system does not influence the off-site plume migration, and there is no need to continue to operate the groundwater extraction and treatment system. Future land use and beneficial water uses are not likely to change in any way within the locality of the facility.

The recommended remedial action for Cascade Wood Products, Inc. site consists of the following elements:

- Implement institutional controls to protect future excavation workers from exposure to residual contamination.
- Discontinue operation of the groundwater extraction and treatment system.
- Confirm natural attenuation of off-site VOC-contaminated groundwater by means of four quarters of monitoring;
- Institutional controls to restrict groundwater usage and assure that the remedy remains protective for future land use;
- Contingency measures.

Corrective actions completed for soil at the site are protective of human health and the environment. There are no complete exposure pathways to soil at the facility. Procedures outlined in the Environmental Evaluation and Soil Management Plan will serve to protect future excavation workers from potential exposures to residual soil contamination, if any, in excess of levels protective of human health.

A more detailed description of the proposed action is presented in DEQ's Staff Report prepared for the site. The Staff Report will be available for review during the public comment period at DEQ's Eugene office, and at the Jackson County Public Library in Medford.

Written comments on the proposed cleanup may be submitted to Norman Read at DEQ's Eugene office, 1102 Lincoln St., Suite 210, Eugene, OR 97401 beginning July 1, 2003. Comments must be received by July 31, 2003. Questions may also be directed to Mr. Read at that address or by calling him at 541-686-7838 x 240 or 800-844-8467.

A public meeting to answer questions and receive verbal comment on the proposed cleanup will be held if requested by 10 or more or a group of ten or more members. DEQ will consider all public comments prior to making a final decision on the cleanup. DEQ will publish the final decision after consideration of public comments.

### SELECTED CORRECTIVE ACTION AT FORMER TRUAX HARRIS STATION 3510 PACIFIC DRIVE IN FOREST GROVE, OREGON

**FINAL DECISION:** Pursuant to Oregon Revised Statute (ORS) 465.320, the Oregon Department of Environmental Quality (DEQ) issues this notice of a final cleanup decision regarding soil and groundwater contamination at the former Truax Harris Station located at 3510 Pacific Drive in Forest Grove, Oregon. The DEQ final selection of the remedial action for this site will be documented in the Record of Decision (ROD), dated June 2003.

**HIGHLIGHTS:** The Truax-Harris facility was a former Texaco service station. The station and associated fueling equipment were removed from the site in January 2001. Contamination at the site is associated with incidental releases from the former tanks and former fuel pump islands. A number of environmental investigations have been conducted at the site. Hazardous substances detected in soil and

groundwater include: total petroleum hydrocarbons, benzene, toluene, ethylbenzene, xylenes, and polycyclic aromatic hydrocarbons.

**SELECTED CLEANUP ACTION:** The selected remedial action includes: institutional controls to assure that future land use is restricted to commercial or industrial uses; notification of adjacent property owners that are potentially impacted by site contamination; continuation of a groundwater monitoring program; and development and implementation of Hazard Communication and Soil Management Plans. The selected corrective action is considered protective of human health and the environment, and therefore, meets the requirements of Oregon's Environmental Cleanup Laws.

**HOW TO COMMENT:** The project file is available for public review. To schedule an appointment call at (503) 229-6729. For additional information, contact DEQ Project Manager, Rod Struck at (503) 229-5562 or by email at rodney.struck@deq.state.or.us.

### TRANSFORMER OIL SPILL CLEANUP COYOTE SPRINGS II POWER PLANT BOARDMAN OREGON

**COMMENTS DUE:** Thursday, July 31, 2003

**PROJECT LOCATION:** Coyote Springs II, Port of Morrow, East of Boardman, Oregon

The Oregon Department of Environmental Quality is proposing to issue a No Further Action determination following investigation and cleanup of a transformer oil spill at the Coyote Springs II power plant. This determination follows initial cleanup work conducted after the spill in May 2002, followed by one year of groundwater and surface water monitoring. The Department has determined that the remedial measures taken have reduced risk to human and ecological receptors to acceptable levels. Public notification of the proposed No Further Action determination is hereby provided, in accordance with ORS 465.320.

**HIGHLIGHTS:** On May 6, 2002, a transformer failed, released about 14,600 gallons of PCB-free dielectric oil. A fire in the transformer created sufficient heat and pressure to form cracks in the transformer. The transformer was a component of the Coyote Springs II power plant that was still under construction at the time of the spill. Although the oil was initially contained in a secondary containment structure, the structure was flooded by a fire suppression system that sprayed 1,850 gallons per minute for about one hour. Transformer oil spread south to an electric substation and Toadvin Pond, about 300 feet to the east.

The pond provides habitat for fish, birds and other wildlife. In addition, the Port of Morrow pumps water from the pond to irrigate nearby agricultural fields. The water is also used by the adjacent Coyote Springs I facility, and will be used by the Coyote Springs II facility, for cooling tower makeup water. Fortunately, the pump is at the far (east) end of the pond, about 600 feet from the point where oil entered the water body. In addition, the pump intake is about 20 feet below the water surface. Although a substantial amount of oil covered the surface of the pond, no detectable concentrations were found in samples from the pump intake, with one exception. A sample collected two days after the spill had 0.293 mg/l of diesel-range organics. Eight subsequent samples collected from the pump intake between May 29 and November 18, 2002 showed no detectable concentration of oil.

Emergency response activities in the weeks following the spill involved skimming oil from the surface of Toadvin Pond and washing the pond bank with high-pressure hoses to flush oil from the soil into the pond, where it was then collected.

Contaminated soil around the damaged transformer, in the substation, and in the affected area between the transformer and the pond was collected to the extent practical. Excavation was limited due to the presence of concrete structures near the transformer, and a copper grounding mat that lies about two feet beneath the substation.

## OTHER NOTICES

Following excavation and backfilling with clean material, the transformer area was paved with asphalt and the substation was covered with clean gravel. A total of about 1,500 tons of petroleum-contaminated soil was removed from the site and disposed of at the Finley Buttes Landfill.

Based on these results, the Department proposes to issue a No Further Action determination.

**HOW TO COMMENT:** The project file, including a staff report recommending that a no further action determination be proposed, may be reviewed by any interested parties. To arrange for review of these files or to discuss this proposal, please call Bob Schwarz, DEQ project manager, at 541-298-7255 extension 30.

Upon written request by ten or more persons, or a group having ten or more members, a public meeting will be held to receive verbal comments.

**THE NEXT STEP:** DEQ will consider all comments received. A final decision concerning the proposed no further action determination will be published after consideration of public comments.

### NOTICE OF NO FURTHER ACTION DETERMINATION PORT OF PORTLAND TERMINAL 1 SOUTH PARCELS 2 & 3

**PROJECT LOCATION:** 2100 NW Front Avenue, Portland, Oregon.

Pursuant to Oregon Revised Statute (ORS) 465.320, the Oregon Department of Environmental Quality (DEQ) is issuing this notice regarding the final determination that no further action (NFA) is required on Parcels 2 and 3 of the Terminal 1 South facility. Redevelopment of the property for mixed urban residential/commercial uses began in early 2003.

The remedial action selected by DEQ for Parcels 2 and 3 is documented in the Record of Decision, dated September 26, 2002 and amended December 18, 2002 (collectively, the "ROD"). The ROD required 1) removal and disposal of soil contaminated with petroleum compounds and metals at concentrations above risk-based cleanup levels; 2) deed restrictions to notify future occupants and site workers of the presence of soil contamination remaining after excavation activities; and 3) a soil management plan to assure any soil excavated in the future is managed to protect human health and the environment. Soil contamination remaining after the excavation activities is protective of future urban residents. Therefore, the required actions have been completed.

DEQ proposed approval of the soil cleanups performed on Parcels 2 and 3 and proposed NFAs on November 1, 2002 and April 1, 2003, respectively. A 30-day public comment period was held for each parcel. No comments were received by DEQ.

Deed restrictions, in the form of an Easement and Equitable Servitude (EES) agreement were recorded on the property records in June 2003. A voluntary agreement that satisfies the requirements of the

ROD and implements the EES has been executed by the property owners and DEQ.

**INFORMATION:** The ROD, EES, Voluntary Agreement, and the administrative record for the site are available for public review by appointment at DEQ's Northwest Region Office. To schedule an appointment call (503) 229-6729. For additional information, contact DEQ Project Manager, Rod Struck at (503) 229-5562 or by email at [rodney.struck@deq.state.or.us](mailto:rodney.struck@deq.state.or.us).

### PROPOSED NO FURTHER ACTION DETERMINATION WEST PARK PARCEL SOIL TEKTRONIX CAMPUS, BEAVERTON, OREGON

**COMMENTS DUE:** August 1, 2003

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

**PROPOSAL:** The Oregon Department of Environmental Quality (DEQ) proposes issuing a no further action (NFA) determination for soil contamination at the West Park Parcel site.

**HIGHLIGHTS:** The West Park Parcel is approximately 7 acres of undeveloped land located across SW Murray Boulevard from the western portion of Tektronix's Beaverton Campus. Although the property has been sold by Tektronix, Tektronix was required to investigate the property and complete a risk assessment under a Consent Order from DEQ. The West Park Parcel formerly had been used for waste sludge storage and disposal, resulting in groundwater contamination from volatile organic compounds (VOCs), and metals contamination in soil. Site investigations have adequately defined the nature and extent of soil contamination at the site. A DEQ-approved risk assessment shows that metals present in shallow site soil do not pose a significant risk to human health or the environment. VOCs have not been detected in significant levels in site soil. Therefore, DEQ is proposing a NFA determination for soil only at the West Park Parcel. VOC contamination in groundwater and potential impacts to Beaverton Creek, which transects the West Park Parcel, will require further evaluation under conditions of the Consent Order.

**HOW TO COMMENT:** The staff memorandum and other files will be available for public review beginning Tuesday, July 1, 2003. To schedule an appointment to review the site files call Gerald Gamolo at (503) 229-6729. The DEQ project manager is Mark Pugh (503) 229-5587. Written comments should be sent to the project manager at the Department of Environmental Quality, Northwest Region, 2020 SW 4th Ave., Suite 400, Portland, OR 97201 by Friday, August 1, 2003. A public meeting will be held to receive verbal comments if requested by 10 or more people or by a group with a membership of 10 or more.

**THE NEXT STEP:** DEQ will consider all public comments and DEQ's Northwest Region Cleanup Manager will make and publish the final decision after consideration of these comments.

# NOTICES OF PROPOSED RULEMAKING

## Notice of Periodic Review of Rules

Every three years an agency reviews their Administrative Rules to determine whether rulemaking action is necessary to minimize the economic effect of individual rules on small business. ORS 183.545 As part of the Periodic Review, agencies invite the public to submit written comment upon their existing rules. ORS 183.550 In reviewing individual rules agencies consider: the continued need for the rule; the nature of complaints or comments received concerning the rule from the public; the complexity of the rule; the extent to which the rule overlaps, duplicates or conflicts with other state rules, federal regulations and, to the extent feasible, local governmental regulations; the degree to which technology, economic conditions or other factors have changed in the subject area affected by the rule; and the statutory citation or legal basis for each rule.

.....  
**Judicial Department**  
**Chapter 198**

**Rules to be Reviewed:** Ch. 198

<u>Division</u>	<u>Title</u>
001	Procedural Rules

**Last Date for Comment:** 7-28-03

**Rules Coordinator:** Gary Martin

**Comments:** These rules are required by ORS 292.956 and set forth the method by which the Oregon Judicial Department determines the comparability of value of work. Comments are invited on the rules to complete the statute-mandated three-year review.

**Telephone:** (503) 986-5923

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

**Rules to be Reviewed:** Ch. 165

<u>Division</u>	<u>Title</u>
001	Procedural Rules
005	Voter Registration
007	Conduct of Elections
020	Special District Elections

**Last Date for Comment:** 8-6-03

**Rules Coordinator:** Brenda Bayes

**Comments:** Division 1, Procedural Rules; Division 5, Voter Registration; Division 7, Conduct of Elections; Division 20, Special District Elections.

**Telephone:** (503) 986-1518

.....  
**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 listed below.

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

A public rulemaking 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 by the Last Date for Comment as printed in the Notice of Proposed Rulemaking in the *Oregon Bulletin*. If sufficient hearing requests are received by an agency, the notice of the date and time of the rulemaking hearing must be published in the Oregon Bulletin at least 14 days before the hearing.

## **Board of Architect Examiners** **Chapter 806**

**Stat. Auth.:** ORS 671.125

**Stats. Implemented:** ORS 671.050, 671.060 & 671.065

**Proposed Amendments:** 806-010-0020, 806-010-0035

**Last Date for Comment:** 7-22-03, 5 p.m.

**Summary:** This amendment clarifies that the jurisprudence examination will be held in the same city as the Board meeting, not necessarily the exact same location. In addition, the amendment clarifies challenges to test results.

**Rules Coordinator:** Carol Halford

**Address:** Oregon Board of Architect Examiners, 750 Front St. NE, Suite 260, Salem, OR 97310

**Telephone:** (503) 378-4270

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**Stat. Auth.:** ORS 671.125

**Stats. Implemented:** ORS 671.020 & 671.025

**Proposed Amendments:** 806-010-0045

**Last Date for Comment:** 7-22-03, 5 p.m.

**Summary:** This rule amendment allows the optional use of a license number on architect stamps, and clarifies that the signature is handwritten across the stamp. This amendment also creates a process in the case of an architect's death or permanent disability.

**Rules Coordinator:** Carol Halford

**Address:** Oregon Board of Architect Examiners, 750 Front St. NE, Suite 260, Salem, OR 97310

**Telephone:** (503) 378-4270

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## **Board of Chiropractic Examiners** **Chapter 811**

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
7-31-03	1 p.m.	Room A

ODOT Human Resource Center  
2775 19th St. SE  
Salem, OR

**Hearing Officer:** Dave McTeague, Exec. Director

**Stat. Auth.:** ORS 684 & 58

**Stats. Implemented:** ORS 684.150 & 684.155

**Proposed Amendments:** 811-010-0093

**Last Date for Comment:** 7-31-03

**Summary:** This amendment updates the administrative rule reference to the OBCE's Guide to Policy and Practice questions, including the Board's determinations and interpretations of administrative since last amended on July 20, 2000.

*\*Auxiliary aids for persons with disabilities are available upon advance request.*

**Rules Coordinator:** Dave McTeague

**Address:** Board of Chiropractic Examiners, 3218 Pringle Rd. SE - Suite 150, Salem, OR 97302-6311

**Telephone:** (503) 378-5816, ext. 23

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<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
7-31-03	1 p.m.	Room A

ODOT Human Resource Center  
2775 19th St. SE  
Salem, OR

**Hearing Officer:** Dave McTeague, Exec. Director

**Stat. Auth.:** ORS 684 & 58

**Stats. Implemented:** ORS 684.150 & 684.155

**Proposed Adoptions:** 811-010-0097

**Proposed Amendments:** 811-010-0095, 811-015-0010, 811-035-0005, 811-035-0015

**Last Date for Comment:** 7-31-03

**Summary:** New Rule: 811-010-0097, Independent and Second Opinion Examinations

Amended Rules: 811-010-0095, changes the status of the existing Oregon Chiropractic Practice & Utilization Guidelines to a "guide



# NOTICES OF PROPOSED RULEMAKING

to assist the Board and Peer Review Committee in determining..." accepted standards of care for chiropractic in Oregon.

811-015-0010, establishes standards for clinical justification and rationale.

811-035-0005, clarifies minimum requirements for informed consent and patient termination.

811-035-0015, clarifies that licensee may not engage in a romantic relationship with a current patient.

*\*Auxiliary aids for persons with disabilities are available upon advance request.*

**Rules Coordinator:** Dave McTeague

**Address:** Board of Chiropractic Examiners, 3218 Pringle Rd. SE - Suite 150, Salem, OR 97302-6311

**Telephone:** (503) 378-5816, ext. 23

.....  
**Board of Optometry**  
**Chapter 852**

**Date:** 9-9-03      **Time:** 1:30 p.m.      **Location:** 2nd Floor Conference Rm.  
Morrow Crane Bldg.  
Salem, OR

**Hearing Officer:** John Reslock, O.D.

**Stat. Auth.:** ORS 683 & 182

**Stats. Implemented:** ORS 683.140, 683.270, 683.210 & 182.466

**Proposed Amendments:** 852-070-0010, 852-070-0060, 852-080-0040

**Last Date for Comment:** 9-9-03

**Summary:** 852-070-0010; 0060 - Amend the requirements for continuing education for optometrists. 852-080-0040 - Amend the CPR requirements for nontopical certification.

*\*Auxiliary aids for persons with disabilities are available upon advance request.*

**Rules Coordinator:** David W. Plunkett

**Address:** Board of Optometry, 3218 Pringle Rd. SE - Suite 270, Salem, OR 97302-6306

**Telephone:** (503) 373-7721, ext. 23

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**Board of Parole and Post-Prison Supervision**  
**Chapter 255**

**Stat. Auth.:** ORS 144.343

**Stats. Implemented:**

**Proposed Amendments:** 255-075-0056

**Last Date for Comment:** 8-1-03

**Summary:** The amendment of the proposed rule allows for retention of the tape recording of the Advice of Rights and Morrissey hearing for four years instead of two years. This is necessary to preserve the record for purposes of protecting the rights of the offender and the board in the appellate process.

**Rules Coordinator:** Michael R. Washington

**Address:** Board of Parole & Post-Prison Supervision, 2575 Center St. NE - Suite 100, Salem, OR 97301

**Telephone:** (503) 945-9009

.....  
**Stat. Auth.:** ORS 144.102 & 144.270

**Stats. Implemented:**

**Proposed Amendments:** 255-070-0001

**Last Date for Comment:** 8-1-03

**Summary:** The amendment is necessary to clarify rules and conditions an offender must comply with while participating in a sex offender treatment program and to make the general conditions of supervision consistent with the general conditions of probation.

**Rules Coordinator:** Michael R. Washington

**Address:** Board of Parole & Post-Prison Supervision, 2575 Center St. NE - Suite 100, Salem, OR 97301

**Telephone:** (503) 945-9009

**Stat. Auth.:** ORS 144.644 & 181.585

**Stats. Implemented:**

**Proposed Amendments:** 255-060-0009, 255-060-0011

**Last Date for Comment:** 8-1-03

**Summary:** These amendments are necessary in order that the rule be consistent with the sex offender risk assessment scale approved by the Department of Corrections. Also, in order that the rule fall within the intent and scope of the enabling statute.

**Rules Coordinator:** Michael R. Washington

**Address:** Board of Parole & Post-Prison Supervision, 2575 Center St. NE - Suite 100, Salem, OR 97301

**Telephone:** (503) 945-9009

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**Construction Contractors Board**  
**Chapter 812**

**Date:** 8-5-03      **Time:** 11 a.m.      **Location:** West Salem Roth's IGA  
1130 Wallace Rd.  
Salem, OR

**Hearing Officer:** Sydney Brewster

**Stat. Auth.:** ORS 183.310 - 183.500, 670.310, 701.145, 701.235, 701.280 & 701.992; Other Auth.: OR 1999 Ch. 849, § 8

**Stats. Implemented:** ORS 183, 183.413, 183.415, 183.464, 183.450, 183.480, 183.482, 183.460, 183.470, 701.055, 701.065, 701.075, 701.080, 701.102, 701.125, 701.139, 701.140, 701.143, 701.145, 701.146, 701.147, 701.148, 701.260 & 701.280

**Proposed Adoptions:** 812-002-0011, 812-002-0530

**Proposed Amendments:** 812-003-0000, 812-004-0250, 812-004-0260, 812-004-0320, 812-004-0520, 812-004-0535, 812-004-0540, 812-004-0550, 812-004-0560, 812-004-0590, 812-006-0012, 812-009-0020, 812-009-0050, 812-009-0070, 812-009-0090, 812-009-0100, 812-009-0120, 812-009-0140, 812-009-0160, 812-009-0200, 812-009-0220, 812-009-0300, 812-009-0320, 812-009-0400, 812-009-0430, 812-009-0440, 812-010-0020, 812-010-0030, 812-010-0060, 812-010-0080, 812-010-0085, 812-010-0090, 812-010-0100, 812-010-0120, 812-010-0160, 812-010-0400, 812-010-0420, 812-010-0425

**Proposed Repeals:** 812-002-0330, 812-003-0335

**Last Date for Comment:** 8-5-03

**Summary:** OAR 812-002-0011 and 812-002-0530 are adopted to implement HB 2526 (chapter 75, Oregon Laws 2003) that went into affect on May 22, 2003.

OAR 812-002-0330 and 812-003-0335 are repealed to implement HB 2526 (chapter 75, Oregon Laws 2003) that went into affect on May 22, 2003.

OAR 812-003-0000 is amended to reflect the fee increase and change to a flat fee structure effective October 1, 2003, contingent upon passage of HB 5010 by the legislature.

OAR 812-004-0250 is amended to clarify when attorney fees, interest or other costs may be included in an award.

OAR 812-004-0320 is amended to clarify Board policy to process all possible claims pursuant to ORS 701.140.

OAR 812-004-0260, 812-004-0520, 812-004-0535, 812-004-0540, 812-004-0560, 812-004-0590, 812-009-0020, 812-009-0050, 812-009-0070, 812-009-0090, 812-009-0100, 812-009-0120, 812-009-0140, 812-009-0200, 812-009-0220, 812-009-0300, 812-009-0320, 812-009-0400, 812-009-0430, 812-010-0020, 812-010-0030, 812-010-0060, 812-010-0080, 812-010-0085, 812-010-0090, 812-010-0120, 812-010-0160, 812-010-0400, 812-010-0425 are amended to implement HB 2526 (chapter 75, Oregon Laws 2003) that went into affect on May 22, 2003.

OAR 812-004-0550 is amended to implement HB 2526 (chapter 75, Oregon Laws 2003) that went into affect on May 22, 2003 and to update a cite reference.

OAR 812-006-0012 is amended to clarify language, deletes the effective July 1, 2003 date reference because it is not longer necessary after July 1, 2003, and to eliminate the waiting periods before retaking the test.

# NOTICES OF PROPOSED RULEMAKING

OAR 812-009-0160 is amended to implement HB 2526 (chapter 75, Oregon Laws 2003) that went into affect on May 22, 2003 and to reflect a procedural change regarding intermediate orders.

OAR 812-009-0440 is amended to clarify where a case will be referred back to and where to refer for further processing by Appeal Committee.

OAR 812-010-0100 is amended to establish the procedure for arbitration award final orders upon settlement.

OAR 812-010-0420 is amended to clarify awards for attorney fees, court costs, other costs or interest from the bond.

*\*Auxiliary aids for persons with disabilities are available upon advance request.*

**Rules Coordinator:** Cathy Heine

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

**Telephone:** (503) 378-4621, ext. 4077

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**Department of Agriculture,  
 Oregon Bartlett Pear Commission  
 Chapter 606**

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
7-16-03	10 a.m.	Pear Bureau 4382 SE International Way #A Milwaukie, OR

**Hearing Officer:** Ron Girardelli

**Stat. Auth.:** ORS 576.305(12) & 576.325

**Stats. Implemented:** ORS 576.305 & 576.325

**Proposed Amendments:** 606-010-0015

**Last Date for Comment:** 7-22-03

**Summary:** The proposed amendment to 606-010-0015 Assessments will reduce the assessment for fresh Bartletts from \$.34 to \$.0275 per standard box.

*\*Auxiliary aids for persons with disabilities are available upon advance request.*

**Rules Coordinator:** Linda Bailey

**Address:** Department of Agriculture, Bartlett Pear Commission, 4382 SE International Way - Suite A, Milwaukie, OR 97222-4635

**Telephone:** (503) 652-9720

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

**Stat. Auth.:** ORS 183.341, 705.135, 192.430, 192.440, 656.726, 697.732, 731.244, 731.282, 731.284 & 731.804

**Stats. Implemented:** ORS 183.335, 192.440, 731.282, 731.284 & 731.804

**Proposed Amendments:** 440-001-0000, 440-005-0030

**Last Date for Comment:** 7-30-03

**Summary:** **OAR 440-001-0000:** Agencies shall adopt rules of procedure which will provide a reasonable opportunity for interested persons to be notified of the agency's intention to adopt, amend or repeal a rule. The proposed amendment to OAR 440-001-0000 continues to require that notice be given to persons who the Director determines may have an interest in the subject matter of the proposal, but deletes references to notice requirements in OAR chapters 436, 441, 805, 814 and 836.

**OAR 440-005-0030:** An agency may establish fees reasonably calculated to reimburse it for its actual cost in making records available including costs for summarizing, compiling or tailoring such record, either in organization or media, to meet the person's request. The proposed amendment changes the review of agency policy establishing such fees to a periodic review not less than every three years.

Address questions to: Myrna Curzon, phone 503-947-7866; fax 503-974-6444; or e-mail myrna.curzon@state.or.us

**Rules Coordinator:** Myrna Curzon

**Address:** Department of Consumer and Business Services, Director's Office, 350 Winter St. NE, Salem, OR 97301

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

**Department of Corrections  
 Chapter 291**

**Stat. Auth.:** ORS 179.040, 423.020, 423.030, 423.075 & 430.021  
**Stats. Implemented:** ORS 179.040, 423.020, 423.030, 423.075 & 430.021

**Proposed Amendments:** 291-064-0060

**Last Date for Comment:** 7-25-03

**Summary:** The department is amending this rule to clarify circumstances under which a treating practitioner may administer psychotropic medications without informed consent to an inmate in emergency circumstances.

**Rules Coordinator:** David R. Schumacher

**Address:** Department of Corrections, 2575 Center St. NE, Salem, OR 97310

**Telephone:** (503) 945-0933

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**Department of Environmental Quality  
 Chapter 340**

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
7-1-03	2 p.m.	Central Board of Realtors 2112 NE 4th Bend, OR 97701
7-1-03	6 p.m.	Central Board of Realtors 2112 NE 4th Bend, OR 97701
7-8-03	2 p.m.	Douglas Co. Headquarters Library 1409 Diamond Lake Blvd. Roseburg, OR 97470
7-8-03	6 p.m.	Douglas Co. Headquarters Library 1409 Diamond Lake Blvd. Roseburg, OR 97470
7-10-03	2 p.m.	DEQ Headquarters Room 3A 811 SW Sixth Ave. Portland, OR 97204
7-10-03	6 p.m.	DEQ Headquarters Room 3A 811 SW Sixth Ave. Portland, OR 97204

**Hearing Officer:** Mark Charles

**Stat. Auth.:** ORS 183.500, 468.020, 468.705, 468.710, 468.720, 468.735, 468.990, 468.992 & 468B.030

**Stats. Implemented:** ORS 468.048 & 468B.068

**Proposed Amendments:** 340-041-0006, 340-041-0120, 340-041-0205, 340-041-0245, 340-041-0285, 340-041-0325, 340-041-0365, 340-041-0445, 340-041-0485, 340-041-0525, 340-041-0565, 340-041-0605, 340-041-0645, 340-041-0685, 340-041-0725, 340-041-0765, 340-041-0805, 340-041-0845, 340-041-0885, 340-041-0925, 340-041-0965

**Last Date for Comment:** 8-1-03

**Summary:** This Notice is the same as that published in the June 2003 Bulletin except that three (3) additional hearings have been scheduled. The following is the same as previously published.

This proposal would revise the ambient water quality criteria for 167 toxic pollutants, OAR Chapter 340, Division 041. The water quality criteria are one element of Oregon's water quality standards for toxic pollutants. The first element identifies existing and potential beneficial uses of waters. The criteria describe the minimum quality of water needed to protect the identified uses. The Department and EPA use the criteria as benchmarks to assess whether the quality of Oregon's waters is adequate, and to develop wastewater discharge permits, Total Maximum Daily Loads, and other programs to achieve water quality standards and prevent pollution. In addition, the proposal would add regulations regarding the application of water quality standards to reservoirs in instances where waters become stratified for temperature, dissolved oxygen, or pH. The proposal

# NOTICES OF PROPOSED RULEMAKING

would also allow DEQ to establish compliance schedules for wastewater discharge permit holders to comply with standards.

To submit comments or request additional information, please contact Martin Fitzpatrick at the Department of Environmental Quality (DEQ), Water Quality Division, 811 SW Sixth Avenue, Portland, OR 97204, toll free in Oregon at 800-452-4011, x5656 or 503-229-5656, fitzpatrick.martin@deq.state.or.us, 503-229-6037, or visit DEQ's website <http://www.deq.state.or.us/news/index.asp>

*\*Auxiliary aids for persons with disabilities are available upon advance request.*

**Rules Coordinator:** Rachel Sakata

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

**Telephone:** (503) 229-5659

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## Department of Fish and Wildlife Chapter 635

Date:	Time:	Location:
8-8-03	8 a.m.	Red Lion Inn Astoria 400 Industry Street Astoria, OR 97103

**Hearing Officer:** Fish and Wildlife Commission

**Stat. Auth.:** ORS 496.118, 496.138 & 496.146

**Stats. Implemented:** ORS 496.279 & 498.284

**Proposed Amendments:** 635-001-0105

**Last Date for Comment:** 8-8-03

**Summary:** Amend rules related to bass and walleye tournaments to clarify the procedures for the dispersal of live fish after weigh-in and to define how fish that die during or as a result of tournament activities are disposed of. Rules also clarify number of anglers and boats in large and small tournaments.

*\*Auxiliary aids for persons with disabilities are available upon advance request.*

**Rules Coordinator:** Mike Lueck

**Address:** Department of Fish and Wildlife, 2501 SW 1st Ave., P.O.Box 59, Portland, OR 97207

**Telephone:** (503) 872-5272, ext. 5447

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Date:	Time:	Location:
8-8-03	8 a.m.	Red Lion Inn 400 Industry Street Astoria, OR 97103

**Hearing Officer:** Fish and Wildlife Commission

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

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

**Proposed Amendments:** Rules in 635-011, 013, 014, 016, 017, 018, 019, 021, 023, 039

**Last Date for Comment:** 8-8-03

**Summary:** Amend rules to adopt sport fishing regulations for finfish, shellfish, and marine invertebrates for 2004.

*\*Auxiliary aids for persons with disabilities are available upon advance request.*

**Rules Coordinator:** Mike Lueck

**Address:** Department of Fish and Wildlife, 2501 SW 1st Ave., P.O.Box 59, Portland, OR 97207

**Telephone:** (503) 872-5272, ext. 5447

\*\*\*\*\*

Date:	Time:	Location:
8-8-03	8 a.m.	Red Lion Inn Astoria 400 Industry Street Astoria, Oregon 97103

**Hearing Officer:** Fish and Wildlife Commission

**Stat. Auth.:** ORS 496.012, 496.138, 496.146, 496.162 & 497.112

**Stats. Implemented:** ORS 496.012, 496.138, 496.146, 496.162 & 497.112

**Proposed Amendments:** Rules in 635-120

**Last Date for Comment:** 8-8-03

**Summary:** Amend rules relating to the Bighorn Sheep Management Plan. The Rocky Mountain Goat will also be included in this plan.

*\*Auxiliary aids for persons with disabilities are available upon advance request.*

**Rules Coordinator:** Mike Lueck

**Address:** Department of Fish and Wildlife, 2501 SW 1st Ave., P.O.Box 59, Portland, OR 97207

**Telephone:** (503) 872-5272, ext. 5447

\*\*\*\*\*

Date:	Time:	Location:
8-8-03	8 a.m.	Red Lion Inn Astoria 400 Industry Street Astoria, OR 97103

**Hearing Officer:** Fish and Wildlife Commission

**Stat. Auth.:** ORS 496.012, 496.138, 496.146, 496.232 & 497.112

**Stats. Implemented:** ORS 496.012, 496.138, 496.146, 496.232 & 497.112

**Proposed Amendments:** Rules in 635-045, 051, 052, 053, 054, 060

**Last Date for Comment:** 8-8-03

**Summary:** Amend rules regarding the harvest of game birds, including 2003-04 season dates and bag limits.

*\*Auxiliary aids for persons with disabilities are available upon advance request.*

**Rules Coordinator:** Mike Lueck

**Address:** Department of Fish and Wildlife, 2501 SW 1st Ave., P.O.Box 59, Portland, OR 97207

**Telephone:** (503) 872-5272, ext. 5447

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## Department of Geology and Mineral Industries Chapter 632

Date:	Time:	Location:
7-29-03	12-2 p.m.	Public Service Bldg. Rm. 300 A 255 Capitol St. NE Salem, OR

**Hearing Officer:** Gary Lynch

**Stat. Auth.:** HB 2256, 2003 Session

**Stats. Implemented:** ORS 517.800

**Proposed Amendments:** 632-030-0022

**Last Date for Comment:** 8-8-03

**Summary:** The legislation raises fees for applications and renewal fees for aggregate mining. All annual renewal fees go up \$35 for sites that produce less than 10,000 tons per year. In addition, for sites producing more than 10,000 tons per year there are additional increases. In other words as production increases fees increase. Initial application fees increase from \$875 to \$1200.

*\*Auxiliary aids for persons with disabilities are available upon advance request.*

**Rules Coordinator:** Gary Lynch

**Address:** Department of Geology and Mineral Industries, 229 Broadalbin St. SW, Albany, OR 97321

**Telephone:** (541) 967-2039, ext. 23

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

Date:	Time:	Location:
7-23-03	11:30 a.m.	Conference Room 252 Human Services Building 500 Summer St. NE Salem, OR

**Hearing Officer:** Barbara Carranza

**Stat. Auth.:** ORS 418.005

**Stats. Implemented:** ORS 181.537

**Proposed Adoptions:** 413-050-0261

**Proposed Amendments:** 413-050-0200, 413-050-0210, 413-050-0220, 413-050-0230, 413-050-0240, 413-050-0250, 413-050-0260, 413-050-0270, 413-050-0280, 413-050-0290, 413-050-0300, 413-050-0301

**Last Date for Comment:** 7-31-03

# NOTICES OF PROPOSED RULEMAKING

**Summary:** Supportive or Remedial Child Care rules are being revised to implement a program efficiency statewide. The revisions allow for child welfare and self-sufficiency programs to collaborate in using the child care provider approval system provided by the Department. This process will be more efficient and eliminates the need for an exception procedure for providers of child care. The process also allows for automated billings and payments, reducing workload for staff who previously processed these manually.

*\*Auxiliary aids for persons with disabilities are available upon advance request.*

**Rules Coordinator:** Barbara J. Carranza  
**Address:** Department of Human Services, Child Welfare Programs, 550 Summer St. NE, E-63, Salem, OR 97301-1067  
**Telephone:** (503) 945-6649

\*\*\*\*\*

Date:	Time:	Location:
7-23-03	10 a.m.	Conference Rm. 252 Human Services Bldg. 500 Summer St. NE Salem, OR

**Hearing Officer:** Barbara Carranza

**Stat. Auth.:** ORS 418.005

**Stats. Implemented:** ORS 417.365 - 417.375

**Proposed Adoptions:** 413-040-0017, 413-040-0027, 413-040-0031, 413-040-0042, 413-040-0047, 413-040-0052, 413-040-0061, 413-040-0071, 413-040-0076

**Proposed Amendments:** 413-040-0000, 413-040-0005, 413-040-0010

**Proposed Repeals:** 413-040-0015, 413-040-0025, 413-040-0040, 413-040-0045

**Proposed Ren. & Amends:** 413-040-0040 to 413-040-0021, 413-040-0015 to 413-040-0037, 413-040-0025 to 413-040-0057, 413-040-0045 to 413-040-0063

**Last Date for Comment:** 7-31-03

**Summary:** The Services Planning rules provide minimum requirements for developing and maintaining a service plan. The service planning process requires that the worker and family identify the key problem issues facing the family, determine the objectives to be achieved and agree upon action to be taken. Exceptions to parent involvement are included in these rules. Service Plans must directly address a caregiver's functioning in the parental role as it relates to the child's needs for safety, permanence and well-being. There must be a logical and clear relationship between the service plan and the presenting child welfare issues. When a child is a ward of the Court, the Service Agreement or Letter of Expectations, supporting the Service Plan, must be related to the reasons for court jurisdiction. Significant changes include:

- Service Agreements are required for In-Home Services, as well as Substitute Care Services, as a part of the federal Children and Family Services Review (CFSR) Program Involvement Plan.

- The 30 day client/family contact requirement is incorporated into the Service Plan requirements.

- The Service Plan must identify "Change goals" and not just services to be completed. Change goals are defined and they must address the core child welfare issues and focus on achieving concrete goals to resolve those issues.

- Service plans must utilize family strengths to help change behaviors.

- Service plans must document change with respect to Safety, Permanency and Well-being.

Requires co-development of the Reunification and Concurrent Plans for children in Department custody.

- The Service Plan review adds new, more specific requirements: An evaluation of child safety; evidence of improvement or lack of improvement in parental behavior related to the identified child safety, permanency, well-being factors; reunification recommendations require substantial achievement of the behavioral change goals; and

documenting specific progress toward development and implementation of the alternative permanency plan.

*\*Auxiliary aids for persons with disabilities are available upon advance request.*

**Rules Coordinator:** Barbara J. Carranza  
**Address:** Department of Human Services, Child Welfare Programs, 550 Summer St. NE, E-63, Salem, OR 97301-1067  
**Telephone:** (503) 945-6649

\*\*\*\*\*

Date:	Time:	Location:
7-23-03	9 a.m.	Conference Rm. 252 Human Services Bldg. 500 Summer St. NE Salem, OR

**Hearing Officer:** Barbara Carranza

**Stat. Auth.:** ORS 418.005; Other Auth.: Title IV-E, Title IV-B and PL 103-432

**Stats. Implemented:**

**Proposed Adoptions:** 413-070-0980, 413-070-0981

**Proposed Amendments:** 413-070-0900, 413-070-0905, 413-070-0915, 413-070-0917, 413-070-0920, 413-070-0925, 413-070-0930, 413-070-0935, 413-070-0937, 413-070-0940, 413-070-0945, 413-070-0950

**Proposed Repeals:** 413-070-0975

**Last Date for Comment:** 7-31-03

**Summary:** Guardianship Assistance payments were affected by state budget reductions made in February 2003. Temporary rules were filed at that time to implement these reductions. Those rules will expire and need to be replaced by permanent rules. These revisions also clarify that tribal children may be considered for participation in guardianship assistance.

*\*Auxiliary aids for persons with disabilities are available upon advance request.*

**Rules Coordinator:** Barbara J. Carranza  
**Address:** Department of Human Services, Child Welfare Programs, 550 Summer St. NE, E-63, Salem, OR 97301-1067  
**Telephone:** (503) 945-6649

\*\*\*\*\*

Date:	Time:	Location:
7-23-03	10 a.m.	Conference Rm. 252 Human Services Bldg. 500 Summer St. NE Salem, OR

**Hearing Officer:** Barbara Carranza

**Stat. Auth.:** ORS 418.005; Other Auth.: PL 105-89, Adoption and Safe Families Act

**Stats. Implemented:**

**Proposed Adoptions:** 413-080-0040, 413-080-0045, 413-080-0050, 413-080-0055, 413-080-0060, 413-080-0065

**Last Date for Comment:** 7-31-03

**Summary:** The Placement Expectations rules establish minimum requirements for the care and treatment of children who are in the legal custody of the Department of Human Services (DHS) and for children for which DHS has an open service plan whether the children are placed in substitute care or are being served in their own homes. These rules address requirements for caseworker contact with children, parents, foster parents, adoptive parents and relative caregivers. The revisions address placements of siblings, placements of children in proximity to parents, and visitations with children. The revision also further address reunification and permanency planning.

*\*Auxiliary aids for persons with disabilities are available upon advance request.*

**Rules Coordinator:** Barbara J. Carranza  
**Address:** Department of Human Services, Child Welfare Programs, 550 Summer St. NE, E-63, Salem, OR 97301-1067  
**Telephone:** (503) 945-6649

# NOTICES OF PROPOSED RULEMAKING

**Date:** 7-23-03  
**Time:** 9 a.m.  
**Location:** Conference Rm. 252  
Human Services Bldg.  
500 Summer St. NE  
Salem, OR

**Hearing Officer:** Barbara Carranza

**Stat. Auth.:** ORS 418.005

**Stats. Implemented:** ORS 418.470

**Proposed Amendments:** 413-090-0010

**Last Date for Comment:** 7-31-03

**Summary:** Maintenance and treatment payments are being revised to reflect the budget reductions that were effective February 2003. Temporary rules were filed at that time. They will expire and need to be replaced by this permanent rule revision. The maintenance and treatment payments were reduced by 7.5% in February 2003.

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**Date:** 7-23-03  
**Time:** 9 a.m.  
**Location:** Conference Rm. 252  
Human Services Bldg.  
500 Summer St. NE  
Salem, OR

**Hearing Officer:** Barbara Carranza

**Stat. Auth.:** ORS 418.005

**Stats. Implemented:** ORS 418

**Proposed Amendments:** 413-090-0010, 413-090-0160

**Last Date for Comment:** 7-31-03

**Summary:** These rules outline reimbursable costs by the Department of Human Services related to special rates and personal care for children served by the child welfare program. These rates were reduced by 10% on February 1, 2003 to implement budget reductions determined by the Oregon Legislature. The rules were revised on a temporary basis. This is a notice that the rule revisions will be adopted permanently to continue beyond the expiration date of July 31, 2003.

These rule revisions identify the established rates for regular foster care services. The rates are based upon the age of the child and established by the Department subject to the availability of funds and are uniformly applied throughout the state, effective February 1, 2003. These rules also address the hourly rate for supervision, transportation and other allowable costs associated with the Special Rate and Personal Care plans established for children.

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.....

**Date:** 7-23-03  
**Time:** 11 a.m.  
**Location:** Conference Rm. 252  
Human Services Bldg.  
500 Summer St. NE  
Salem, OR

**Hearing Officer:** Barbara Carranza

**Stat. Auth.:** ORS 418.005

**Stats. Implemented:**

**Proposed Amendments:** 413-110-0000, 413-110-0010, 413-110-0015, 413-110-0020, 413-110-0030, 413-110-0040, 413-110-0050, 413-110-0060

**Last Date for Comment:** 7-31-03

**Summary:** Legal risk placements rules need housekeeping revisions to reflect changes in structure within the Department of Human Services, such as the name of the child welfare policy and program cluster.

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**Date:** 7-23-03  
**Time:** 11 a.m.  
**Location:** Conference Rm. 252  
Human Services Bldg.  
500 Summer St. NE  
Salem, OR

**Hearing Officer:** Barbara Carranza

**Stat. Auth.:** ORS 418.005; Other Auth.: PL 105-89, Adoption and Safe Families Act

**Stats. Implemented:** ORS 419B.350 & 419B.502 - 419B.508

**Proposed Amendments:** 413-110-0220, 413-110-0230, 413-110-0240

**Last Date for Comment:** 7-31-03

**Summary:** Termination of Parental Rights rules are being revised to incorporate notification related to the Indian Child Welfare Act at the time of referrals for terminating parental rights. This notice will occur at the time of referral rather than at the time of adoption designation. Other revisions clarify that the permanency plan for each child will occur no later than the six month review conducted under ORS 419A.106.

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**Date:** 7-23-03  
**Time:** 10:30 a.m.  
**Location:** Conference Rm. 252  
Human Services Bldg.  
500 Summer St. NE  
Salem, OR

**Hearing Officer:** Barbara Carranza

**Stat. Auth.:** ORS 418.005

**Stats. Implemented:** ORS 109.305

**Proposed Adoptions:** 413-120-0625, 413-120-0628, 413-120-0635

**Proposed Amendments:** 413-120-0600, 413-120-0610, 413-120-0620, 413-120-0630

**Proposed Repeals:** 413-120-0640, 413-120-0650, 413-120-0660, 413-120-0670

**Last Date for Comment:** 7-31-03

**Summary:** Revisions to rules regarding Openness in Post Adoption Communication provide guidelines for a cooperative adoption planning process, as well as procedures for developing Post Adoption Communication Agreements (PACA), that are funded and managed by the Department of Human Services Adoptions Services Program Unit. These rules have been revised to incorporate a checklist for documenting safety concerns identified in the process. The rules direct the worker when it is appropriate to discuss mediation with parties, and to consider this cooperative process early in permanency planning for the child.

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# NOTICES OF PROPOSED RULEMAKING

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**Time:** 11 a.m.  
**Location:** Conference Rm. 252  
 Human Services Bldg.  
 500 Summer St. NE  
 Salem, OR

**Hearing Officer:** Barbara Carranza  
**Stat. Auth.:** ORS 418.005  
**Stats. Implemented:** ORS 109.312  
**Proposed Amendments:** 413-120-0810, 413-120-0820, 413-120-0830  
**Last Date for Comment:** 7-31-03

**Summary:** Rules regarding supervision of adoption placements is being revised to add emphasis to proceed in current caretaker placements to immediate finalization, when it is in the best interest of the child. The rules clarify the requirements for supervision in these cases. Revisions in these rules require caseworkers to have face-to-face contact with current caretakers and children every 30 days until the adoption is finalized.

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**Date:** 7-23-03  
**Time:** 11:30 a.m.  
**Location:** Conference Rm. 252  
 Human Services Bldg.  
 500 Summer St. NE  
 Salem, OR

**Hearing Officer:** Barbara Carranza  
**Stat. Auth.:** ORS 418.005  
**Stats. Implemented:** ORS 418.005 - 418.640  
**Proposed Amendments:** 413-200-0371  
**Last Date for Comment:** 7-31-03

**Summary:** A small revision is being made to the Safety Standards for Foster Care, Relative Care and Adoptive Families to provide that Alternate Caregivers may also be approved if they are a Department of Human Services Day Care Provider, Foster Care or Relative Care provider. The specific revisions are as follows:

413-200-0371(6) When a child in the Department custody is cared for by a child care provider or child care center the provider and/or center must be certified as required by the State Child Care Division (ORS 657A.280), or be approved as a Department Day Care provider, foster Care or Relative Care provider.

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## Department of Human Services, Departmental Administration and Medical Assistance Programs Chapter 410

**Date:** 7-21-03  
**Time:** 10:30 a.m.-12 p.m.  
**Location:** Rm 137D  
 500 Summer St. NE  
 Salem, OR

**Hearing Officer:** Darlene Nelson  
**Stat. Auth.:** ORS 409.010 & 409.110  
**Stats. Implemented:** ORS 414.065  
**Proposed Amendments:** 410-121-0140  
**Last Date for Comment:** 7-21-03, 5 p.m.

**Summary:** The Pharmaceutical Services program administrative rules govern Office of Medical Assistance Programs (OMAP) payments for pharmaceutical products and services provided to clients. Effective June 1, 2003, OMAP filed a Temporary Certificate for Rule

410-121-0140, to change the implementation date for section (9) (a), definition of Estimated Acquisition Cost (EAC) changing, "Eighty-six" to "eighty-five percent of Average Wholesale Price (AWP) of the drug." A Temporary rule was necessary to revise the implementation date in rule to June 1, 2003 to be in compliance with federal regulations and the state plan allowing OMAP eligibility for Federal Fund Participation. This is the Notice for permanent rule filing for OMAP 121-0140(T).

*\*Auxiliary aids for persons with disabilities are available upon advance request.*

**Rules Coordinator:** Darlene Nelson  
**Address:** Department of Human Services, Departmental Administration and Medical Assistance Programs, 500 Summer St. NE, E35, Salem, OR 97301-0177  
**Telephone:** (503) 945-6927

\*\*\*\*\*

**Date:** 7-21-03  
**Time:** 10:30 a.m.-12 p.m.  
**Location:** Rm 137D  
 500 Summer St. NE  
 Salem, OR

**Hearing Officer:** Darlene Nelson  
**Stat. Auth.:** ORS 409.010 & 409.110  
**Stats. Implemented:** ORS 414.065  
**Proposed Amendments:** 410-129-0065, 410-129-0220  
**Last Date for Comment:** 7-21-03, 5 p.m.

**Summary:** The Speech-Language Pathology, Audiology and Hearing Aids Services program administrative rules govern Office of Medical Assistance Programs (OMAP) payments for products and services provided to clients. Rule 410-129-0065 is being amended to add information regarding when and how OMAP will reimburse for services of Speech-language pathology assistants. Rule 410-129-0220 is being amended to delete reference to a table that no longer exists.

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**Telephone:** (503) 945-6927

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**Date:** 7-21-03  
**Time:** 10:30 a.m.-12 p.m.  
**Location:** Rm 137D  
 500 Summer St. NE  
 Salem, OR

**Hearing Officer:** Darlene Nelson  
**Stat. Auth.:** ORS 409.010 & 409.110  
**Stats. Implemented:** ORS 414.065  
**Proposed Amendments:** 410-131-0120, 410-131-0160, 410-131-0280  
**Last Date for Comment:** 7-21-03, 5 p.m.

**Summary:** The Physical and Occupational Therapy Services program administrative rules govern Office of Medical Assistance Programs (OMAP) payments for products and services provided to clients. Rules listed above are being amended to delete reference to time payment for splint application; delete references to code POA03; revise language on where lists of covered services are located; and eliminate payment authorization for PT/OT therapy services for clients with Medicare and Medical Assistance programs.

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# NOTICES OF PROPOSED RULEMAKING

**Date:** 7-21-03  
**Time:** 10:30 a.m.-12 p.m.  
**Location:** Rm 137D  
500 Summer St. NE  
Salem, OR

**Hearing Officer:** Darlene Nelson  
**Stat. Auth.:** ORS 409.010 & 409.110  
**Stats. Implemented:** ORS 414.065  
**Proposed Amendments:** 410-140-0200

**Last Date for Comment:** 7-21-03, 5 p.m.  
**Summary:** The Visual Services program administrative rules govern Office of Medical Assistance Programs (OMAP) payments for products and services provided to clients. OAR 410-140-0200 is being amended to allow more frequent dispensing and fitting of glasses or contact lenses following corneal transplant.  
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**Date:** 7-21-03  
**Time:** 10:30 a.m.-12 p.m.  
**Location:** Rm 137D  
500 Summer St. NE  
Salem, OR

**Hearing Officer:** Darlene Nelson  
**Stat. Auth.:** ORS 409.010 & 409.110  
**Stats. Implemented:** ORS 414.065  
**Proposed Adoptions:** 410-120-xxxx, 410-120-yyyy  
**Proposed Amendments:** 410-120-0000, 410-120-1160, 410-120-1200, 410-120-1260, 410-120-1280, 410-120-1320, 410-120-1340, 410-120-1870, 410-120-1875, 410-120-1920  
**Last Date for Comment:** 7-21-03, 5 p.m.

**Summary:** The General Rules program administrative rules govern Office of Medical Assistance Programs (OMAP) payments for products and services provided to clients. A new rule will be adopted to further clarify the use of managed care organizations and that the department has delegated certain authority to Managed Care Organizations (MCOs) as governed by the MCO contracts and state and federal statutes. Rule 410-120-1875 will be amended to reflect authority given to the DHS Audit Manager to appear on behalf of the agency in specific classes of hearings. Rule 410-120-1200 will be rewritten to remove language now being included in the new rule for better understanding of policy. All other rules are being revised to reflect changes from provider guides to administrative rules, add definitions missing in rule, clarifications and housekeeping changes to provider enrollment and TPR.

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**Date:** 7-21-03  
**Time:** 10:30 a.m.-12 p.m.  
**Location:** Rm 137D  
500 Summer St. NE  
Salem, OR

**Hearing Officer:** Darlene Nelson  
**Stat. Auth.:** ORS 409.010 & 409.110  
**Stats. Implemented:** ORS 414.065  
**Proposed Amendments:** 410-121-0030, 410-121-0140, 410-121-0155, 410-121-0160 & 410-121-0190  
**Last Date for Comment:** 7-21-03, 5 p.m.  
**Summary:** The Pharmaceutical Services program administrative rules govern Office of Medical Assistance Programs (OMAP) payments for pharmaceutical products and services provided to clients.

410-121-0030 will be amended to update language to clarify process of identifying PMPDP listed drugs; 410-121-0140 to remove specific definition of estimated acquisition cost; 410-121-0155 to add specific definition of estimated acquisition cost and define dispensing fees for nursing facility and community based clients; and 410-121-0190 to add modifier to clozapine billing and remove old language.  
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**Date:** 7-21-03  
**Time:** 10:30 a.m.-12 p.m.  
**Location:** Rm 137D  
500 Summer St. NE  
Salem, OR

**Hearing Officer:** Darlene Nelson  
**Stat. Auth.:** ORS 409.010 & 409.110  
**Stats. Implemented:** ORS 414.065  
**Proposed Amendments:** 410-121-0040, 410-121-0150  
**Last Date for Comment:** 7-21-03, 5 p.m.

**Summary:** The Pharmaceutical Services program administrative rules govern Office of Medical Assistance Programs (OMAP) payments for pharmaceutical products and services provided to clients. 410-121-0040 will be amended to require prior authorization of gabapentin. 410-121-0150 will be amended to require primary billing of Medicare prior to billing OMAP for drug prescriptions.  
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**Date:** 7-21-03  
**Time:** 10:30 a.m.-12 p.m.  
**Location:** Rm 137D  
500 Summer St. NE  
Salem, OR

**Hearing Officer:** Darlene Nelson  
**Stat. Auth.:** ORS 409.010 & 409.110  
**Stats. Implemented:** ORS 414.065  
**Proposed Amendments:** 410-123-1000, 410-123-1040, 410-123-1085, 410-123-1220, 410-123-1240, 410-123-1260, 410-123-1620, 410-123-1640  
**Proposed Repeals:** 410-123-1235  
**Last Date for Comment:** 7-21-03, 5 p.m.

**Summary:** The Dental Services program administrative rules govern Office of Medical Assistance Programs (OMAP) payments for products and services provided to clients. Rules 410-123-1000, 410-123-1040, 410-123-1085, 410-123-1220, 410-123-1240, 410-123-1260, 410-123-1620, 410-123-1640 are being revised and 410-123-1235 is being repealed to reflect changes in OHP Standard dental benefits, add new tables, combine multiple small rules into one rule to clarify policy, remove unnecessary language, clarify other rule language and to take care of necessary housekeeping corrections.  
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**Address:** Department of Human Services, Departmental Administration and Medical Assistance Programs, 500 Summer St. NE, E35, Salem, OR 97301-0177  
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# NOTICES OF PROPOSED RULEMAKING

**Date:** 7-21-03  
**Time:** 10:30 a.m.-12 p.m.  
**Location:** Rm 137D  
500 Summer St. NE  
Salem, OR

**Hearing Officer:** Darlene Nelson  
**Stat. Auth.:** ORS 409.010 & 409.110  
**Stats. Implemented:** ORS 414.065  
**Proposed Amendments:** 410-125-0115, 410-125-0121, 410-125-0181  
**Last Date for Comment:** 7-21-03, 5 p.m.

**Summary:** The Hospital Services program administrative rules govern Office of Medical Assistance Programs (OMAP) payments for products and services provided to clients. Rules 410-125-0115, 410-125-0121 and 410-125-0181 will be amended to revise contiguous and non-contiguous hospital payment methodology to decrease risk of overpayment and to bring into line with in-state hospitals.  
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\*\*\*\*\*

**Date:** 7-21-03  
**Time:** 10:30 a.m.-12 p.m.  
**Location:** Rm 137D  
500 Summer St. NE  
Salem, OR

**Hearing Officer:** Darlene Nelson  
**Stat. Auth.:** ORS 409.010 & 409.110  
**Stats. Implemented:** ORS 414.065  
**Proposed Amendments:** 410-133-0040, 410-133-0080, 410-133-0100, 410-133-0120, 410-133-0140, 410-133-0200, 410-133-0220, 410-133-0280, 410-133-0300, 410-133-0320  
**Last Date for Comment:** 7-21-03, 5 p.m.

**Summary:** The School-Based Health Services program administrative rules govern Office of Medical Assistance Programs (OMAP) payments for products and services provided to clients. OMAP will revise Rules 410-133-0040, 410-133-0080, 410-133-0100, 410-133-0120, 410-133-0140, 410-133-0200, 410-133-0220, 410-133-0280, 410-133-0300, 410-133-0320 to be in compliance with HIPAA national code conversion, and program compliance related to federal audit findings.  
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**Date:** 7-21-03  
**Time:** 10:30 a.m.-12 p.m.  
**Location:** Rm 137D  
500 Summer St. NE  
Salem, OR

**Hearing Officer:** Darlene Nelson  
**Stat. Auth.:** ORS 409.010 & 409.110  
**Stats. Implemented:** ORS 414.065  
**Proposed Amendments:** 410-136-0340, 410-136-0360  
**Proposed Repeals:** 410-136-0380  
**Last Date for Comment:** 7-21-03, 5 p.m.

**Summary:** The Medical Transportation Services program administrative rules govern Office of Medical Assistance Programs (OMAP) payments for products and services provided to clients. OMAP is removing information that is instructional (forms completion instruction) in nature and not necessary in rule. This will eliminate unnecessary rule filings in the future. Therefore, 410-136-0340 will be amended and 410-136-0380 will be repealed and information necessary to keep in rule will be placed into 410-136-0360, which will be rewritten.  
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information necessary to keep in rule will be placed into 410-136-0360, which will be rewritten.  
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**Date:** 7-21-03  
**Time:** 10:30 a.m.-12 p.m.  
**Location:** Rm 137D  
500 Summer St. NE  
Salem, OR

**Hearing Officer:** Darlene Nelson  
**Stat. Auth.:** ORS 409.010 & 409.110  
**Stats. Implemented:** ORS 414.065  
**Proposed Adoptions:** 410-146-0022  
**Proposed Amendments:** 410-146-0040, 410-146-0060, 410-146-0075, 410-146-0080, 410-146-0120, 410-146-0130  
**Proposed Repeals:** 410-146-0260, 410-146-0320  
**Last Date for Comment:** 7-21-03, 5 p.m.

**Summary:** The AI/AN program administrative rules govern the Office of Medical Assistance Programs (OMAP) payments for services provided to clients. Rules listed above will be amended to add new tables, billing code and modifier requirements; and, education/training topics to Maternity Case Management for Oral Health education and Fetal Alcohol. OHP Standard Dental Benefit rules will be repealed. Some rules will be combined to clarify language and others amended to take care of necessary housekeeping corrections. A new rule will be adopted to reflect passage of SB 878 from the 2003 Legislative session.  
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**Date:** 7-21-03  
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**Location:** Rm 137D  
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Salem, OR

**Hearing Officer:** Darlene Nelson  
**Stat. Auth.:** ORS 409.010 & 409.110  
**Stats. Implemented:** ORS 414.065  
**Proposed Adoptions:** 410-147-xxxx, 410-147-yyyy  
**Proposed Amendments:** 410-147-0020, 410-147-0040, 410-147-0060, 410-147-0080, 410-147-0085, 410-147-0120, 410-147-0160, 410-147-0200, 410-147-0280, 410-147-0320, 410-147-0340, 410-147-0360, 410-147-0380, 410-147-0400, 410-147-0420, 410-147-0460, 410-147-0480, 410-147-0500  
**Proposed Repeals:** 410-147-0300, 410-147-0580, 410-147-0600  
**Last Date for Comment:** 7-21-03, 5 p.m.

**Summary:** The FQHC/RHC program administrative rules govern the Office of Medical Assistance Programs (OMAP) payments for services provided to clients. Rules will be revised to reflect the following changes: add new tables, billing code and modifier requirements, and education/training topics to Maternity Case Management for Oral Health education and Fetal Alcohol; combine several rules into one for clarification of language; clarify PPS encounter rate effective dates, Primary Care Coordinator Management, and Re-basing; clarify reasonable costs allowed for FQHC for the Outstationed Eligibility Worker payment; remove OHP Standard Dental Benefit rules; remove billing instructions (found on OMAP's website) and take care of necessary housekeeping corrections.  
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# NOTICES OF PROPOSED RULEMAKING

**Rules Coordinator:** Darlene Nelson  
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**Date:** 7-21-03      **Time:** 10:30 a.m.-12 p.m.      **Location:** Rm 137D  
500 Summer St. NE  
Salem, OR

**Hearing Officer:** Darlene Nelson  
**Stat. Auth.:** ORS 409.010 & 409.110  
**Stats. Implemented:** ORS 414.065  
**Proposed Amendments:** 410-148-0000, 410-148-0020, 410-148-0060, 410-148-0120, 410-148-0140, 410-148-0160, 410-148-0260, 410-148-0300  
**Proposed Repeals:** 410-148-0180, 410-148-0200, 410-148-0220  
**Last Date for Comment:** 7-21-03, 5 p.m.

**Summary:** The Home Enteral/Parenteral and Nutrition IV Services program administrative rules govern Office of Medical Assistance Programs (OMAP) payments for products and services provided to clients. OMAP will revise Rules 410-148-0000, 410-148-0020, 410-148-0060, 410-148-0120, 410-148-0140, 410-148-0160, 410-148-0260, 410-148-0300, and will repeal 410-148-0180, 410-148-0200, 410-148-0220 to be in compliance with Health Insurance Portability and Accountability Act, to coordinate with OMAP Pharmacy Program, and to consolidate OMAP billing instructions.

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**Date:** 7-21-03      **Time:** 10:30 a.m.-12 p.m.      **Location:** Rm 137D  
500 Summer St. NE  
Salem, OR

**Hearing Officer:** Darlene Nelson  
**Stat. Auth.:** ORS 409.010 & 409.110  
**Stats. Implemented:** ORS 414.065  
**Proposed Amendments:** 410-150-0000, 410-150-0080, 410-150-0120, 410-150-0200, 410-150-0300  
**Proposed Repeals:** 410-150-0100, 410-150-0140, 410-150-0180, 410-150-0220, 410-150-0260, 410-150-0280  
**Last Date for Comment:** 7-21-03, 5 p.m.

**Summary:** The Administrative Examination and Billing Services program administrative rules govern Office of Medical Assistance Programs (OMAP) payments for products and services provided to clients. OMAP will revise Rules 410-150-0000, 410-150-0080, 410-150-0120, 410-150-0200, 410-150-0300, and to repeal 410-150-0100, 410-150-0140, 410-150-0180, 410-150-0220, 410-150-0260, 410-150-0280 to be in compliance with Health Insurance Portability and Accountability Act, and to consolidate OMAP billing instructions.

*\*Auxiliary aids for persons with disabilities are available upon advance request.*

**Rules Coordinator:** Darlene Nelson  
**Address:** Department of Human Services, Departmental Administration and Medical Assistance Programs, 500 Summer St. NE, E35, Salem, OR 97301-0177  
**Telephone:** (503) 945-6927

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**Date:** 7-21-03      **Time:** 10:30 a.m.-12 p.m.      **Location:** Rm 137D  
500 Summer St. NE  
Salem, OR

**Hearing Officer:** Darlene Nelson

**Stat. Auth.:** ORS 409.010 & 409.110  
**Stats. Implemented:** ORS 414.065  
**Proposed Amendments:** 410-130-0160, 410-130-0180, 410-130-0190, 410-130-0200, 410-130-0220, 410-130-0240, 410-130-0562, 410-130-0580, 410-130-0585, 410-130-0680, 410-130-0700  
**Proposed Repeals:** 410-130-0010, 410-130-0020, 410-130-0040, 410-130-0145, 410-130-0150, 410-130-0250, 410-130-0260, 410-130-0280, 410-130-0300, 410-130-0400, 410-130-0420, 410-130-0440, 410-130-0460, 410-130-0480, 410-130-0500, 410-130-0530, 410-130-0540, 410-130-0590, 410-130-0660, 410-130-0760, 410-130-0780, 410-130-0920, 410-130-0965

**Proposed Renumberings:** 410-130-0370 to 410-130-0225, 410-130-0900 to 410-130-0230, 410-130-0940 to 410-130-0365

**Proposed Ren. & Amends:** 410-130-0080 to 410-130-0245, 410-130-0100 to 410-130-0595, 410-130-0800 to 410-130-0255, 410-130-0960 to 410-130-0165

**Last Date for Comment:** 7-21-03, 5 p.m.

**Summary:** The Medical Surgical Rule program administrative rules govern the Office of Medical Assistance Programs (OMAP) payment for services provided to clients. With the above list of rules to be amended OMAP will add new tables, combine multiple rules into one, reposition codes requiring PA, move NC/BND codes to PA and NC/BND rules with the addition of tables to list codes moved from individual rules. Rules will be repealed or renumbered to remove unnecessary code descriptions and forms instructions, and rules adopted to replace language in order to support OMAP Medical/Surgical policies and provide a more efficient way of locating information.

*\*Auxiliary aids for persons with disabilities are available upon advance request.*

**Rules Coordinator:** Darlene Nelson  
**Address:** Department of Human Services, Departmental Administration and Medical Assistance Programs, 500 Summer St. NE, E35, Salem, OR 97301-0177  
**Telephone:** (503) 945-6927

.....  
**Date:** 7-21-03      **Time:** 10:30 a.m.-12 p.m.      **Location:** Rm 137D  
500 Summer St. NE  
Salem, OR

**Hearing Officer:** Darlene Nelson  
**Stat. Auth.:** ORS 409.010 & 409.110  
**Stats. Implemented:** ORS 414.065  
**Proposed Amendments:** 410-141-0000, 410-141-0120, 410-141-0160, 410-141-0200, 410-141-0260, 410-141-0261, 410-141-0262, 410-141-0263, 410-141-0264, 410-141-0265, 410-141-0300  
**Last Date for Comment:** 7-21-03, 5 p.m.

**Summary:** OMAP will revise Rules 410-141-0000, 410-141-0120, 410-141-0160, 410-141-0200, 410-141-0260, 410-141-0261, 410-141-0262, 410-141-0263, 410-141-0264, 410-141-0265 and 410-141-0300 to be in compliance with the finalized Balanced Budget Act (BBA) Code of Federal Register (CFR) changes which are effective August 1, 2003.

*\*Auxiliary aids for persons with disabilities are available upon advance request.*

**Rules Coordinator:** Darlene Nelson  
**Address:** Department of Human Services, Departmental Administration and Medical Assistance Programs, 500 Summer St. NE, E35, Salem, OR 97301-0177  
**Telephone:** (503) 945-6927

.....  
**Date:** 7-21-03      **Time:** 10:30 a.m.-12 p.m.      **Location:** Rm 137D  
500 Summer St. NE  
Salem, OR

**Hearing Officer:** Darlene Nelson  
**Stat. Auth.:** ORS 409.010 & 409.110  
**Stats. Implemented:** ORS 414.065

# NOTICES OF PROPOSED RULEMAKING

**Proposed Adoptions:** 410-141-0070

**Proposed Amendments:** 410-141-0020, 410-141-0060, 410-141-0065, 410-141-0080, 410-141-0085, 410-141-0110, 410-141-0115, 410-141-0140, 410-141-0180, 410-141-0220, 410-141-0270, 410-141-0280, 410-141-0320, 410-141-0340, 410-141-0405, 410-141-0407, 410-141-0410, 410-141-0420, 410-141-0480, 410-141-0500, 410-141-0660, 410-141-0680, 410-141-0700, 410-141-0720, 410-141-0740, 410-141-0760, 410-141-0780, 410-141-0800, 410-141-0820, 410-141-0840, 410-141-0860

**Proposed Repeals:** 410-141-0740

**Last Date for Comment:** 7-21-03, 5 p.m.

**Summary:** OMAP will revise rules and adopt a new rule, listed above, to be in compliance with the finalized Balanced Budget Act (BBA) Code of Federal Register (CFR) changes which are effective August 1, 2003, the Health Insurance Portability and Accountability Act (HIPAA), and to take care of DHS reorganization and house-keeping corrections.

*\*Auxiliary aids for persons with disabilities are available upon advance request.*

**Rules Coordinator:** Darlene Nelson

**Address:** Department of Human Services, Departmental Administration and Medical Assistance Programs, 500 Summer St. NE, E35, Salem, OR 97301-0177

**Telephone:** (503) 945-6927

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Date:	Time:	Location:
7-29-03	1:30-3:30 p.m.	Rm. 252 500 Summer St. NE Salem, OR

**Hearing Officer:** Jane Alm

**Stat. Auth.:** ORS 409.050 & 409.110; Other Auth.: The Health Insurance Portability and Accountability Act of 1996, 42 USC 1320d - 1320d-8, Public Law 104-191, sec. 262 and sec. 264

**Stats. Implemented:**

**Proposed Adoptions:** 410-001-0100, 410-001-0110, 410-001-0120, 410-001-0130, 410-001-0140, 410-001-0150, 410-001-0160, 410-001-0170, 410-001-0180, 410-001-0190, 410-001-0200, 410-001-0210

**Last Date for Comment:** 7-25-03

**Summary:** The purpose of these rules is to set forth the contract and administrative requirements related to individuals or entities that desire to be treated as Trading Partners and Electronic Data Interchange (EDI) Submitters with the Department of Human Services. These rules govern the conduct of all EDI transactions with DHS.

*\*Auxiliary aids for persons with disabilities are available upon advance request.*

**Rules Coordinator:** Stephanie Holmes

**Address:** Department of Human Services, Departmental Administration and Medical Assistance Programs, 500 Summer St. NE, Salem, OR 97301

**Telephone:** (503) 945-6084

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## Department of Human Services, Mental Health and Developmental Disability Services Chapter 309

Date:	Time:	Location:
7-18-03	1-4 p.m.	Maxwell Jones Conf. Rm. OMHAS 2575 Bittern St. NE Salem, OR

**Hearing Officer:** Frank Moore

**Stat. Auth.:** ORS 430.640

**Stats. Implemented:** ORS 426.502-426.508

**Proposed Adoptions:** 309-036-0100 - 309-036-0125

**Last Date for Comment:** 7-18-03

**Summary:** These rules prescribe standards for the administration of the Community Mental Health Housing Fund established by ORS 426.506. These rules provide definitions and specify the adminis-

trative structure and procedures relating to the Community Mental Health Housing Fund. The rules provide regulations for managing income and expenses to the Fund and to the Community Housing Trust Account created within the Fund. The rules define the process to be used for allocating and distributing funds for institutional and community housing purposes. The rules create a Community Mental Health Housing Fund Advisory Committee as an advisory body with responsibility for reviewing and recommending actions relating to the administration of the Community Mental Health Housing Fund.

*\*Auxiliary aids for persons with disabilities are available upon advance request.*

**Rules Coordinator:** Robert Miller

**Address:** Department of Human Services, Mental Health and Developmental Disability Services, 500 Summer St. NE, E86, Salem, OR 97301-1118

**Telephone:** (503) 945-6185

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## Department of Human Services, Public Health Chapter 333

Date:	Time:	Location:
7-23-03	2 p.m.	800 NE Oregon St. Room 918 Portland, OR 97232

**Hearing Officer:** Jana Fussell

**Stat. Auth.:** ORS 432; Other Auth.: 45 CFR 302.70(11)

**Stats. Implemented:** ORS 432.230, 432.287 & 432.289

**Proposed Amendments:** 333-011-0047

**Proposed Repeals:** 333-011-0047(T)

**Last Date for Comment:** 7-23-03, 5 p.m.

**Summary:** This permanent rulemaking action is to repeal an unexpired temporary rule filed on February 20, 2003 and to make the rule change permanent. The amended rule will allow state child support enforcement agencies from other states to obtain copies of voluntary acknowledgment of paternity forms from the State Registrar of the Center for Health Statistics without first obtaining a court order.

*\*Auxiliary aids for persons with disabilities are available upon advance request.*

**Rules Coordinator:** Jana Fussell

**Address:** Department of Human Services, Public Health, 800 NE Oregon St., Portland, OR 97232

**Telephone:** (503) 731-4320

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Date:	Time:	Location:
7-23-03	10 a.m.	800 NE Oregon Street Room 120C Portland, OR

**Hearing Officer:** Jana Fussell

**Stat. Auth.:** ORS 431 & 448

**Stats. Implemented:** ORS 431.110, 431.150, 448.115, 448.123, 448.150, 448.230, 448.280 & 448.407

**Proposed Amendments:** 333-061-0030, 333-061-0032, 333-061-0036, 333-061-0040, 333-061-0042, 333-061-0043, 333-061-0045, 333-061-0046, 333-061-0050, 333-061-0064, 333-061-0076, 333-061-0077, 333-061-0097

**Last Date for Comment:** 7-23-03

**Summary:** The proposed changes to the Public Water System rules listed above primarily include the adoption of regulations revising the finished water turbidity standards and treatment techniques for water systems serving a population of less than 10,000 and using conventional or direct filtration treatment. Also included in these revisions are changes/additions to well/spring construction, Consumer Confidence Report health effects language for arsenic, design/operation requirements for UV light disinfections and membrane filtration, compliance requirements for sanitary surveys and Comprehensive Performance Evaluations and housekeeping changes

# NOTICES OF PROPOSED RULEMAKING

and clarifications to previous rule adoptions for lead and copper, radionuclides, variances and permits, and emergency response plans.  
*\*Auxiliary aids for persons with disabilities are available upon advance request.*

**Rules Coordinator:** Jana Fussell  
**Address:** Department of Human Services, Public Health, 800 NE Oregon St., Portland, OR 97232  
**Telephone:** (503) 731-4320

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

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
7-22-03	3 p.m.	500 Summer St. NE Room 137 C&D Salem, OR

**Hearing Officer:** Pam Rouske  
**Stat. Auth.:** ORS 409.050 & 410.090  
**Stats. Implemented:** ORS 410.010, 410.020 & 410.070  
**Proposed Amendments:** Rules in 411-030  
**Last Date for Comment:** 7-23-03

**Summary:** The rules are proposed for amendment effective July 31, 2003, following the July 30, 2003 expiration of temporary amendments to these rules currently in effect. The amendments include: 1) Clarification of who is eligible for the In-Home Services program under the Home and Community-Based Care Waiver; 2) Program and Department organizational name changes; 3) Revision to procedures for the ancillary withholding of FICA in the Client Employed Provider Program; 4) Clarification of biennial limits on serving Spousal Pay clients and procedures used in establishing the Spousal Pay Program waiting list; 5) Other miscellaneous editing for better readability.

*\*Auxiliary aids for persons with disabilities are available upon advance request.*

**Rules Coordinator:** Pam Rouske  
**Address:** Department of Human Services, Seniors and People with Disabilities, 500 Summer St. NE, E25, Salem, OR 97301-1098  
**Telephone:** (503) 945-6954

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**Department of Revenue  
Chapter 150**

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
7-22-03	9:30-10:30 a.m.	Oregon Dept. of Revenue 955 Center St. NE Salem, OR 97301-2555

**Hearing Officer:** Gary Humphrey  
**Stat. Auth.:** ORS 305.100, 305.220, 314.280 & 314.525  
**Stats. Implemented:** ORS 305.220, 314.280, 314.415, 314.430, 314.525, 314.752, 316.207, 317.267, 317.329 & 318.020  
**Proposed Adoptions:** 150-314.525(5), 150-314.752  
**Proposed Amendments:** 150-305.220(3), 150-314.280-(N), 150-314.415(1)(e)-(B), 150-314.430(1)-(A), 150-316.207(3)(a), 150-317.267(B), 150-317.329, 150-318.020(2)  
**Last Date for Comment:** 7-22-03

**Summary:** To adopt or amend administrative rules relating to collections, business income and excise taxes, and tobacco tax.

*\*Auxiliary aids for persons with disabilities are available upon advance request.*

**Rules Coordinator:** Xann-Marie Culver  
**Address:** Department of Revenue, 955 Center St. NE, Room 457, Salem, OR 97301-2555  
**Telephone:** (503) 947-2099

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<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
7-22-03	9:30-10:30 a.m.	Oregon Dept. of Revenue 955 Center St. NE Salem, OR 97301-2555

**Hearing Officer:** Gary Humphrey

**Stat. Auth.:** ORS 305.100 & 308.156  
**Stats. Implemented:** ORS 305.285, 306.115, 307.804, 308.156, 308.705, 308.720, 309.100, 311.668, 311.670, 311.676, 311.684, 311.686

**Proposed Adoptions:** 150-307.804  
**Proposed Amendments:** 150-306.115-(C), 150-308.156, 150-311-668(1)(a)-(A), 150-311-668(1)(a)-(B), 150-311-676, 150-311-684, 150-311-686(2)

**Proposed Repeals:** 150-306.115-(D), 150-306.115-(E), 150-306.115-(F), 150-306.115-(G), 150-306.115-(H), 150-306.115-(I), 150-306.115-(K), 150-306.115-(L), 150-308.705, 150-308.720, 150-309.100-(B), 150-311.668(1), 150-311.670, 150-311.676-(A)

**Proposed Renumberings:** 150-306.115-(B) to 150-305.285

**Last Date for Comment:** 7-22-03

**Summary:** To adopt, amend, repeal and renumber administrative rules relating to property tax, local budget and valuation of low-income housing units.

*\*Auxiliary aids for persons with disabilities are available upon advance request.*

**Rules Coordinator:** Xann-Marie Culver  
**Address:** Department of Revenue, 955 Center St. NE, Room 457, Salem, OR 97301-2555  
**Telephone:** (503) 947-2099

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

**Stat. Auth.:** ORS 184.616, 184, 619 & 809.480

**Stats. Implemented:** ORS 809.480

**Proposed Amendments:** 735-072-0023

**Proposed Repeals:** 735-072-0023(T)

**Last Date for Comment:** 8-8-03

**Summary:** This rule establishes the Provisional Driver Improvement Program. The suspensions issued under the Provisional Driver Improvement Program remain in effect for the full length of the suspension (six months or one year) regardless of whether the person turns 18 years of age prior to the ending date of the suspension. The purpose of the proposed amendment of this rule is to clarify that the one-year suspension of driving privileges for a provisional driver convicted of an offense listed in ORS 809.600(1) does continue for a year even if the person turns 18 years of age during the suspension period. Because of an oversight when an additional section was added to this rule in June of 2002, the current rule is silent on whether the suspension imposed under the current section (9) continues past the person's 18th birthday under the Provisional Driver Improvement Program. The language in the current section (8) of the rule is being removed as it was needed only on a temporary basis, resulting in a renumbering of the sections, with section (9) becoming section (8) and section (10) become section (9). Section (10), which becomes section (9) as amended, is being amended to clarify that all suspensions imposed under the Provisional Driver Improvement Program continue past the person's 18th birthday if the person becomes 18 years of age during the suspension period. DMV will apply the amendment of the rule retroactively to be consistent with DMV's intent and current practice. A temporary rule was adopted May 15, 2003 to correct this oversight. That temporary rule will be replaced by this permanent amendment.

Text of proposed and recently adopted ODOT rules can be found at web site <http://www.odot.state.or.us/rules/>

**Rules Coordinator:** Brenda Trump

**Address:** Department of Transportation, Driver and Motor Vehicle Services Division, 1905 Lana Ave. NE, Salem, OR 97314

**Telephone:** (503) 945-5278

# NOTICES OF PROPOSED RULEMAKING

## Department of Transportation, Highway Division Chapter 734

Date:	Time:	Location:
7-23-03	1 p.m.	ODOT Bldg., Rm. 122 355 Capitol St. NE Salem, OR
7-29-03	6:30 p.m.	Salem Public Library Rm. Anderson A 585 Liberty St. SE Salem, OR

**Hearing Officer:** Shelley Bain

**Stat. Auth.:** ORS 184.616, 184.619, 374.310, 374.345, Ch. 972 OL 1999 & Ch. 974 OL 1999

**Stats. Implemented:** ORS 374.305 - 374.415, 374.990, Ch. 972 OL 1999 & Ch. 974 OL 1999

**Proposed Adoptions:** 734-051-0085, 734-051-0105

**Proposed Amendments:** 734-051-0010, 734-051-0020, 734-051-0040, 734-051-0070, 734-051-0080

**Proposed Repeals:** 734-051-0130, 734-051-0140, 734-051-0150, 734-051-0160, 734-051-0170, 734-051-0180, 734-051-0220, 734-051-0330, 734-051-0340, 734-051-0350, 734-051-0410, 734-051-0420, 734-051-0480

**Proposed Ren. & Amends:** 734-051-0030 to 734-051-0020, 734-051-0050 to 734-051-0035, 734-051-0060 to 734-051-0035, 734-051-0090 to 734-051-0070, 734-051-0100 to 734-051-0070, 734-051-0110 to 734-051-0045, 734-051-0120 to 734-051-0095, 734-051-0190 to 734-051-0115, 734-051-0200 to 734-051-0125, 734-051-0210 to 734-051-0145, 734-051-0230 to 734-051-0175, 734-051-0235 to 734-051-0225, 734-051-0240 to 734-051-0195, 734-051-0250 to 734-051-0185, 734-051-0260 to 734-051-0165, 734-051-0270 to 734-051-0205, 734-051-0280 to 734-051-0215, 734-051-0290 to 734-051-0245, 734-051-0300 to 734-051-0265, 734-051-0310 to 734-051-0255, 734-051-0320 to 734-051-0135, 734-051-0360 to 734-051-0155, 734-051-0370 to 734-051-0285, 734-051-0380 to 734-051-0275, 734-051-0390 to 734-051-0345, 734-051-0400 to 734-051-0355, 734-051-0430 to 734-051-0295, 734-051-0440 to 734-051-0305, 734-051-0450 to 734-051-0315, 734-051-0460 to 734-051-0325, 734-051-0470 to 734-051-0335

**Last Date for Comment:** 8-8-03

**Summary:** The proposed amendments cover the process for applications for approaches to state highways and clarify the parameters for management of access on state highways. The proposed amendments will increase the level of predictability for applicants when requesting an approach to a state highway and will promote consistency within ODOT when permitting public and private approaches. Additionally, the proposed amendments: • Provide for a less complex rule, in a more logical order that is easier to understand through the consolidation and renumbering of rules. • Clarify that ODOT may require such approach to be located in the safest possible location. • Clarify the criteria used by ODOT in determining adequate access and require the Department to consider additional criteria in determining whether alternate access to a property is adequate. • Clarify the approval criteria for development on multiple parcels, parcels with double frontage, and the effect of easements. • Allow approval of applications for approaches to expressways where no alternate access exists or where the applicant shows that a benefit to the highway system will result. • Allow the Department to consider incremental improvements for approaches in areas where redevelopment or in-fill development occurs. • Increase ODOT's engineering staff's ability to recommend sound, workable solutions on a site by site basis. • Clarify when the department may approve an application for a temporary approach. • Allow the Department to approve a limited-use (emergency vehicle) approach.

Text of proposed and recently adopted rules can be found at web site <http://www.odot.state.or.us/rules/>

*\*Auxiliary aids for persons with disabilities are available upon advance request.*

**Rules Coordinator:** Brenda Trump

**Address:** Department of Transportation, Highway Division, 1905 Lana Ave. NE, Salem, OR 97314

**Telephone:** (503) 945-5278

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**Stat. Auth.:** ORS 184.616, 184.619, 366.205, 374.310 & 810.030

**Stats. Implemented:** ORS 374.305 & 374.310

**Proposed Adoptions:** 734-057-0020

**Last Date for Comment:** 8-8-03

**Summary:** Interest has been expressed in placing banners and decorations on state highway right of way specifically to enhance the aesthetic value of the highway. The proposed rule was created to provide for a consistent practice in allowing this activity. Cities, counties and Native American Indian Tribes may be permitted to place banners or decorations on state highway right of way within the territorial or zoning jurisdictions of the agency for the enhancement of the aesthetic value of the state highway.

Text of proposed and recently adopted rules can be found at web site <http://www.odot.state.or.us/rules/>

**Rules Coordinator:** Brenda Trump

**Address:** Department of Transportation, Highway Division, 1905 Lana Ave. NE, Salem, OR 97314

**Telephone:** (503) 945-5278

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## Employment Department Chapter 471

Date:	Time:	Location:
7-17-03	1 p.m.	Employment Dept. Auditorium 875 Union NE Salem, OR 97311

**Hearing Officer:** Richard Luthé

**Stat. Auth.:** ORS 657

**Stats. Implemented:** ORS 657.610 & 657.215

**Proposed Amendments:** 471-030-0052

**Last Date for Comment:** 7-17-03, 5 p.m.

**Summary:** The Employment Department is proposing to amend the "Satisfaction of Disqualifications" rule to clarify the criteria that will be used in order to satisfy a disqualification from receiving Unemployment Insurance benefits for misrepresentation.

*\*Auxiliary aids for persons with disabilities are available upon advance request.*

**Rules Coordinator:** Richard L. Luthé

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

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

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Date:	Time:	Location:
7-17-03	10 a.m.	Employment Dept. Auditorium 875 Union NE Salem, OR 97311

**Hearing Officer:** Richard Luthé

**Stat. Auth.:** ORS 657.610 & 657.350

**Stats. Implemented:** ORS 657.610, 657.335-657.360

**Proposed Amendments:** 471-030-0080

**Last Date for Comment:** 7-17-03, 5 p.m.

**Summary:** This rule is being amended to clarify responsibility for certification for professional technical training; establish clear, statewide criteria for Employment Department certifications; and to restore work search and availability requirements to those claimants who are not actively participating in professional technical training on a full time basis.

*\*Auxiliary aids for persons with disabilities are available upon advance request.*

**Rules Coordinator:** Richard L. Luthé

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

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

# NOTICES OF PROPOSED RULEMAKING

## Health Licensing Office, Sanitarians Registration Board Chapter 338

**Stat. Auth.:** ORS 700.050, 700.059 & 700.240  
**Stats. Implemented:** ORS 700.050, 700.059 & 700.240  
**Proposed Amendments:** 338-010-0030  
**Last Date for Comment:** 7-28-03  
**Summary:** Supersedes the current temporary rule filed and effective April 25, 2003 that expires October 17, 2003 conforming Oregon's passing score to the National standard of 68%.  
**Rules Coordinator:** Patricia C. Allbritton  
**Address:** Sanitarians Registration Board, 700 Summer St. NE, Suite 320, Salem, OR 97301  
**Telephone:** (503) 378-8667, ext. 4322

## Landscape Contractors Board Chapter 808

**Date:** 7-18-03      **Time:** 1 p.m.      **Location:** Rogue Regency Inn  
**Hearing Officer:** Carl Cory  
**Stat. Auth.:** ORS 670 & 671  
**Stats. Implemented:** ORS 671 & 183  
**Proposed Adoptions:** 808-002-0785, 808-003-0210, 808-004-0350, 808-004-0420  
**Proposed Amendments:** 808-003-0025, 808-003-0090, 808-003-0100, 808-004-0300, 808-004-0340, 808-004-0400, 808-004-0550, 808-004-0560, 808-004-0600, 808-008-0100, 808-009-0160  
**Last Date for Comment:** 7-21-03  
**Summary:** 808-002-0785 - Defines Primary Contractor  
808-003-0025 - Allows General Contractor with CCB to become licensed with LCB upon meeting specific requirements  
808-003-0090 - Corrects ORS cite  
808-003-0100 - Corrects typo  
808-003-0200 - Deletes authority for a CCB licensee to advertise for landscape construction  
808-003-0210 - Increases amount of landscape work a general contractor may perform from \$2500 to \$3000  
808-004-0300 - Clarifies when a claim is accepted for filing  
808-004-0340 - Adds requirement to submit job site address and directions on Statement of Claim form  
808-004-0350 - Adopts procedure to close a claim if information on claim form is incomplete  
808-004-0400 - Changes "investigation" to "meeting"  
808-004-0420 - Adopts requirement that homeowner and primary contractor claims based on same facts be processed together  
808-004-0500 - Add OAR cite  
808-004-0560 - Amended to include arbitration  
808-004-0600 - Clarifies when LCB will notify surety company claim is ready for payment  
808-008-0100 - Changes "investigation" to "meeting"  
808-009-0160 - Includes the amended declaration of damages form.  
*\*Auxiliary aids for persons with disabilities are available upon advance request.*  
**Rules Coordinator:** Kim Gladwill-Rowley  
**Address:** Landscape Contractors Board, 235 Union St. NE, Salem, OR 97301  
**Telephone:** (503) 986-6561

## Occupational Therapy Licensing Board Chapter 339

**Stat. Auth.:** ORS 675.320(10) & 675.320(11)  
**Stats. Implemented:** ORS 675.320(11)  
**Proposed Amendments:** 339-010-0005, 339-020-0020, 339-020-0030, 339-020-0040, 339-020-0050, 339-020-0060, 339-020-0070, 339-020-0100  
**Last Date for Comment:** 8-31-03

**Summary:** These amendments redefine mentorship; they further define continuing education categories and CE points to be awarded. They also delete the requirement for CE from two categories.  
**Rules Coordinator:** Peggy G. Smith  
**Address:** Occupational Therapy Licensing Board, 800 NE Oregon St., Suite 407, Portland, OR 97232  
**Telephone:** (503) 731-4048

## Oregon Department of Education Chapter 581

**Date:** 8-19-03      **Time:** 3 p.m.      **Location:** Public Service Bldg.  
255 Capitol St. NE  
Salem, OR  
Room 251-A

**Hearing Officer:** Mike Reed  
**Stat. Auth.:** ORS 326.051  
**Stats. Implemented:** ORS 339.430  
**Proposed Adoptions:** 581-021-0032  
**Last Date for Comment:** 8-19-03

**Summary:** Current administrative rules do not define the standard of review to be used by the State Board of Education in reviewing decisions of interscholastic activity organizations other than eligibility decisions. The administrative rule proposed would define a standard of review for other decisions.

For questions regarding this rule, please contact Randy Harnisch at (503) 378-3600, ext. 2350 or e-mail [randy.harnisch@state.or.us](mailto:randy.harnisch@state.or.us). For a copy of this rule, please contact Debby Ryan at (503) 378-3600, ext. 2348 or e-mail [debby.ryan@state.or.us](mailto:debby.ryan@state.or.us)

*\*Auxiliary aids for persons with disabilities are available upon advance request.*

**Rules Coordinator:** Debby Ryan  
**Address:** Oregon Department of Education, Public Service Bldg., 255 Capitol St. NE, Salem, OR 97310-0203  
**Telephone:** (503) 378-3600, ext. 2348

## Oregon Liquor Control Commission Chapter 845

**Date:** 8-5-03      **Time:** 10 a.m.      **Location:** 9079 SE McLoughlin Blvd.  
Portland, OR 97222

**Hearing Officer:** Katie Hilton  
**Stat. Auth.:** ORS 471, 471.030, 471.730(1) & 471.730(5)  
**Stats. Implemented:** ORS 471.710(5)  
**Proposed Amendments:** 845-004-0005  
**Last Date for Comment:** 8-19-03

**Summary:** This rule describes and limits the gifts and gratuities which may and may not be given to or accepted from various parties involved with work at the Commission.

The Commission proposes to change rule language regarding employees and Commissioners. These sections of the rule have not been reviewed for a least a decade. Staff have identified specific rule language which needs to be updated.

*\*Auxiliary aids for persons with disabilities are available upon advance request.*

**Rules Coordinator:** Katie Hilton  
**Address:** Oregon Liquor Control Commission, 9079 SE McLoughlin Blvd., Portland, OR 97222-7355  
**Telephone:** (503) 872-5004

**Date:** 7-30-03      **Time:** 10 a.m.      **Location:** 9079 SE McLoughlin Blvd.  
Portland, OR 97222

**Hearing Officer:** Katie Hilton  
**Stat. Auth.:** ORS 471, 471.030, 471.730(1) & 471.730(5)  
**Stats. Implemented:** ORS 471.730(7)  
**Proposed Amendments:** 845-007-0015  
**Last Date for Comment:** 8-13-03

# NOTICES OF PROPOSED RULEMAKING

**Summary:** This rule describes and limits the types of advertising media (coupons, handbills, etc) that are allowed and prohibited. The rule needs to be updated to reflect new trends in advertising, including use of discount coupons, grocery store club cards and cross-promotional coupons. The Commission proposes to amend the rule to add language specifying how discount coupons may be used and redeemed for wine, cider, and malt beverage purchases. The Commission also proposes to add language regarding how club cards and cross-promotional coupons may be used.

*\*Auxiliary aids for persons with disabilities are available upon advance request.*

**Rules Coordinator:** Katie Hilton

**Address:** Oregon Liquor Control Commission, 9079 SE McLoughlin Blvd., Portland, OR 97222-7355

**Telephone:** (503) 872-5004

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Date:	Time:	Location:
7-24-03	10 a.m.	9079 SE McLoughlin Blvd. Portland, OR 97222

**Hearing Officer:** Katie Hilton

**Stat. Auth.:** ORS 471, 471.030, 471.040, 471.229, 471.305, 471.730 (1), 471.730(5) & 471.730(6)

**Stats. Implemented:** ORS 471.030, 471.040, 471.115, 471.180, 471.223, 471.229, 471.305, 471.360, 471.398, 471.402, 471.404, 471.410, 471.412, 471.430, 471.730(1) & 471.730(5)

**Proposed Amendments:** 845-005-0415, 845-005-0422, 845-005-0423, 845-005-0427, 845-006-0390, 845-006-0395, 845-006-0396, 845-006-0398, 845-006-0430, 845-006-0433, 845-006-0434, 845-006-0450

**Last Date for Comment:** 8-7-03

**Summary:** The twelve rules in this package need amendment in order to comply with statutory changes regarding how alcoholic cider is regulated. The amendments will address delivery, sale, service and handling of alcoholic cider. The changes need to be made to comply with the 2003 legislature's House Bill 2295 and other statutory provisions regarding alcoholic cider.

*\*Auxiliary aids for persons with disabilities are available upon advance request.*

**Rules Coordinator:** Katie Hilton

**Address:** Oregon Liquor Control Commission, 9079 SE McLoughlin Blvd., Portland, OR 97222-7355

**Telephone:** (503) 872-5004

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## Oregon Public Employees Retirement System Chapter 459

Date:	Time:	Location:
7-18-03	9:30 a.m.	Boardroom PERS Headquarters 11410 SW 68th Pkwy. Tigard, OR

**Hearing Officer:** Yvette Elledge

**Stat. Auth.:** ORS 238.650

**Stats. Implemented:** ORS 238.005-238.715

**Proposed Amendments:** 459-005-0001, 459-010-0078

**Last Date for Comment:** 8-29-03

**Summary:** These proposed rule modifications relate to volunteer service. The proposed modification to OAR 459-005-0001 revises the definition of "volunteer" to clarify that the distinguishing characteristic of a volunteer is the lack of compensation for service performed and to be considered a volunteer, compensation received for similar service in the same calendar year may not exceed the market value for such service. The proposed modification to OAR 459-010-0078 defines "volunteer service" by reference to OAR 459-005-0001.

Copies of the proposed rules are available to any person upon request. The rules are also available at <http://www.pers.state.or.us/>. Public comment may be mailed to the above address or sent via email to [yvette.s.elledge@state.or.us](mailto:yvette.s.elledge@state.or.us)

*\*Auxiliary aids for persons with disabilities are available upon advance request.*

**Rules Coordinator:** Yvette S. Elledge

**Address:** Oregon Public Employees Retirement System, PO Box 23700, Tigard, OR 97281-3700

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

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Date:	Time:	Location:
7-18-03	10:30 a.m.	Boardroom PERS Headquarters 11410 SW 68th Pkwy. Tigard, OR

**Hearing Officer:** Yvette Elledge

**Stat. Auth.:** ORS 238.650

**Stats. Implemented:** ORS 238.005-238.715 & OL 2003 Ch. 67

**Proposed Amendments:** 459-005-0001, 459-005-0320, 459-045-0001

**Last Date for Comment:** 8-29-03

**Summary:** These proposed rule modifications conform existing rules with the provisions of HB 2003 (2003) relating to employee contributions and the new definition of the term "vested". In addition, other miscellaneous changes were made to update the rules.

Copies of the proposed rules are available to any person upon request. The rules are also available at <http://www.pers.state.or.us/>. Public comment may be mailed to the above address or sent via email to [yvette.s.elledge@state.or.us](mailto:yvette.s.elledge@state.or.us)

*\*Auxiliary aids for persons with disabilities are available upon advance request.*

**Rules Coordinator:** Yvette S. Elledge

**Address:** Oregon Public Employees Retirement System, PO Box 23700, Tigard, OR 97281-3700

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

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Date:	Time:	Location:
7-30-03	2:30 p.m.	Boardroom PERS Headquarters 11410 SW 68th Pkwy. Tigard, OR

**Hearing Officer:** Yvette Elledge

**Stat. Auth.:** ORS 238.650

**Stats. Implemented:** ORS 238, OR 2003 Ch. 3 & Ch. 67 (Enrolled HB 2001 & 2003)

**Proposed Amendments:** 459-007-0001, 459-007-0025, 459-007-0040, 459-007-0050, 459-007-0060, 459-007-0110, 459-007-0530, 459-007-0900

**Last Date for Comment:** 8-29-03

**Summary:** These rule modifications conform existing rules with the provisions of HB 2001 (2003), as amended by HB 2003 (2003), effective July 1, 2003, and state that no earnings may be credited to the Tier One regular accounts in any year in which there is a deficit, and no earnings may be credited that would result in a deficit. This provision becomes effective with the crediting of earnings in calendar year 2003, but does not affect members who retire before April 1, 2004.

Copies of the proposed rules are available to any person upon request. The rules are also available at <http://www.pers.state.or.us/>. Public comment may be mailed to the above address or sent via email to [yvette.s.elledge@state.or.us](mailto:yvette.s.elledge@state.or.us)

*\*Auxiliary aids for persons with disabilities are available upon advance request.*

**Rules Coordinator:** Yvette S. Elledge

**Address:** Oregon Public Employees Retirement System, PO Box 23700, Tigard, OR 97281-3700

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

# NOTICES OF PROPOSED RULEMAKING

**Date:** 7-23-03  
**Time:** 10 a.m.  
**Location:** Boardroom  
PERS Headquarters  
11410 SW 68th Pkwy.  
Tigard, OR

**Hearing Officer:** Yvette Elledge

**Stat. Auth.:** ORS 238.650

**Stats. Implemented:** OL 2003 Ch. 67 (Enrolled HB 2003)

**Proposed Adoptions:** 459-013-0300

**Last Date for Comment:** 8-29-03

**Summary:** This new rule implements and clarifies section 10 of HB 2003 (2003) which requires the PERS Board to perform retirement allowance recalculations for certain retirees. It specifies to whom the rule applies, describes the calculations of the "revised service retirement allowance" and the "fixed service retirement allowance," indicates that the member will receive the higher of the two calculations, and specifies that the provisions of the rule are effective July 1, 2003.

Copies of the proposed rules are available to any person upon request. The rules are also available at <http://www.pers.state.or.us/>. Public comment may be mailed to the above address or sent via email to [yvette.s.elledge@state.or.us](mailto:yvette.s.elledge@state.or.us)

*\*Auxiliary aids for persons with disabilities are available upon advance request.*

**Rules Coordinator:** Yvette S. Elledge

**Address:** Oregon Public Employees Retirement System, PO Box 23700, Tigard, OR 97281-3700

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

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**Oregon State Lottery**  
**Chapter 177**

**Stat. Auth.:** ORS 461; Other Auth.: OR Const., Article XV, § 4(4)

**Stats. Implemented:** ORS 461.200

**Proposed Adoptions:** 177-051-0000, 177-051-0010, 177-051-0020, 177-051-0030, 177-051-0040, 177-051-0050, 177-051-0060, 177-051-0070, 177-051-0080, 177-051-0090, 177-051-0100, 177-051-0110, 177-051-0120, 177-051-0130

**Last Date for Comment:** 7-28-03

**Summary:** The proposed rules authorize and set forth the provisions for promotions and giveaways that the Oregon Lottery may conduct from time to time for promotional purposes.

**Rules Coordinator:** Mark W. Hohlt

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

**Telephone:** (503) 540-1417

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**Stat. Auth.:** ORS 461; Other Auth.: OR Const., Article XV, § 4(4)

**Stats. Implemented:** ORS 461.215 & 461.217

**Proposed Amendments:** 177-100-0000, 177-100-0010, 177-100-0080, 177-100-0090, 177-100-0095, 177-100-0130, 177-100-0160, 177-100-0180, 177-100-0185

**Proposed Repeals:** 177-100-0070, 177-100-0170

**Last Date for Comment:** 8-8-03

**Summary:** The proposed amendments update definitions, suspend certain rules for redundancy, and make general housekeeping and grammar changes. OAR 177-100-0170 is suspended and is being moved to Division 200 — General Video Lottery Game Rules on advice from the Attorney General.

**Rules Coordinator:** Mark W. Hohlt

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

**Telephone:** (503) 540-1417

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**Stat. Auth.:** ORS 461; Other Auth.: OR Const., Article XV, § 4(4)

**Stats. Implemented:** ORS 461.215 & 461.217

**Proposed Adoptions:** 177-200-0005, 177-200-0011, 177-200-0012, 177-200-0032, 177-200-0055, 177-200-0065, 177-200-0080, 177-200-0090

**Proposed Amendments:** 177-200-0000, 177-200-0010, 177-200-0015, 177-200-0020, 177-200-0050, 177-200-0060, 177-200-0070

**Proposed Repeals:** 177-200-0030, 177-200-0040

**Last Date for Comment:** 8-8-03

**Summary:** The proposed amendments update the rules covering definitions and video game requirements, ticket price, lottery validation and payment requirements including hours of redemption, randomness testing, and specifications for poker games on video lottery terminals. New sections proposed to be adopted include Definitions, Accuracy of Wagers, Ownership of Cash Slips, Retailer Payment Credit/Debit, Video Lottery Game Management and Sales Requirements, Discharge of Lottery from Liability and Governing Law. Other changes include general grammar and housekeeping.

**Rules Coordinator:** Mark W. Hohlt

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

**Telephone:** (503) 540-1417

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**Oregon University System,**  
**Portland State University**  
**Chapter 577**

**Stat. Auth.:** ORS 351 & 352.008

**Stats. Implemented:** ORS 351 & 352.008

**Proposed Adoptions:** Rules in 577-033

**Last Date for Comment:** 7-21-03, 5 p.m.

**Summary:** The proposed rule supports the Athletics Department chemical health program which incorporates educational, testing, and treatment components. This rule establishes procedural requirements for drug testing of participants in student athletic programs.

**Rules Coordinator:** Sandra McDermott

**Address:** Oregon State System of Higher Education, Portland State University, Portland State University, Office of Business Affairs, PO Box 751, Portland, OR 97207-0751

**Telephone:** (503) 725-5901

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**Oregon University System,**  
**Western Oregon University**  
**Chapter 574**

**Stat. Auth.:** ORS 351.070 & 351.072

**Stats. Implemented:** ORS 351.070 & 351.072

**Proposed Amendments:** 574-031-0000, 574-031-0010, 574-031-0020, 574-031-0030, 574-031-0040, 574-032-0000, 574-032-0010, 574-032-0020, 574-032-0030, 574-032-0040, 574-032-0050, 574-032-0060, 574-032-0070, 574-032-0080, 574-032-0090, 574-032-0100, 574-032-0110, 574-032-0120, 574-032-0130, 574-032-0150, 574-032-0160, 574-050-0005

**Last Date for Comment:** 7-23-03

**Summary:** Amendments will allow for increases, additions, and revisions of special course fees and general services fees, and updates to Division 31 and 32 for student conduct and the student judicial process.

**Rules Coordinator:** Debra L. Charlton

**Address:** Oregon State System of Higher Education, Western Oregon University, 345 N Monmouth Ave., Monmouth, OR 97361

**Telephone:** (503) 838-8175

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**Physical Therapist Licensing Board**  
**Chapter 848**

**Date:** 7-18-03  
**Time:** 9 a.m.  
**Location:** 800 NE Oregon Street  
Suite 407  
Portland, OR 97232-2162

**Hearing Officer:** Cathy Zarosinski, PT, MS

**Stat. Auth.:** ORS 688.160(5) & 688.210

**Stats. Implemented:** ORS 688.050, 688.055, 688.070, 688.080, 688.020, 688.040, 688.090, 688.134, 688.160 & 688.210

# NOTICES OF PROPOSED RULEMAKING

**Proposed Amendments:** 848-010-0010, 848-010-0015, 848-030-0000, 848-040-0040, 848-040-0050

**Last Date for Comment:** 7-18-03

**Summary:** The amendment to OAR 848-010-0010 provides that requests for approval of unaccredited schools will be evaluated on a case-by-case basis and will be closely scrutinized.

The amendment to OAR 848-010-0015 provides for a minimum score for a newly introduced computer examination for TOEFL and provides that professional education of foreign trained applicants encompasses specific subject matter rather than specific courses.

The amendment to OAR 848-030-0000 provides for the change in the title of the American Heart Association CPR class: will shorten the hours of the medical screening course and medical screening refresher course; and exempts from the 12-hour medical screening course applicants that learned the material as part of their professional education.

The amendment to OAR 848-040-0040 provides for a change in the required frequency of reassessments depending on the treatment setting and requires that a reassessment be performed when there are significant changes in the patient's condition.

The amendment to OAR 848-040-0050 provides that a discharge summary needs to be completed by a physical therapist within 30 days of the patient's last visit, except in acute care hospitals. A physical therapist assistant can not perform a discharge assessment. A discharge assessment must include recommendations for follow-up care.

The proposed rule changes can be viewed on the Board's website at [www.ptboard.state.or.us](http://www.ptboard.state.or.us) or obtained from the Board's office.

*\*Auxiliary aids for persons with disabilities are available upon advance request.*

**Rules Coordinator:** James Heider

**Address:** Physical Therapist Licensing Board, 800 NE Oregon St, Suite 407, Portland, OR 97232

**Telephone:** (503) 731-4047, ext. 222

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**Real Estate Agency  
Chapter 863**

**Stat. Auth.:** ORS 181, 192, 696.385 & 183.335

**Stats. Implemented:** ORS 696.010, 696.015, 696.020, 696.022, 696.026, 696.174, 696.200, 696.221, 696.241, 696.255, 696.280, 696.361, 696.265, 696.301, 696.341, 696.385, 105.465-105.490

**Proposed Amendments:** 863-001-0000, 863-001-0005, 863-015-0010, 863-015-0015, 863-015-0025, 863-015-0030, 863-015-0040, 863-015-0045, 863-015-0055, 863-015-0065, 863-015-0080, 863-015-0085, 863-015-0095, 863-015-0100, 863-015-0120, 863-015-0125, 863-015-0135, 863-015-0140, 863-015-0145, 863-015-0175, 863-015-0185, 863-015-0255, 863-015-0260, 863-025-0010, 863-025-0020, 863-025-0025, 863-025-0030, 863-025-0035, 863-025-0050, 863-025-0065

**Proposed Repeals:** 863-015-0090

**Last Date for Comment:** 7-22-03

**Summary:** The 2001 legislature enacted Senate Bill 446 revising Oregon's licensing system for real estate professionals including real estate brokers and real property managers. The Real Estate Agency adopted rules to implement various provisions of Senate Bill 446. The Real Estate Agency then adopted temporary administrative rules (1) as required by the legislation, (2) required to fix inconsistencies within the rules promulgated subsequent to the passage of Senate Bill 446, or (3) as required to further implement the policies and procedures contemplated in the legislation.

**Rules Coordinator:** Brian DeMarco

**Address:** Real Estate Agency, 1177 Center St. NE, Salem, OR 97301-2505

**Telephone:** (503) 378-4170, ext. 237

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

Date:	Time:	Location:
8-6-03	9-9:30 a.m.	Public Service Bldg. 255 Capitol St. Basement C Salem, OR

**Hearing Officer:** Brenda Bayes

**Stat. Auth.:** ORS 198.775, 246.120, 246.150, 246.179, 246.540, 254.046, 254.365, 255.055, 255.075, 255.245 & 255.305

**Stats. Implemented:** ORS 198.775, 246.110, 246.120, 246.150, 246.179, 246.540, 251.365, 254.046, 254.095, 254.103, 254.465, 255.005, 255.055, 255.075, 255.245, 255.305 & 607.025

**Proposed Amendments:** 165-020-0020, 165-020-0025, 165-020-0030, 165-020-0045, 165-020-0050, 165-020-0060

**Last Date for Comment:** 8-6-03

**Summary:** 165-020-0020 - This rule adopts by reference Form SEL 815, the form used for filing a notice of election of board members for special district elections. The rule currently contains the language "as revised" and does not designate a revision date. The amendments will remove the "as revised" language.

165-020-0025 - This rule adopts by reference forms SEL 801, SEL 802 and SEL 803 to be used in the notice of a county, city or district measure election. The rule currently contains a revision date that is not accurate. The amendment will remove the revision date.

165-020-0030 - This rule designates the identification number used for special district elections for districts located in more than one county. ORS 255.195(2), cited in the rule, was repeal in 1987. The rule is being amended to correct that statute cite.

165-020-0045 - This rule describes the responsibility and action required by an election officer during the nomination of a candidate to fill a vacancy as a board member of a district defined in ORS 255.012, when the candidate could not be nominated pursuant to ORS Chapter 255.

165-020-0050 - This rule designates the forms used by the counties for billing for a local election and the purpose of such billings.

165-020-0060 - This rule adopts by reference forms SEL 951, SEL 952 and SEL 953, which are used in the computation of election costs and amortization of election equipment. The amendment to this rule will adopt form SEL 951a, as an alternative for the county clerks to use in the amortization of election equipment.

**Rules Coordinator:** Brenda Bayes

**Address:** Secretary of State, Elections Division, 141 State Capitol, Salem, OR 97310-0722

**Telephone:** (503) 986-1518

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Date:	Time:	Location:
8-6-03	9-9:30 a.m.	Public Service Bldg. 255 Capitol St. Basement C Salem, OR

**Hearing Officer:** Brenda Bayes

**Stat. Auth.:** ORS 246.150

**Stats. Implemented:** ORS 260.232 & 260.995

**Proposed Amendments:** 165-001-0000, 165-001-0005, 165-001-0015, 165-001-0025, 165-001-0035, 165-001-0040, 165-001-0045, 165-001-0050, 165-001-0055

**Last Date for Comment:** 8-6-03

**Summary:** OAR 165-001-0000 - This rule provides the procedure for adopting administrative rules, providing notice of the intended action and an explanation of the public's right to comment and/or attend a hearing.

OAR 165-001-0005 - This rule adopts by reference portions of the current Attorney General's Uniform and Model Rules of Procedure.

OAR 165-001-0015 - This rule provides the procedure whereby a person shall be notified of their opportunity for a hearing when the



# NOTICES OF PROPOSED RULEMAKING

Secretary of State proposes to impose a penalty under ORS 260.232 or 260.995.

ORAR 165-001-0025 - This rule provides the procedure whereby the Secretary of State issues an order by default, in a contested case under ORS 260.232 or 260.995, when no hearing is requested or when the party fails to appear.

ORAR 165-001-0035 - This rule provides the process for conducting contested case hearings.

ORAR 165-001-0040 - This rule adopts evidentiary rules for contested cases.

ORAR 165-001-0045 - This rule governs ex parte communications during contested cases.

ORAR 165-001-0050 - This rule addresses proposed orders in contested cases and the filing of exceptions, arguments and adoption of final order.

ORAR 165-001-0055 - This rule describes the contents of a final order issued in a contested case.

**Rules Coordinator:** Brenda Bayes

**Address:** Secretary of State, Elections Division, 141 State Capitol, Salem, OR 97310-0722

**Telephone:** (503) 986-1518

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Date:	Time:	Location:
8-6-03	9-9:30 a.m.	255 Capitol St. NE Basement C Salem, OR 97301

**Hearing Officer:** Brenda Bayes

**Stat. Auth.:** ORS 246.150, 247.176, 247.208 & 247.969

**Stats. Implemented:** ORS 247.015, 247.176, 247.208 & 247.965

**Proposed Amendments:** 165-005-0050, 165-005-0055, 165-005-0060, 165-005-0070, 165-005-0080, 165-005-0130

**Last Date for Comment:** 8-6-03

**Summary:** 165-005-0050 outlines the procedures used to register people who by the 21st day prior to the election are not U.S. citizens, but will be by election day. This rule will be amended to further detail the procedures applicable to the voter registration process for naturalized U.S. citizens. The information in related rules ORAR 165-005-0035 and 165-005-0040 is added to ORAR 165-005-0050 to simplify this set of rules.

165-005-0055 and 165-005-0060 list state agencies that are NVRA voter registration agencies. In addition they outline the procedure for collection of voter registration cards. These rules are being amended to update the Agency Voter Registration process.

165-005-0070 implements of the National Voter Registration Act of 1993 (P.L. 103-31) and ORS 247.208. This rule sets forth the guidelines for designated voter registration agencies. We propose to amend this rule to remove outdated information.

165-005-0080 outlines the procedure for handling requests for delivery of voter registration forms. This rule is being amended to further detail the procedure for filling requests for voter registration forms in excess of 5,000. In addition, 165-005-0080 is being combined with 165-005-0090 to simplify this set of rules.

**Rules Coordinator:** Brenda Bayes

**Address:** Secretary of State, Elections Division, 141 State Capitol, Salem, OR 97310-0722

**Telephone:** (503) 986-1518

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Date:	Time:	Location:
8-6-03	9-9:30 a.m.	Public Service Bldg. Basement C 255 Capitol St. Salem, OR

**Hearing Officer:** Brenda Bayes

**Stat. Auth.:** ORS 246.150, 254.465 & 254.470; Other Auth.: OR Const., Article XI, § 11

**Stats. Implemented:** ORS 246.550, 246.560, 254.465 & 254.470

**Proposed Amendments:** 165-007-0030, 165-007-0130, 165-007-0250

**Last Date for Comment:** 8-6-03

**Summary:** ORAR 165-007-0030 - This rule previously addressed processing voter registration cards received after the 21st day before an election but will be amended to adopt the current Vote by Mail Manual and Election Board Manual.

ORAR 165-007-0130 - This rule governs calculation of the turnout requirement at local elections when the Oregon Constitution requires a 50% turnout. Amendments updating the rule are proposed.

ORAR 165-007-0250 - This rule amendment adopts by reference the current version of the Federal Election Commission publication Performance and Test Standards for Punchcard, Marksense, and Direct Recording Electronic Voting Systems.

**Rules Coordinator:** Brenda Bayes

**Address:** Secretary of State, Elections Division, 141 State Capitol, Salem, OR 97310-0722

**Telephone:** (503) 986-1518

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**Stat. Auth.:** ORS 246.150

**Stats. Implemented:** ORS 183.440, 260.232 & 260.995

**Proposed Repeals:** 165-001-0020, 165-001-0030, 165-001-0060

**Last Date for Comment:** 8-6-03

**Summary:** ORAR 165-001-0020 - This rule describes the rights of parties in contested cases. Repealing this rule will not affect the rights of parties in contested cases because the contents of the rule duplicated ORS 260.995.

ORAR 165-001-0030 - This rule describes the process for issuing subpoenas. Repealing this rule will not change the way subpoenas are issued because the contents of this rule duplicate ORS 183.440.

ORAR 165-001-0060 - This rule is in regard to procedures for issuing final orders by default. This rule will be incorporated into ORAR 165-001-0025.

**Rules Coordinator:** Brenda Bayes

**Address:** Secretary of State, Elections Division, 141 State Capitol, Salem, OR 97310-0722

**Telephone:** (503) 986-1518

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**Stat. Auth.:** ORS 246.150, 247.015 & 247.176

**Stats. Implemented:** ORS 246.150, 247.015 & 247.176

**Proposed Repeals:** 165-005-0035, 165-005-0040, 165-005-0090, 165-005-0120, 165-005-0140

**Last Date for Comment:** 8-6-03

**Summary:** 165-005-0035, 165-005-0040 and 165-005-0090 are proposed for repeal because the content of these rules has been incorporated into existing rules 165-005-0050 and 165-005-0080 by amendment.

165-005-0120 and 165-005-0140 are proposed for repeal because the content of the rules is fully contained within state law.

**Rules Coordinator:** Brenda Bayes

**Address:** Secretary of State, Elections Division, 141 State Capitol, Salem, OR 97310-0722

**Telephone:** (503) 986-1518

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**Stat. Auth.:** ORS 246.120 & 246.150

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

**Proposed Repeals:** 165-007-0050, 165-007-0060, 165-007-0070, 165-007-0080, 165-007-0120

**Last Date for Comment:** 8-6-03

**Summary:** 165-007-0050 - This rule describes the process for preparing ballots for mailing in a vote by mail election. Repealing this rule will not change the way the ballots are prepared for mailing because the process is included in the *Vote By Mail Manual*.

165-007-0060 - This rule describes the process for reception and signature verification of ballots in a vote by mail election. Repealing this rule will not change the way ballots are received or verified because the process is described in the *Vote By Mail Manual*.

165-007-0070 - This rule describes the procedure for processing ballots in a vote by mail election. Repealing this rule will not change

## NOTICES OF PROPOSED RULEMAKING

the way the ballots are processed because the procedure is described in the *Vote By Mail Manual*.

165-007-0080 - This rule outlines the procedure for issuing replacement ballots to a voter during a vote by mail election. Repealing this rule will not change the way replacement ballots are issued to voters because the process is described in the *Vote By Mail Manual*.

165-007-0120 - This rule described the requirements for official drop sites in a vote by mail election. Repealing this rule will not change the procedure for establishing and monitoring official drop sites in a vote by mail election because the process is described in the *Vote By Mail Manual*.

**Rules Coordinator:** Brenda Bayes

**Address:** Secretary of State, Elections Division, 141 State Capitol, Salem, OR 97310-0722

**Telephone:** (503) 986-1518

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**Stat. Auth.:** ORS 198.775, 246.120, 246.150, 246.179, 251.365, 254.046, 255.305 & 255.325

**Stats. Implemented:** ORS 198.775, 246.179, 246.540, 251.365, 254.046, 254.095, 254.103, 254.108, 254.465, 255.005, 255.055, 255.075, 255.245, 255.305, 255.325, 255.335, 255.355, 607.025

**Proposed Repeals:** 165-020-0008, 165-020-0040, 165-020-0300, 165-020-0310, 165-020-0320, 165-020-0330, 165-020-0340, 165-

020-0350, 165-020-0360, 165-020-0370, 165-020-0380, 165-020-0390, 165-020-0400, 165-020-0410, 165-020-0420

**Last Date for Comment:** 8-6-03

**Summary:** 165-020-0008: This rule describes the process for conducting a special election called under ORS 255.355. This statute has been repealed and there is no longer a statutory basis for this rule.

165-020-0040: This rule defines "district election authority" and "district clerk". The rule will be incorporated into OAR 165-020-0035.

165-020-0300, 165-020-0310, 165-020-0320, 165-020-0330, 165-020-0340, 165-020-0350, 165-020-0360, 165-020-0370, 165-020-0380, 165-020-0390, 165-020-0400, 165-020-0410, 165-020-0420: These rules were created to adjust the term limits for some special district officeholders whose terms would have either expired prior to the next regularly scheduled special district candidate election, which would have left those offices vacant, or the candidate would have been up for election prior to the end of their term of office. These rules are no longer needed, as all of the term limits for the offices that were affected by the change in legislation are now in-sync with the May odd-numbered year elections.

**Rules Coordinator:** Brenda Bayes

**Address:** Secretary of State, Elections Division, 141 State Capitol, Salem, OR 97310-0722

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# ADMINISTRATIVE RULES

## Board of Geologist Examiners Chapter 809

**Adm. Order No.:** BGE 2-2003

**Filed with Sec. of State:** 6-13-2003

**Certified to be Effective:** 7-1-03

**Notice Publication Date:** 5-1-03

**Rules Amended:** 809-010-0025

**Subject:** This rule change adopts to Board's biennial budget as approved at the June 9, 2003 meeting of the Board.

**Rules Coordinator:** Susanna R. Knight—(503) 566-2837

### 809-010-0025

#### Operating Budget

Pursuant to ORS 182.462, the Board adopts the budget, for the biennium beginning July 1, 2003, and ending June 30, 2005, as approved at the Regular Board Meeting held June 9, 2003.

Stat. Auth.: ORS 670.310, ORS 672.705 & ORS 182.462

Stats. Implemented: ORS 672.705 & 1999 OL Ch. 1084

Hist.: BGE 1-1999, f. & cert. ef. 6-17-99; BGE 1-2001, f. & cert. ef. 3-23-01; BGE 2-2003, f. 6-13-03, cert. ef. 7-1-03

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**Board of Investigators  
Chapter 220**

**Adm. Order No.:** BI 1-2003

**Filed with Sec. of State:** 6-10-2003

**Certified to be Effective:** 7-1-03

**Notice Publication Date:** 2-1-03

**Rules Adopted:** 220-010-0300, 220-050-0105, 220-050-0300

**Rules Amended:** 220-005-0005, 220-005-0010, 220-005-0015, 220-005-0110, 220-005-0115, 220-005-0120, 220-005-0130, 220-005-0135, 220-005-0140, 220-005-0150, 220-005-0160, 220-005-0170, 220-005-0180, 220-005-0210, 220-005-0220, 220-005-0230, 220-005-0240, 220-005-0250, 220-010-0020, 220-010-0030, 220-010-0050, 220-010-0060, 220-010-0200, 220-030-0035, 220-040-0015, 220-040-0025, 220-040-0035, 220-040-0045, 220-040-0050, 220-050-0110, 220-050-0140, 220-050-0150

**Rules Repealed:** 220-010-0010, 220-010-0210, 220-020-0010, 220-020-0020, 220-020-0030, 220-020-0040, 220-050-0100, 220-050-0120, 220-050-0200

**Subject:** Adopt, amend, and repeal rules to conform to statutory language and provisions adopted during the 2001 legislative session (SB 722). Move all definitions into one section; add definitions. Amend Continuing Education rules and adopt guidelines. Repeal Division 20 ("Operatives"), and repeal duplicate sections.

**Rules Coordinator:** Kelly Paige—(503) 731-4359

### 220-005-0005

#### Definitions

(1) "Agency" means the Oregon Board of Investigators.

(2) "Board" means the Oregon Board of Investigators.

(3) "Complainant" means any person or group of persons who file(s) a complaint. The Board may, on its own action, initiate a complaint.

(4) "Complaint" means a specific charge filed with the Board that a licensed investigator or registered operative or candidate thereto, or any person apparently operating as an investigator without a license, has committed an act in violation of ORS Chapter 703 or OAR chapter 220.

(5) "Committee" means a group of one or more Board member(s) charged with review, recommendations, and preparation of reports to the Board concerning the work of the agency. Committee members may include agency staff.

(6) "Continuing Education Guidelines" or "CE Guidelines" means Oregon Administrative Rule 220-050-0300.

(7) "Educational endeavor that reasonably could be beneficial to the work of the investigator" as used in ORS 703.447(4) means those educational endeavors that are in compliance with the Oregon Board of Investigators' Continuing Education Guidelines, or are approved by the Continuing Education Committee or the Board.

(8) "Employee," as used in ORS 703.401 to 703.490, means a person who is employed lawfully by an employer. The employer controls the performance of that person; pays the salary, unemployment insurance, and worker's compensation insurance; and has sole authority to fire and control

work hours and the conditions of work. "Employee" in this context does not include a person engaged as an independent contractor.

(9) "Expired license": a license is considered expired if renewal and late fees and application materials are not submitted within one calendar month after the renewal date. A person may not practice as a licensed investigator with an expired license. An expired license may not be reinstated.

(10) "Hours of experience" means documented clock hours.

(11) "Investigatory work" means any work performed in accordance with ORS 703.401(3).

(12) "Lapsed license": a license is considered lapsed on the day following the licensee's renewal date if all renewal application requirements have not been received on or before the renewal date. A person may not practice as a licensed investigator with a lapsed license. A lapsed license may be reinstated if renewal and late fees and all other application materials are submitted within one calendar month after the renewal date.

(13) "Licensee" or "Licensed Investigator", as used in OAR 220-001-0010 to 220-050-0300 means a person licensed as an investigator under ORS 703.430. Except where specifically provided otherwise in the rules, it includes an investigator whose license is issued with a provisional endorsement, as described in ORS 703.415 and 703.430, and an investigator registered as an operative.

(14) "Operative" means a person who was registered prior to October 6, 2001, and performed all work under the direct supervision and control of a licensed investigator or an attorney admitted to practice in this state. Operative registrations were converted to provisional investigator licenses.

(15) "Private investigator" is a licensed investigator who has completed a minimum of 1500 documented clock hours of investigatory work experience or an approved course of study or a combination of work and study as approved by the Board.

(16) "Provisional investigator" is a licensed investigator who has completed fewer than 1500 documented clock hours of investigatory work experience, or an approved course of study, or a combination of work and study as approved by the Board; and who may not employ or supervise other investigators. Under 1997 and 1999 editions of governing statute, this type of investigator was referred to as an "operative."

(17) "Registration" means the type of licensure granted to an operative prior to October 6, 2001; thereafter converted to a license with a provisional endorsement.

(18) "Renewal pending" describes the status of a license if all renewal application requirements have been received by the Board by the expiration date, and the issuance of a license is in progress. An investigator may continue to practice with a renewal pending license.

(19) "Respondent" means an investigator who is a licensee or candidate for licensure, or any person apparently operating as an investigator without a license, against whom a complaint has been filed.

(20) "Stipulated Agreement" means a written agreement entered into at any time after a complaint has been filed which resolves such complaint.

(21) "Violation" means a violation of Oregon Statutes or Administrative Rules as they pertain to Oregon licensed investigators.

Stat. Auth.: ORS 703.480(3)

Stats. Implemented: ORS 703.401 - ORS 703.490, ORS 703.995.

Hist.: BI 3-2000, f. 7-25-00, cert. ef. 10-1-00; BI 4-2000(Temp), f. 9-13-00, cert. ef. 9-15-00 thru 3-10-01; BI 1-2001, f. 3-7-01, cert. ef. 3-8-01; BI 2-2001(Temp), f. 5-18-01, cert. ef. 5-21-01 thru 11-16-01; BI 3-2001, f. 10-19-01, cert. ef. 11-1-01; BI 1-2003, f. 6-10-03, cert. ef. 7-1-03

### 220-005-0010

#### Fees

For the purpose of implementing ORS Chapter 703.401 through 703.995, fees charged are:

(1) Application Fees:

(a) Examination: \$40.00;

(b) Exam Retakes: \$25.00.

(2) Background Checks:

(a) Oregon State Police Check: \$15.00;

(b) FBI Fingerprint Check: \$24.00.

(3) Private Investigator (P.I.) Fees:

(a) Initial License: \$550.00;

(b) Biennial License Renewal: \$550.00;

(c) Inactive License: \$50.00;

(d) Late Renewal: \$25.00.

(4) Provisional Investigator Fees:

(a) Initial Registration: \$550.00;

(b) Biennial Registration Renewal: \$550.00;

(c) Inactive: \$25.00;

(d) Late Renewal: \$25.00;

# ADMINISTRATIVE RULES

(e) Upgrade to Private Investigator License: \$0.00 to \$275.00 (the difference between the Private Investigator license fee and the last initial or renewal fee paid, pro-rated for the remaining term of the license.

(5) Miscellaneous Fees:

(a) Mailing Lists:

(A) Licensed Investigators: \$50.00;

(B) Exam Candidates: \$20.00;

(C) Investigation Firms: \$50.00;

(D) Other mailing lists by request: up to \$50.00.

(b) Certificates copies: \$2.50;

(c) Replacement ID Cards: \$10.00;

(d) Wall Certificate: \$10.00.

Stat. Auth.: ORS 703.480(3)

Stats. Implemented: ORS 703.425, ORS 703.435, ORS 703.445 & ORS 703.480

Hist.: BI 1-1998(Temp), f. & cert. ef. 3-6-98 thru 9-2-98; BI 4-1998, f. & cert. ef. 9-2-98; BI 1-2000, f. 2-23-00, cert. ef. 2-25-00; BI 1-2002, f. 12-9-02, cert. ef. 1-1-03; BI 1-2003, f. 6-10-03, cert. ef. 7-1-03

## 220-005-0015

### Payment of Fees

Payment of Licensing Fees must be made either by check or money order. Cash may be accepted for services and fees costing \$25 or less.

**NOTE:** Make all checks payable to the Oregon Board of Investigators.

Stat. Auth.: ORS 703.480(3)

Stats. Implemented: ORS 703.480(5)

Hist.: BI 4-1998, f. & cert. ef. 9-2-98; BI 1-2003, f. 6-10-03, cert. ef. 7-1-03

## 220-005-0110

### Initial and Renewal Applications

(1) Applications must be submitted on Board approved forms pursuant to ORS 703.425. All applicants must disclose on the initial application information required by ORS 703.425, including:

(a) Social Security Number;

(b) Home Address and Telephone Number;

(c) Business Address and Telephone Number;

(d) Place of Birth;

(e) Any license, certification or registration. Including:

(A) The title or type of such license, certification or registration;

(B) The location of the agency issuing such license, certification, or registration;

(C) The license, certification or registration number issued;

(D) The dates such license, certification or registration was held; and

(E) All information regarding any revoked license, certification or registration.

(2) All applicants must disclose on the initial or renewal application any information requested, including:

(a) Criminal charges or convictions;

(b) Complaints, lawsuits, or disciplinary actions regarding investigative activities

(c) Claims filed against the investigator's surety bond, credit, or insurance.

(3) Submission of any false information in connection with an application, supporting documentation or attachments for a license or registration may be grounds for discipline or refusal of license or registration.

(4) Renewal notices and forms will be sent to licensees approximately six weeks prior to the license expiration date.

(5) Renewal applications, renewal fees, and support documentation should be received two weeks prior to a licensee's renewal date to allow for staff processing time;

(6) Licensees being audited for Continuing Education compliance should have all renewal applications, renewal fees, and support documentation submitted three weeks prior to the renewal date to allow for staff processing time.

Stat. Auth.: ORS 703.480(3)

Stats. Implemented: ORS 703.425, ORS 703.445, ORS 703.460, ORS 703.465

Hist.: BI 1-1998(Temp), f. & cert. ef. 3-6-98 thru 9-2-98; BI 4-1998, f. & cert. ef. 9-2-98; BI 1-2003, f. 6-10-03, cert. ef. 7-1-03

## 220-005-0115

### Application Requirements for Licensees with Expired Licenses or Registrations

Applicants for licensure who previously had been licensed/registered in Oregon and whose license/registration had expired within five years prior to submitting the initial application must provide to the Board with the initial application either:

(1) Proof of completion of continuing education requirements during his/her last active status period; or

(2) An explanation of why continuing education requirements were not met during his/her most recent active status period. Not meeting con-

tinuing education requirements during the last active status period could be grounds for denial of a license

Stat. Auth.: ORS 703.480(3)

Stats. Implemented: ORS 703.425, ORS 703.445 & ORS 703.480(5)

Hist.: BI 1-2001, f. 3-7-01, cert. ef. 3-8-01; BI 1-2003, f. 6-10-03, cert. ef. 7-1-03

## 220-005-0120

### Review of Disclosures

(1) The Board of Investigators may conduct a special review of any application on which disclosures have been made to determine if a license should be issued;

(2) Such review will be conducted as part of a regularly or specially scheduled Board meeting, and may be held in Executive Session;

(3) The Board will notify the applicant at least fourteen (14) days in advance of the scheduled meeting. The Board may request the applicant to be present at such review to speak to the Board regarding the circumstances surrounding events disclosed.

Stat. Auth.: ORS 703.480(3)

Stats. Implemented: ORS 703.415(3)

Hist.: BI 1-1998(Temp), f. & cert. ef. 3-6-98 thru 9-2-98; BI 4-1998, f. & cert. ef. 9-2-98; BI 1-2003, f. 6-10-03, cert. ef. 7-1-03

## 220-005-0130

### Bonds and Letters of Credit

(1) Applications for licensure must be accompanied by proof of a minimum \$5000:

(a) Corporate surety bond completed on a Board approved form; or

(b) An irrevocable letter of credit issued by a commercial bank as defined in ORS 706.005.

(2) Bonds and Letters of Credit must have the applicant's name listed as principal;

(3) A bond will not be valid until filed with the Board and the investigator is licensed with the Board in accordance with ORS Chapter 703;

(4) A bond will not be valid for purposes of licensure in accordance with ORS Chapter 703 unless filed with the Board within sixty (60) days of the signature date on the bond;

(5) A letter of credit submitted to the Board will be reviewed and approved by the Board or Board staff prior to issuance of a license pursuant to ORS Chapter 703.

Stat. Auth.: ORS 703.480(3)

Stats. Implemented: ORS 703.425(2)(e)

Hist.: BI 1-1998(Temp), f. & cert. ef. 3-6-98 thru 9-2-98; BI 4-1998, f. & cert. ef. 9-2-98; BI 1-2003, f. 6-10-03, cert. ef. 7-1-03

## 220-005-0135

### Errors and Omissions Insurance

(1) Any licensed investigator who does not have a current surety bond or irrevocable letter of credit on file with the Board:

(a) Is required to notify the Board if his or her errors and omissions insurance policy is cancelled or lapses for any reason;

(b) Notification must be given to the Board within seven days of such cancellation or lapse;

(2) If a licensed investigator plans to cancel an errors and omissions insurance policy and does not have a current surety bond or irrevocable letter of credit on file with the Board, he or she must give the Board of Investigators 30 days notice for any such intended cancellation.

Stat. Auth.: ORS 703.480(3)

Stats. Implemented: ORS 703.425(2)(e) & ORS 703.425(5)

Hist.: BI 4-1999(Temp), f. 10-14-99, cert. ef. 10-23-99 thru 4-15-00; BI 1-2000, f. 2-23-00, cert. ef. 2-25-00; BI 1-2003, f. 6-10-03, cert. ef. 7-1-03

## 220-005-0140

### Photographs for Identification

(1) Applications for an investigator's initial or renewal license must be accompanied by two (2) identical color photographs taken of the applicant within the previous six months of filing the application;

(2) The size requirements of the photographs must be in compliance as outlined on application form OBI98018. The applicant's head in the photo must not be larger than 1" wide and 1.25" high;

(3) The applicant's face must be clearly visible and free from shadows or other viewing obstacles;

(4) One photograph will be used for an identification card and one will be kept in the applicant's file;

(5) If a replacement identification card is needed, 2 new, identical photographs will be required. Photographs that do not meet the above requirements may be returned to the applicant and delay the application process. Photocopies will not be accepted.

Stat. Auth.: ORS 703.480(3)

Stats. Implemented: ORS 703.425(2)(c)

# ADMINISTRATIVE RULES

Hist.: BI 1-1998(Temp), f. & cert. ef. 3-6-98 thru 9-2-98; BI 4-1998, f. & cert. ef. 9-2-98; BI 1-2000, f. 2-23-00, cert. ef. 2-25-00; BI 1-2003, f. 6-10-03, cert. ef. 7-1-03

## 220-005-0150

### Fingerprint ID Cards

(1) Applications for licensure must be accompanied by three complete sets of fingerprints.

(2) Fingerprints must be submitted on an FBI Standard Applicant Fingerprint Card, Form FD258. These forms are provided to applicants by the Board.

(3) Fingerprints must be clear as outlined in the instructions on the back of the fingerprint card;

(4) Cards that contain fingerprints that are not clear may be returned to the applicant and may delay their application process.

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

Stat. Auth.: ORS 703.480(3)

Stats. Implemented: ORS 703.425(2)(c)

Hist.: BI 1-1998(Temp), f. & cert. ef. 3-6-98 thru 9-2-98; BI 4-1998, f. & cert. ef. 9-2-98; BI 1-2003, f. 6-10-03, cert. ef. 7-1-03

## 220-005-0160

### References

(1) Applications for licensure must be accompanied by three (3) professional references, none of which may be from a person who is related to the applicant by blood or marriage.

(2) Professional references should be filed with the Board in letter format and must contain, in addition to the letter, the reference's current contact telephone number, mailing address, date and signature;

(3) Reference letters will not be valid for purposes outlined in section one above if they are dated more than six (6) months prior to when the application is filed with the Board;

(4) Reference letters may help show that the applicant fulfills the experience requirement pursuant to ORS 703.415(2).

Stat. Auth.: ORS 703.480(3)

Stats. Implemented: ORS 703.425(2)(d)

Hist.: BI 1-1998(Temp), f. & cert. ef. 3-6-98 thru 9-2-98; BI 4-1998, f. & cert. ef. 9-2-98; BI 1-2003, f. 6-10-03, cert. ef. 7-1-03

## 220-005-0170

### Review of Application Materials

The Board of Investigators, its staff or a committee authorized by the Board will review all applications for completeness and may:

(1) Return all application materials received if required documents have not been submitted; or

(2) Forward the application materials to the Board if discrepancies are found with the application disclosure requirements.

(3) Approve the application materials and proceed with the application process.

Stat. Auth.: ORS 703.480(3)

Stats. Implemented: ORS 703.425

Hist.: BI 1-1998(Temp), f. & cert. ef. 3-6-98 thru 9-2-98; BI 4-1998, f. & cert. ef. 9-2-98; BI 1-2003, f. 6-10-03, cert. ef. 7-1-03

## 220-005-0180

### Reopening a Closed Applicant's File

(1) An applicant may have his or her closed file reopened only if the request is made within two (2) years of their file being closed. The applicant must:

(a) Provide a written request for such action to the Application Committee; and

(b) Pay the application fee;

(2) The Board or Application Committee may request the applicant to submit additional sets of fingerprints, if so the appropriate fee may be charged;

(3) The Board or Application Committee may request additional reference letters;

(4) The Application Committee may refer the request to the full Board for review at the next regularly scheduled Board meeting.

Stat. Auth.: ORS 703.480(3)

Stats. Implemented: ORS 703.425 & ORS 703.480

Hist.: BI 2-1999(Temp), f. 9-28-99, cert. ef. 10-1-99 thru 3-28-00; BI 1-2000, f. 2-23-00, cert. ef. 2-25-00; BI 1-2003, f. 6-10-03, cert. ef. 7-1-03

## 220-005-0210

### Administration of the Exam

(1) The Board will adopt and administer a test of professional investigator competency.

(2) The exam will be proctored by the Board staff or other designated supervisor, at a time and place established by Board staff.

(3) The Board may close an applicant's file upon the applicant's failure to complete the application process in full within 90 days from the date the exam was taken.

Stat. Auth.: ORS 703.480(3)

Stats. Implemented: ORS 703.480(6)

Hist.: BI 1-1998(Temp), f. & cert. ef. 3-6-98 thru 9-2-98; BI 3-1998(Temp), f. & cert. ef. 5-27-98 thru 11-23-98; BI 4-1998, f. & cert. ef. 9-2-98; BI 1-2003, f. 6-10-03, cert. ef. 7-1-03

## 220-005-0220

### Exam Results

(1) A minimum passing score will be established by the Board;

(2) For security purposes, results will not be disclosed over the telephone. Results will be mailed at the discretion of the Board. Results may be released to the applicant with proper picture identification.

Stat. Auth.: ORS 703.480(3)

Stats. Implemented: ORS 703.480(6)

Hist.: BI 3-1998(Temp), f. & cert. ef. 5-27-98 thru 11-23-98; BI 4-1998, f. & cert. ef. 9-2-98; BI 1-2003, f. 6-10-03, cert. ef. 7-1-03

## 220-005-0230

### Exam Retakes

(1) Applicants who fail the exam may retake the exam only after submitting a Board approved retake application form accompanied by the proper retake fee;

(2) The exam may be administered to an applicant only three times. If the applicant does not pass the exam by the third attempt, the Board may ask the applicant to wait one year from the date the last exam was taken to reapply for a new exam process.

Stat. Auth.: ORS 703.480(3)

Stats. Implemented: ORS 703.480(6)

Hist.: BI 3-1998(Temp), f. & cert. ef. 5-27-98 thru 11-23-98; BI 4-1998, f. & cert. ef. 9-2-98; BI 1-2003, f. 6-10-03, cert. ef. 7-1-03

## 220-005-0240

### Appealing Exam Results

(1) An applicant may appeal the results of his or her exam in writing;

(2) The Board must receive a written request for an appeal within 30 days from the date the exam results were mailed to the applicant;

(3) The applicant has the right to review their exam at the time of appeal;

(4) The Board will review such appeals at their next regularly scheduled Board meeting.

Stat. Auth.: ORS 703.480(3)

Stats. Implemented: ORS 703.480(6)

Hist.: BI 3-1998(Temp), f. & cert. ef. 5-27-98 thru 11-23-98; BI 4-1998, f. & cert. ef. 9-2-98; BI 1-2003, f. 6-10-03, cert. ef. 7-1-03

## 220-005-0250

### Copying and Distribution of the Exam

(1) No person, school, association or any other entity is authorized to copy or distribute any exam administered by the Board of Investigators without prior written authorization from the Board of Investigators;

(2) Applicants who take the exam must not disclose to anyone or any entity the contents of the exam including the exam questions and answers.

Stat. Auth.: ORS 703.480(3)

Stats. Implemented: ORS 703.480(6)

Hist.: BI 3-1998(Temp), f. & cert. ef. 5-27-98 thru 11-23-98; BI 4-1998, f. & cert. ef. 9-2-98; BI 1-2003, f. 6-10-03, cert. ef. 7-1-03

## 220-010-0020

### Educational Substitutes for Experience

(1) Completion of a related course of study at an educational institution licensed or approved by a State Department of Education or other State approving agency, and approved by the Oregon Board of Investigators may be substituted for up to 500 hours of the required work experience. Correspondence courses, online courses, or similar coursework will be evaluated on a case-by-case basis.

(2) Educational substitutions applied toward the required work experience will be granted on a three to one (3 to 1) basis and will be calculated using clock hours spent in class. For example, three hours in class would equate to nine hours of allowable experience;

(3) Applicants must provide the Board or its authorized representative verifiable documentation in the form of sealed certified transcripts or an official certificate from the administering institution(s) showing successful completion of study in the related subject matter;

(4) The Board or its authorized representative will review the subject matter of the applicant's education on an individual basis;

(5) Certified transcripts or official copies of certificates presented to the Board in an envelope sealed by the program or institution or instructor and verified as sealed may be accepted directly from the applicant;

# ADMINISTRATIVE RULES

(6) If a program or institution granting credit is no longer in business, the Board will accept for review a copy of a certificate of completion or transcript or diploma in the required subject matter and hours. The Board may require additional information to verify the authenticity of such documents.

Stat. Auth.: ORS 703.480(3)  
Stats. Implemented: ORS 703.415(1)(g)  
Hist.: BI 2-1999(Temp), f. 9-28-99, cert. ef. 10-1-99 thru 3-28-00; BI 1-2000, f. 2-23-00, cert. ef. 2-25-00; BI 1-2003, f. 6-10-03, cert. ef. 7-1-03

## 220-010-0030

### Provisional Investigator Upgrade to Private Investigator

(1) The license of a Provisional Investigator will be upgraded to a Private Investigator license when the applicant provides verifiable documentation that he or she has performed 1500 hours of investigatory work, or completed a course of study approved by the Oregon Board of Investigators, and has paid any applicable upgrade fee;

(2) A provisional investigator must upgrade to private investigator upon meeting the requirements of ORS 703.415(g);

(3) If a provisional investigator upgrades to a private investigator prior to his or her current expiration date, he or she must pay a pro-rated amount of any applicable upgrade fee;

(4) The expiration date for a provisional investigator's current license will not change when upgraded to a private investigator unless the upgrade is granted at the time of renewal. The provisional investigator's license number will not change at the time of the upgrade, but the "P" endorsement will be removed.

Stat. Auth.: ORS 703.480(3)  
Stats. Implemented: ORS 703.480(3)  
Hist.: BI 2-1999(Temp), f. 9-28-99, cert. ef. 10-1-99 thru 3-28-00; BI 1-2000, f. 2-23-00, cert. ef. 2-25-00; BI 1-2003, f. 6-10-03, cert. ef. 7-1-03

## 220-010-0050

### Applying for Inactive Status

(1) A licensed investigator may apply, using a Board-approved form, for inactive status.

(2) A licensee may be granted inactive status upon:

(a) Payment of the inactive license fee; and

(b) Submission of the inactive status request form to the Board's administrative office.

(3) All granted inactive status requests will be presented at the Board's next regularly scheduled meeting.

(4) The Board will provide a license for inactive status but no photo ID card will be issued for any licensee in inactive status.

Stat. Auth.: ORS 703.480(3)  
Stats. Implemented: ORS 703.480(3)  
Hist.: BI 2-1999(Temp), f. 9-28-99, cert. ef. 10-1-99 thru 3-28-00; BI 1-2000, f. 2-23-00, cert. ef. 2-25-00; BI 1-2003, f. 6-10-03, cert. ef. 7-1-03

## 220-010-0060

### Applying for Reinstatement to Active Status

(1) A licensee in inactive status may apply to the Board to be reinstated to active status by paying the appropriate license renewal fee and completing the appropriate renewal application form;

(2) A licensee applying for reinstatement to active status must comply with appropriate continuing education requirements as outlined in OAR 220 division 50.

Stat. Auth.: ORS 703.480(3)  
Stats. Implemented: ORS 703.480(3)  
Hist.: BI 2-1999(Temp), f. 9-28-99, cert. ef. 10-1-99 thru 3-28-00; BI 1-2000, f. 2-23-00, cert. ef. 2-25-00; BI 1-2003, f. 6-10-03, cert. ef. 7-1-03

## 220-010-0200

### Compliance with the Corporation Division

(1) An assumed business name (ABN) used by any licensed investigator must be registered with the State of Oregon Corporation Division if the investigator operates or intends to operate an investigative business under any name other than the investigator's legal first and last name;

(2) A limited liability company (LLC), limited liability partnership (LLP), corporation or other business entity used by an investigator for investigative purposes as defined in ORS Chapter 703 must be registered with the State of Oregon Corporation Division;

(3) No license or renewal will be issued unless the investigator is in compliance with sections one (1) or two (2) of this rule;

(4) Non-compliance with the Corporation Division by a licensed investigator may be grounds for disciplinary actions by the Board.

Stat. Auth.: ORS 703.480(3)  
Stats. Implemented: ORS 703.430  
Hist.: BI 2-1999(Temp), f. 9-28-99, cert. ef. 10-1-99 thru 3-28-00; BI 1-2000, f. 2-23-00, cert. ef. 2-25-00; BI 1-2003, f. 6-10-03, cert. ef. 7-1-03

## 220-010-0300

### Maintaining Current Information

(1) Within 10 days, a licensed investigator must notify the Board of any changes to name, home address, home phone number, mailing address, business name, business address, or business phone number.

(2) The Board will provide a change-of-information form, which must be completed, signed, and dated.

Stat. Auth.: ORS 703.480(3)  
Stat. Implemented: ORS 703.425 & ORS 703.460  
Hist.: BI 1-2003, f. 6-10-03, cert. ef. 7-1-03

## 220-030-0035

### Code of Ethical Conduct

(1) All licensed investigators must, at all times, observe the rules and requirements of conduct as follows:

(a) Obey all laws in the pursuit of their investigations;

(b) Abide by all provisions of ORS Chapter 703 and OAR chapter 220 as they relate to licensed investigators;

(c) Never act officiously or permit personal feelings, prejudices, political beliefs, aspirations, animosities or friendships to influence their professional decisions;

(d) Never compromise and shall relentlessly perform their duties in accordance with the law, courteously and appropriately, without fear or favor, malice or ill-will;

(e) Never employ unnecessary or unlawful force or violence;

(f) Maintain each client's confidentiality within the limits of the law;

(g) Be accountable and responsible for their actions;

(h) Accept sole responsibility for their individual standard of professional performance and take every reasonable opportunity to enhance and improve their level of knowledge, competence, and professional integrity;

(i) Actively seek and report the truth in the performance of their professional duties;

(j) Be above reproach in the financial aspects of their relationships with clients;

(k) Keep promises, fulfill commitments and abide by the spirit of agreements made with their clients as well as the letter of agreements with their clients;

(l) Recognize that the credential of a licensed investigator is a symbol of public faith and will accept it as a public trust, to be held only so long as they are true to the ethics of the investigative profession.

Stat. Auth.: ORS 703.480(3)  
Stats. Implemented: ORS 703.480(7)  
Hist.: BI 3-1999(Temp), f. 9-28-99, cert. ef. 10-1-99 thru 3-28-00; BI 1-2000, f. 2-23-00, cert. ef. 2-25-00; BI 1-2003, f. 6-10-03, cert. ef. 7-1-03

## 220-040-0015

### Compliance Committee

(1) The Board will appoint a "Compliance Committee" consisting of one or more Board member(s) charged with the investigation and preparation of reports to the Board concerning complaints.

(2) The Compliance Committee will be chaired by the Board's public member and one other Board member to be selected on a case-by-case basis.

(3) The Compliance Committee has the full power of the Board to conduct investigations, prepare reports, negotiate agreements, and perform such other duties as may be prescribed by the Board.

(4) The Compliance Committee may request Board staff to assist in investigation, report preparation, negotiations, and other such duties as may be deemed necessary by the Compliance Committee.

Stat. Auth.: ORS 703.480(3)  
Stats. Implemented: ORS 703.480(5)  
Hist.: BI 3-1999(Temp), f. 9-28-99, cert. ef. 10-1-99 thru 3-28-00; BI 1-2000, f. 2-23-00, cert. ef. 2-25-00; BI 1-2003, f. 6-10-03, cert. ef. 7-1-03

## 220-040-0025

### Management of Complaints

A board member who is unable to render an impartial, objective decision regarding any complaint must abstain from participating in the preparation, hearing, deliberation and disposition of such complaint. An abstention will be effective from the time a Board member announces his/her decision not to participate.

Stat. Auth.: ORS 703.480(3)  
Stats. Implemented: 703.480(4)  
Hist.: BI 3-1999(Temp), f. 9-28-99, cert. ef. 10-1-99 thru 3-28-00; BI 1-2000, f. 2-23-00, cert. ef. 2-25-00; BI 1-2003, f. 6-10-03, cert. ef. 7-1-03

# ADMINISTRATIVE RULES

## 220-040-0035

### Filing a Complaint

(1) The Board staff will keep a record of all complaints made, subject only to other provisions within these rules.

(2) A complainant other than the Board should file the complaint with the Board within one year of knowledge of the incident's occurrence.

Stat. Auth.: ORS 703.480(3)

Stats. Implemented: ORS 703.480(4)

Hist.: BI 3-1999(Temp), f. 9-28-99, cert. ef. 10-1-99 thru 3-28-00; BI 1-2000, f. 2-23-00, cert. ef. 2-25-00; BI 1-2003, f. 6-10-03, cert. ef. 7-1-03

## 220-040-0045

### Form of Complaints

(1) When a complaint is first made, the staff will provide the complainant with the Board's complaint form. Unless there is an approved exception, this form shall be completed by the complainant and submitted to Board staff before a complaint is investigated.

(2) Unless otherwise prohibited by law, if the complainant is a client or former client of the respondent, the complainant must sign a waiver of confidentiality allowing the Board and its counsel access to records and other materials. Refusal by a complainant to comply with these requirements may result in no investigation of the complaint.

Stat. Auth.: ORS 703.480(3)

Stats. Implemented: ORS 703.480(4)

Hist.: BI 3-1999(Temp), f. 9-28-99, cert. ef. 10-1-99 thru 3-28-00; BI 1-2000, f. 2-23-00, cert. ef. 2-25-00; BI 1-2003, f. 6-10-03, cert. ef. 7-1-03

## 220-040-0050

### Determination of Violations

(1) A preliminary administrative review of the complaint will be made by the Board staff to assure there is sufficient information to proceed. Staff will:

- (a) Acknowledge receipt of complaint;
- (b) Notify the respondent of the allegation(s);
- (c) Begin preliminary investigation (e.g. data searches and other inquiries).

(2) If sufficient information is determined, the Board staff will then refer the complaint to the Compliance Committee.

(3) The Compliance Committee will investigate the complaint to determine its validity.

(4) The Committee will:

(a) Gather relevant information and, in doing so, may submit questions to the respondent and require written answers and copies of related documents. The respondent shall comply within twenty (20) days after the request is mailed, unless an extension is authorized by the Committee.

(b) Evaluate all evidence obtained, including reports, statements, and evidence (e.g., documents, data, and other materials) received from the respondent, Board investigators, Board staff or members;

(c) Recommend action to the full Board at a regular or special meeting of the Board.

(5) The full Board will consider the Committee's recommendations and take appropriate action as authorized by ORS 703.465 and 703.995.

(6) The Board may enter into a Stipulated Agreement with the Respondent. A stipulated agreement must be signed by the respondent and the Board Chair, and include at least the following statements:

(a) The agreement has been freely and voluntarily made by respondent;

(b) An explanation of the particular facts and violations stipulated to by the respondent and the Board;

(c) Respondent's agreement to accept a designated form of discipline in exchange for the agreement;

(7) If the Board finds that a complaint allegation is false, all records of the complaint shall be destroyed.

Stat. Auth.: ORS 703.480(3)

Stats. Implemented: ORS 703.480(4)

Hist.: BI 3-1999(Temp), f. 9-28-99, cert. ef. 10-1-99 thru 3-28-00; BI 1-2000, f. 2-23-00, cert. ef. 2-25-00; BI 1-2003, f. 6-10-03, cert. ef. 7-1-03

## 220-050-0105

### Continuing Education Programs

All continuing education programs must be in compliance with the Oregon Board of Investigators' Continuing Education Guidelines, as set forth in these rules. The hour limitations and other requirements set forth in the Continuing Education Guidelines do not apply to Continuing Education hours earned before July 1, 2003.

Stat. Auth.: ORS 703.480(3)

Stats. Implemented: ORS 703.447

Hist.: BI 1-2003, f. 6-10-03, cert. ef. 7-1-03

## 220-050-0110

### Continuing Education Requirements for Investigator License Renewal

(1) No Private Investigator license or renewal will be issued by the Board of Investigators unless the licensee has satisfactorily completed and reported thirty-two (32) continuing education program hours in compliance with the Oregon Board of Investigators' Continuing Education Guidelines. Two (2) of the hours must be in ethics.

(2) No Provisional Investigator license or renewal will be issued by the Board of Investigators unless the licensee has satisfactorily completed and reported forty (40) continuing education program hours in compliance with the Oregon Board of Investigators' Continuing Education Guidelines. Two (2) of the hours must be in ethics.

(3) The Board of Investigators, its staff, or a committee authorized by the Board shall review all Continuing Education reports for completeness and may:

(a) Return all renewal application materials received if the required Continuing Education report has not been submitted; or

(b) Forward the renewal application to the Board for consideration at its next regularly scheduled meeting if the reported Continuing Education does not conform to the Continuing Education Guidelines; or

(c) Approve the renewal application materials and Continuing Education report, and proceed with the renewal process.

(4) A licensed investigator may carry over up to fifteen (15) hours of unused continuing education credit hours to his/her next licensing period;

Stat. Auth.: ORS 703.480(3)

Stats. Implemented: ORS 703.447

Hist.: BI 2-2000, f. 2-25-00, cert. ef. 3-1-00; Suspended by BI 5-2001(Temp), f. 12-6-01, cert. ef. 12-7-01 thru 6-5-02; BI 1-2003, f. 6-10-03, cert. ef. 7-1-03

## 220-050-0140

### Inactive License Continuing Education Requirements

(1) The Board will review, at its next regularly scheduled Board meeting, a licensee's application for re-activation and determine, on a case-by-case basis, the number of continuing education credit hours required of the licensee prior to approving the active status;

(2) The licensee should be prepared to provide the Board with documentation of the number of hours of continuing education completed during the licensee's most recent active status period.

Stat. Auth.: ORS 703.480(3)

Stats. Implemented: ORS 703.447

Hist.: BI 2-2000, f. 2-25-00, cert. ef. 3-1-00; Suspended by BI 5-2001(Temp), f. 12-6-01, cert. ef. 12-7-01 thru 6-5-02; BI 1-2003, f. 6-10-03, cert. ef. 7-1-03

## 220-050-0150

### Continuing Education Program Certification and Audits

(1) The Board of Investigators may randomly audit licensed investigators for compliance with Continuing Education requirements;

(2) Investigators being audited must provide both a compliance form and verification of satisfactory completion of programs attended. If the Board, or its authorized representative does not accept a program as submitted:

(a) The licensee will have up to 90 days to make up the continuing education hours;

(b) The licensee may have his/her license renewed by paying the normal renewal fee with the expectation that the hours of continuing education not approved will be completed within the 90 days of the renewal date;

(c) The licensee will be subject to disciplinary action if continuing education program deficiencies are not made up within the ninety (90) days of their renewal date; and

(3) The Board may charge a late renewal fee or impose discipline up to and including denying the renewal for an investigator who does not demonstrate a good faith effort to complete continuing education credit before his or her renewal date;

(4) Investigators not being audited will be required to submit with their renewal application a compliance form that includes a signed statement certifying that they have completed the continuing education requirements set forth in these rules;

(5) All licensed investigators must maintain a record of completed continuing education for a minimum of seven (7) years and provide these records to the Board upon request.

Stat. Auth.: ORS 703.480(3)

Stats. Implemented: ORS 703.480(9)

Hist.: BI 2-2000, f. 2-25-00, cert. ef. 3-1-00; Suspended by BI 5-2001(Temp), f. 12-6-01, cert. ef. 12-7-01 thru 6-5-02; BI 1-2003, f. 6-10-03, cert. ef. 7-1-03

# ADMINISTRATIVE RULES

## 220-050-0300

### Continuing Education (CE) Guidelines

(1) Conferences and Seminars. The Oregon Board of Investigators will maintain a list of organizations whose conferences, seminars, and educational meetings have standing approval. Continuing Education from other organizations will be approved on a case-by-case basis.

- (a) Attendance: 1 CE Hour for each hour of speaker presentation.
- (b) Lecturing: 4 CE Hours for each hour presented.
- (c) Video tapes: 1 CE Hour for each hour viewing of videotapes.
- (d) Audiotapes: 1 CE Hour for each hour or listening to audiotapes.

(2) Computer Seminars One (1) CE hour of credit for each hour of attended seminar sessions hosted by computer information sources such as public record vendors; and any other similar approved seminar regarding computer information sources. Seminars on how to operate computers will not be approved for credits. (Limit 12 hours per licensing period.)

(3) Educational Institutions Educational institutions (including colleges, universities, and trade schools) will be granted standing approval when that institution is licensed or approved by the respective State's Department of Education or other State approving agency, and the course subject matter is appropriate to the investigator. This standing approval will apply to all courses related to law, criminal justice, ethics in the legal or investigative profession, and other courses that are clearly applicable to the private investigator. Others may be approved on a case-by-case basis.

- (a) Attendance: 1 CE Hour for each hour of course instruction.
- (b) Guest lecture: 4 CE Hours per presentation, 1 hour or more. (Limit of 8 hours per licensing period.)

#### (4) Publications:

(a) Articles: Six (6) CE hours for each 1000 word or more investigation related article published, or suitable for publication, in a newsletter or journal. (Limit of 12 hours per licensing period.)

#### (b) Books:

(A) Twenty-four (24) CE hours for writing a full-length book on a subject appropriate to investigation.

(B) Eight (8) CE hours for updating and republishing an existing full-length published book on a subject appropriate to investigation.

(C) Eight (8) CE hours for writing a single chapter of a full-length published book on a subject appropriate to investigation.

#### (5) Self-Study:

(a) Correspondence Courses and Online Courses: Twelve (12) CE hours per college-equivalent credit hour; otherwise, Four (4) CE hours per course that is related to investigation, completed and passed.

(b) Books and Manuals: Two (2) CE hours for each non-fiction book or professional/technical manual that is related to investigation. All books published by Lawyers and Judges Publishing have standing approval. Other books will be approved on a case-by-case basis. (Limit of 8 hours per licensing period.)

(6) Television and Radio Appearances Four (4) CE hours for each half hour appearance on a television or radio program which provides education about investigative topics. Merely appearing or participating in a show does not qualify. The program must qualify as an educational program. (Limit of 8 hours per licensing period.)

(7) Board Meetings Two (2) CE hours will be granted for attending an OBI Board or Committee Meeting. No CE hours will be granted for attending investigator association board or committee meetings. (Limit of 4 hours per licensing period.)

(8) Network Meetings Two (2) CE hours will be granted for approved network meetings. Meetings must be noticed and structured, and proof of attendance that includes topics covered must be supplied to attendees by the person organizing the meeting. A minimum of four investigators must be in attendance. (Limit of 8 hours per licensing period.)

Stat. Auth.: ORS 703.480(3)

Stats. Implemented: ORS 703.447.

Hist.: BI 1-2003, f. 6-10-03, cert. ef. 7-1-03

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## Board of Naturopathic Examiners

### Chapter 850

**Adm. Order No.:** BNE 3-2003

**Filed with Sec. of State:** 6-9-2003

**Certified to be Effective:** 6-9-03

**Notice Publication Date:** 5-1-03

**Rules Amended:** 850-010-0225, 850-010-0226

**Subject:** This amendment will update the compendium for naturopathic physicians, and pharmacists, to prescribe and fill prescriptions that are within Oregon law.

**Rules Coordinator:** Anne Walsh—(503) 731-4045

## 850-010-0225

### Naturopathic Formulary Compendium

Pursuant to ORS 685.145, the following list of products is approved by the Naturopathic Physicians' Formulary Council established by the 65th Oregon Legislature. Products marked with an asterisk (\*) may be purchased or otherwise obtained by Naturopathic Physicians in any dosage form for appropriate use, but may not be prescribed. All non-asterisked products are restricted to nonparenteral dosage forms and may be prescribed. Injectable vitamins and minerals may be prescribed. Combination products containing only active ingredients listed in the Formulary may be prescribed. Combination products containing any active ingredient(s), except non-legend drugs, not listed in the Formulary may not be prescribed. Combination products containing active ingredients, which are not listed, may not be obtained or prescribed. The Formulary List includes:

- (1) Acarbose;
- (2) Acetic Acid;
- (3) Acetylcysteine;
- (4) Acitretin;
- (5) Acyclovir;
- (6) Adapalene;
- (7) Adenosine Monophosphate;
- (8) Albuterol Sulfate;
- (9) Alendronate;
- (10) Alprostadil;
- (11) Amino Acids;
- (12) Aminophylline;
- (13) Aminosalicic Acid;
- (14) Ammonium Chloride;
- (15) Ammonium lactate lotion 12%;
- (16) Amoxicillin;
- (17) Amoxicillin & Clavulanate;
- (18) Amphotericin B;
- (19) Ampicillin;
- (20) Ampicillin & Sulbactam;
- (21) Anthralin;
- (22) Atorvastatin;
- (23) Atropine;
- (24) Atropine Sulfate;
- (25) Auranofin;
- (26) Azelaic Acid;
- (27) Azithromycin;
- (28) Bacampicillin;
- (29) Bacitracin;
- (30) Becaplermin;
- (31) Belladonna;
- (32) Benzodiazepines;
- (33) Benzoic Acid;
- (34) Benzonatate;
- (35) Betaine;
- (36) Betamethasone;
- (37) Bethanechol Chloride;
- (38) Bichloroacetic Acid\*;
- (39) Bimatoprost Ophthalmic Solution 0.03%;
- (40) Bromocriptine;
- (41) Budesonide;
- (42) Butorphanol;
- (43) Calcipotriene;
- (44) Calcitonin;
- (45) Calcitriol;
- (46) Carbamide Peroxide;
- (47) Carbol-Fuchsin;
- (48) Cefaclor;
- (49) Cefdinir;
- (50) Cefibuten;
- (51) Cefadroxil;
- (52) Cefditoren;
- (53) Cefixime;
- (54) Cefonicid Sodium;
- (55) Cefpodoxime Proxetil;
- (56) Cefprozil;



# ADMINISTRATIVE RULES

- (57) Cefibuten;  
(58) Cefuroxime;  
(59) Celecoxib;  
(60) Cellulose Sodium Phosphate;  
(61) Cenestin;  
(62) Cephalixin;  
(63) Cephradine;  
(64) Chirocaine\*;  
(65) Chloramphenicol;  
(66) Citrate Salts;  
(67) Clarithromycin;  
(68) Clindamycin;  
(69) Clioquinol;  
(70) Clostridium botulinum toxin (ab);  
(71) Cloxacillin;  
(72) Codeine;  
(73) Colchicine;  
(74) Colistimethate;  
(75) Collagenase;  
(76) Condylox;  
(77) Cortisone;  
(78) Coumadin;  
(79) Cromolyn Sodium;  
(80) Cyanocobalamin;  
(81) Cycloserine;  
(82) Danazol;  
(83) Demeclocycline Hydrochloride;  
(84) Desmopressin;  
(85) Desoxyribonuclease;  
(86) Dexamethasone;  
(87) Dextran;  
(88) Dextromethorphan;  
(89) Dextrose;  
(90) Dextrothyroxine;  
(91) Dicloxacillin;  
(92) Dihydroergotamine Migranal;  
(93) Didanosine;  
(94) Digitalis;  
(95) Digitoxin;  
(96) Digoxin;  
(97) Dinoprostone;  
(98) Diphylline;  
(99) Dirithromycin;  
(100) Doxercalciferol;  
(101) Doxycycline;  
(102) Dronabinol;  
(103) Dyclonine;  
(104) EDTA (Board approved certification required before chelation is allowed);  
(105) Electrolyte Solutions;  
(106) Ephedrine;  
(107) Epinephrine\*;  
(108) Epinephrine (auto-inject);  
(109) Ergoloid Mesylates;  
(110) Ergonovine Maleate;  
(111) Ergotamine;  
(112) Erythromycins;  
(113) Estradiol;  
(114) Estriol;  
(115) Estrogen-Progestin Combinations;  
(116) Estrogens, Conjugated;  
(117) Estrogen, Esterified;  
(118) Estrone;  
(119) Estropipate;  
(120) Ethyl Chloride;  
(121) Famciclovir;  
(122) Fibrinolysin;  
(123) Flavoxate;  
(124) Fluconazole;  
(125) Fludrocortisone Acetate;  
(126) Flunisolide;  
(127) Fluorides;  
(128) Fluorouracil;  
(129) Fluticasone propionate;  
(130) Fluvastatin;  
(131) Gabapentin;  
(132) Galantamine H. Br.;  
(133) Ganciclovir;  
(134) Gentamicin;  
(135) Gentian Violet;  
(136) Griseofulvin;  
(137) Guaifenesin;  
(138) Hexachlorophene;  
(139) Homatropine Hydrobromide\*;  
(140) Hyaluronic Acid;  
(141) Hydrocodone;  
(142) Hydrocortisone;  
(143) Hydrogen Peroxide;  
(144) Hydromorphone;  
(145) Hydroquinone;  
(146) Hydroxypolyethoxydodecane\*;  
(147) Hyoscyamine;  
(148) Imiquimod Cream (5%);  
(149) Immune Globulins\*;  
(150) Insulin;  
(151) Interferon Alpha 2b w/Ribavirin;  
(152) Iodine;  
(153) Iodoquinol;  
(154) Iron Preparations;  
(155) Isosorbide Dinitrate;  
(156) Isotretinoin;  
(157) Kanamycin Sulfate;  
(158) Lactulose;  
(159) Lamivudine;  
(160) Leucovorin Calcium;  
(161) Levalbuteral;  
(162) Levodopa;  
(163) Levonorgestrel;  
(164) Levothyroxine;  
(165) Lincomycin;  
(166) Lindane;  
(167) Liothyronine;  
(168) Liotrix;  
(169) Lithium;  
(170) Lovastatin;  
(171) Mebendazole;  
(172) Meclizine;  
(173) Medroxyprogesterone;  
(174) Medrysone;  
(175) Megestrol Acetate;  
(176) Mercury, Ammoniated;  
(177) Mesalamine;  
(178) Metformin;  
(179) Methoxsalen;  
(180) Methscopolamine;  
(181) Methylergonovine;  
(182) Methylprednisolone;  
(183) Methyltestosterone;  
(184) Methysergide;  
(185) Metronidazole;  
(186) Miglitol;  
(187) Minerals (Oral & Injectable);  
(188) Minocycline;  
(189) Misoprostal;  
(190) Monobenzene;  
(191) Morphine;  
(192) Mupirocin;  
(193) Nafarelin acetate;  
(194) Natamycin;  
(195) Nicotine;  
(196) Nitroglycerin;  
(197) Novobiocin;  
(198) Nystatin;  
(199) Opium;  
(200) Over the Counter (OTC) substances, not to exceed their current OTC dose or dosage forms;  
(201) Oxacillin;  
(202) Oxamniquine;  
(203) Oxaprozin;  
(204) Oxtriphylline;

# ADMINISTRATIVE RULES

(205) Oxycodone;  
(206) Oxygen;  
(207) Oxymorphone;  
(208) Oxytetracycline;  
(209) Oxytocin\*;  
(210) Pancrelipase;  
(211) Papain;  
(212) Papavarine;  
(213) Paramethasone;  
(214) Paregoric;  
(215) Penciclovir;  
(216) Penicillamine;  
(217) Penicillin;  
(218) Pentosan;  
(219) Pentoxifylline;  
(220) Pergolide;  
(221) Permethrin;  
(222) Phenazopyridine;  
(223) Physostigmine;  
(224) Pilocarpine;  
(225) Pimecrolimus Cream 1%;  
(226) Podophyllum Resin;  
(227) Polymyxin B Sulfate;  
(228) Polysaccharide-Iron Complex;  
(229) Potassium Iodide;  
(230) Potassium Supplements;  
(231) Pramoxine;  
(232) Pravastatin;  
(233) Prednisolone;  
(234) Prednisone;  
(235) Progesterone;  
(236) Progestins;  
(237) Prostaglandins;  
(238) Pyrazinamide;  
(239) Pyrethrins;  
(240) Quinidine;  
(241) Quinine Sulfate;  
(242) Rauwolfia Alkaloids;  
(243) Rho(D) Immune Globulins\*;  
(244) Rifabutin;  
(245) Rifampin;  
(246) Salicylamide;  
(247) Salicylate Salts;  
(248) Salicylic Acid;  
(249) Salsalate;  
(250) Scopolamine;  
(251) Selenium Sulfide;  
(252) Silver Nitrate;  
(253) Simvastatin;  
(254) Sodium Polystyrene Sulfonate;  
(255) Sodium Thiosulfate;  
(256) Spironolactone;  
(257) Stavudine;  
(258) Spectinomycin;  
(259) Sucralfate;  
(260) Tazarotene topical gel;  
(261) Tacrolimus;  
(262) Topical steroids;  
(263) Troleandomycin;  
(264) Testosterone;  
(265) Tetracycline;  
(266) Theophylline;  
(267) Thlabendazole;  
(268) Thyroid;  
(269) Thyroxine;  
(270) Tibolone;  
(271) Tobramycin;  
(272) Tretinoin;  
(273) Triamcinolone;  
(274) Triamterene;  
(275) Trichloroacetic Acid\*;  
(276) Trioxsalen;  
(277) Triptans;  
(278) Troleandomycin;  
(279) Undecylenic Acid;

(280) Urea;  
(281) Urised;  
(282) Ursodiol;  
(283) Valacyclovir;  
(284) Vancomycin;  
(285) Vidarabine;  
(286) Vitamins (Oral & Injectable);  
(287) Yohimbine;  
(288) Zalcitabine;  
(289) Zidovudine;  
(290) Local Anesthetics:  
(a) Benzocaine\*;  
(b) Bupivacaine\*;  
(c) Chloroprocaine\*;  
(d) Dyclonine\*;  
(e) Etidocaine\*;  
(f) Lidocaine\*;  
(g) Lidocaine (non-injectable dosage form);  
(h) Mepivocaine\*;  
(i) Prilocaine\*;  
(j) Procaine\*;  
(k) Tetracaine\*.  
(291) Vaccines:  
(a) BCG\*;  
(b) Cholera\*;  
(c) Diphtheria\*;  
(d) DPT\*;  
(e) Haemophilus b Conjugate\*;  
(f) Hepatitis A Virus\*;  
(g) Hepatitis B\*;  
(h) Influenza Virus\*;  
(i) Japanese Encephalitis Virus\*;  
(j) Measles Virus\*;  
(k) Mumps Virus\*;  
(l) Pertussis\*;  
(m) Plague\*;  
(n) Pneumococcal\*;  
(o) Poliovirus Inactivated\*;  
(p) Poliovirus-Live Oral\*;  
(q) Rabies\*;  
(r) Rubella\*;  
(s) Smallpox\*;  
(t) Tetanus IG\*;  
(u) Tetanus Toxoid\*;  
(v) Typhoid\*;  
(w) Varicella\*;  
(x) Yellow Fever\*.

## (292) Skin Tests:

(a) Diphtheria\*;  
(b) Mumps\*;  
(c) Tuberculin\*.

Stat. Auth.: ORS 685

Stats. Implemented: ORS 685.145

Hist.: NE 2-1990, f. & cert. ef. 11-8-90; NE 1-1997, f. 10-13-97, cert. ef. 10-20-97; BNE 1-1999, f. 6-24-99, cert. ef. 6-25-99; BNE 1-2000, f. & cert. ef. 1-10-00; BNE 3-2000, f. & cert. ef. 8-16-00; BNE 2-2001, f. & cert. ef. 2-7-01; BNE 4-2001, f. & cert. ef. 5-25-01; BNE 8-2001, f. & cert. ef. 12-7-01; BNE 4-2002, f. & cert. ef. 8-8-02; BNE 3-2003, f. & cert. ef. 6-9-03

## 850-010-0226

### Naturopathic Formulary Compendium by Classification

Classifications of the formulary compendium, which can be prescribed in any dosage or any dosage form. Products marked with an asterisk (\*) may be purchased or otherwise obtained by Naturopathic Physicians in any dosage form for appropriate use, but may not be prescribed. Products marked with a double asterisk (\*\*) can only be purchased or otherwise obtained by a Naturopathic physician for office use of epithelial infections.

- (1) Amino Acids.
- (2) Analgesics (An):
  - (a) Aminosalicic Acid;
  - (b) Auranofin;
  - (c) Bromocriptine;
  - (d) Celecoxib;
  - (e) Colchicine;
  - (f) Colistimethate;
  - (g) Dihydroergotamine Migranal;
  - (h) Ergoloid Mesylates;

# ADMINISTRATIVE RULES

- (i) Ergonovine Maleate;
- (j) Ergotamine;
- (k) Hyaluronic Acid;
- (l) Methylergonovine;
- (m) Methysergide;
- (n) Opioids:
  - (A) Butorphanol;
  - (B) Codeine;
  - (C) Dextromethorphan;
  - (D) Hydrocodone;
  - (E) Hydromorphone;
  - (F) Morphine;
  - (G) Opium;
  - (H) Oxycodone;
  - (I) Oxymorphone;
  - (J) Paregoric;
  - (K) Oxaprozin;
- (n) Salsalate;
- (o) Triptans.
- (3) Antibiotics (At):
  - (a) Amphotericin B;
  - (b) Anti-Parasitic:
    - (A) Fluconazole;
    - (B) Mebendazole;
    - (C) Metronidazole;
    - (D) Thlabendazole;
  - (c) Antivirals:
    - (A) Acyclovir;
    - (B) Didanosine;
    - (C) Fanciclovir;
    - (D) Ganciclovir;
    - (E) Interferon alpha 2b;
    - (F) Lamivudine;
    - (G) Stavudine;
    - (H) Valacyclovir;
    - (I) Vidarabine;
    - (J) Zalcitabine;
    - (K) Zidovudine;
  - (d) Bacitracin;
  - (e) Carbamide Peroxide;
  - (f) Cephalosporins:
    - (A) Cefaclor;
    - (B) Cefdinir;
    - (C) Cefibuten;
    - (D) Cefadroxil;
    - (E) Cefixime;
    - (F) Cefonicid Sodium;
    - (G) Cefpodoxime Proxetil;
    - (H) Cefprozil;
    - (I) Cefibuten;
    - (J) Cefuroxime;
    - (K) Cephalexin;
    - (L) Cephadrine;
  - (g) Chloramphenicol;
  - (h) Clindamycin;
  - (i) Cycloserine;
  - (j) Gentamicin;
  - (k) Griseofulvin;
  - (l) Imiquimod Cream (5%);
- (m) Macrolides:
  - (A) Azithromycin;
  - (B) Clarithromycin;
  - (C) Dirithromycin;
  - (D) Erythromycins;
  - (E) Kanamycin Sulfate;
  - (F) Lincomycin;
  - (G) Novobiocin;
  - (H) Spectinomycin;
  - (I) Troleandomycin;
  - (J) Vancomycin;
- (n) Natamycin;
- (o) Nystatin;
- (p) Penciclovir;
- (q) Penicillins:
  - (A) Amoxicillin;
  - (B) Amoxicillin and Clavulanate;
  - (C) Ampicillin;
  - (D) Ampicillin and Sulbactam;
  - (E) Bacampicillin;
  - (F) Cloxacillin;
  - (G) Dicloxacillin;
  - (H) Oxacillin;
  - (I) Penicillamine;
  - (J) Penicillin;
  - (r) Polymyxin B Sulfate;
  - (s) Rifabutin;
  - (t) Rifampin;
  - (u) Tetracyclines:
    - (A) Demeclocycline Hydrochloride;
    - (B) Doxycycline;
    - (C) Minocycline;
    - (D) Oxyteracycline;
    - (E) Tetracycline;
    - (v) Tobramycin;
  - (4) Anticholinergics:
    - (a) Atropine;
    - (b) Atropine Sulfate;
    - (c) Belladonna;
    - (d) Homatropine Hydrobromide\*;
    - (e) Hyoscyamine;
    - (f) Methscopolamine;
    - (g) Physostigmine;
    - (h) Pilocarpine;
    - (i) Scopolamine;
    - (j) Benzodiazepines.
  - (5) Blood (B):
    - (a) Coumadin;
    - (b) Dextran;
    - (c) Dextrose;
    - (d) Immune Globulins\*;
    - (e) Rho(D) Immune Globulins\*;
  - (6) Cardiovascular (Cv):
    - (a) Digitalis;
    - (b) Digitoxin;
    - (c) Digoxin;
    - (d) HMG CoA Reductase Inhibitors:
      - (A) Antorvastatin;
      - (B) Fluvastatin;
      - (C) Lovastatin;
      - (D) Pravastatin;
      - (E) Simvastatin;
    - (e) Nitrates:
      - (A) Isosorbide Dinitrate;
      - (B) Nitroglycerin;
    - (f) Papavarine;
    - (g) Quinidine;
    - (h) Rauwolfia Alkaloids;
    - (i) Spironolactone;
    - (j) Triamterene;
  - (7) Enzymes:
    - (a) Collagenase;
    - (b) Desoxyribonuclease;
    - (c) Fibrinolysin;
    - (d) Pancrelipase;
  - (8) Gastrointestinal
    - (a) Citrate Salts;
    - (b) Lactulose;
    - (c) Sucralfate;
  - (9) Genito-urinary (GU):
    - (a) Bethanechol Chloride;
    - (b) Cellulose Sodium Phosphate;
    - (c) Flavoxate;
    - (d) Pentosan;
    - (e) Phenazopyridine;
    - (f) Urised;
  - (10) Hormones (Ho):
    - (a) Betamethasone;
    - (b) Budesonide;
    - (c) Calcitonin;
    - (d) Cenestin;

# ADMINISTRATIVE RULES

- (e) Cortisone;
- (f) Danazol;
- (g) Desmopressin;
- (h) Dexamethasone;
- (i) Dextrothyroxine;
- (j) Dinoprostone;
- (k) Estradiol;
- (l) Estrinol;
- (m) Estrogen-Progestin Combinations;
- (n) Estrogens, Conjugated;
- (o) Estrogen, Esterified;
- (p) Estrone;
- (q) Estropipate;
- (r) Fludrocortisone Acetate;
- (s) Flunisolide;
- (t) Fluticasone Propionate;
- (u) Hydrocortisone;
- (v) Insulin;
- (w) Levonorgestrel;
- (x) Levothyroxine;
- (y) Liothyronine;
- (z) Liotrix;
- (aa) Medroxyprogesterone;
- (bb) Medrysone;
- (cc) Megestrol Acetate;
- (dd) Methylprednisolone;
- (ee) Methyltestosterone;
- (ff) Nafarelin acetate;
- (gg) Oxytocin\*;
- (hh) Prednisolone;
- (ii) Prednisone;
- (jj) Progesterone;
- (kk) Progestins;
- (ll) Prostaglandins:
  - (A) Alprostadil;
  - (B) Misoprostal;
- (ll) Testosterone;
- (mm) Thyroid;
- (nn) Thyroxine;
- (oo) Tibolone;
- (pp) Triamcinolone;
- (11) Hypoglycemics (Hy):
  - (a) Acarbose;
  - (b) Metformin;
  - (c) Miglitol;
- (12) Local anesthetics (L):
  - (a) Benzocaine\*;
  - (b) Betaine;
  - (c) Bupivacaine\*;
  - (d) Chirocaine\*;
  - (e) Chloroprocaine\*;
  - (f) Dyclonine\*;
  - (g) Ethyl Chloride;
  - (h) Etidocaine\*;
  - (i) Hydroxypolyetho-xydodecane;
  - (j) Lidocaine\*;
  - (k) Lidocaine(non-injectable dosage form);
  - (l) Mepivocaine\*;
  - (m) Pramoxine;
  - (n) Prilocaine\*;
  - (o) Procaine\*;
  - (p) Tetracaine\*;
- (13) Minerals (M):
  - (a) Ammonium Chloride;
  - (b) Calcitriol;
  - (c) Electrolyte Solutions\*;
  - (d) Fluorides;
  - (e) Iodine;
  - (f) Iron Preparations;
  - (g) Lithium;
  - (h) Mercury, Ammoniated;
  - (i) Minerals (Oral & Injectable);
  - (j) Polysaccharide-Iron Complex;
  - (k) Potassium Iodide;
  - (l) Potassium Supplements;
  - (m) Silver Nitrate;
- (14) Skin Care (S):
  - (a) Acitretin;
  - (b) Adapalene;
  - (c) Ammonium lactate lotion 12%;
  - (d) Anthralin;
  - (e) Azelaic Acid;
  - (f) Becaplermin;
  - (f) Benzoic Acid;
  - (g) Calcipotriene;
  - (h) Carbol-Fuchsin;
  - (i) Clioquinol;
  - (j) Condylox;
  - (k) Fluorouracil;
  - (m) Gentian Violet;
  - (n) Hexachlorophene\*;
  - (o) Hydroquinone;
  - (p) Isotretinoin;
  - (q) Lindane;
  - (r) Methoxsalen;
  - (s) Mupirocin;
  - (t) Permethrin;
  - (u) Pimecrolimus Cream 1%;
  - (v) Podophyllum Resin;
  - (w) Pyrazinamide;
  - (x) Pyrethrins;
  - (y) Salicylate Salts;
  - (z) Salicylic Acid;
  - (aa) Selenium Sulfide;
  - (bb) Sodium Thiosulfate;
  - (cc) Tacrolimus;
  - (dd) Tazarotene topical gel;
  - (ee) Topical steroids;
  - (ff) Tretinoin;
  - (gg) Trichloroacetic Acid\*;
  - (hh) Trioxsalen;
  - (ii) Undecylenic Acid;
  - (jj) Urea;
- (15) Skin Tests:
  - (a) Diphtheria\*;
  - (b) Mumps\*;
  - (c) Tuberculin\*;
- (16) Sympathomimetics:
  - (a) Ephedrine;
  - (b) Epinephrine\*;
  - (c) Epinephrine (auto-inject);
- (17) Upper Respiratory Tract (URT):
  - (a) Acetylcysteine;
  - (b) Albuterol Sulfate;
  - (c) Aminophylline;
  - (d) Benzonatate;
  - (e) Cromolyn Sodium;
  - (f) Guaifenesin;
  - (g) Levalbuteral;
  - (h) Xanthines:
    - (A) Diphylline;
    - (B) Oxtriphylline;
    - (C) Pentoxifylline;
    - (D) Theophylline;
- (18) Vaccines:
  - (a) BCG\*;
  - (b) Cholera\*;
  - (c) Diphtheria\*;
  - (d) DPT\*;
  - (e) Haemophilus b Conjugate\*;
  - (f) Hepatitis A Virus\*;
  - (g) Hepatitis B\*;
  - (h) Influenza Virus\*;
  - (i) Japanese Encephalitis Virus\*;
  - (j) Measles Virus\*;
  - (k) Mumps Virus\*;
  - (l) Pertussis\*;
  - (m) Plague\*;
  - (n) Pneumococcal\*;
  - (o) Poliovirus — Inactivated\*;

# ADMINISTRATIVE RULES

- (p) Poliovirus — Live Oral\*;
  - (q) Rabies\*;
  - (r) Rubella\*;
  - (s) Smallpox\*;
  - (t) Tetanus IG\*;
  - (u) Tetanus Toxoid\*;
  - (v) Typhoid\*;
  - (w) Varicella\*;
  - (x) Yellow Fever\*;
  - (19) Vitamins:
    - (a) Cyanocobalamin;
    - (b) Doxercalciferol;
    - (c) Leucovorin Calcium;
    - (d) Vitamins (Oral & Injectable);
  - (20) Misc.:
    - (a) Acetic Acid;
    - (b) Adenosine Monophosphate;
    - (c) Alendronate;
    - (d) Bichloroacetic Acid;
    - (e) Bimatoprost Ophthalmic Solution (0.03%);
    - (f) Clostridium botulinum toxin (ab);
    - (g) Dronabinol;
    - (h) EDTA (Board approved certification required before chelation is allowed);
    - (i) Gabapentin;
    - (j) Galntamine H. Br.;
    - (k) Hydrogen Peroxide;
    - (l) Iodoquinol;
    - (m) Levodopa;
    - (n) Meclizine;
    - (o) Mesalamine;
    - (p) Monobenzene;
    - (q) Nicotine;
    - (r) Over the Counter (OTC) substances, not to exceed their current OTC dose or dosage form;
    - (s) Oxamniquine;
    - (t) Oxygen;
    - (u) Papain;
    - (v) Paramethasone;
    - (w) Pergolide;
    - (x) Quinine Sulfate;
    - (y) Salicylamide;
    - (z) Sodium Polystyrene Sulfonate;
    - (aa) Ursodiol;
    - (bb) Yohimbine.
- Stat. Auth.: ORS 685.125  
Stats. Implemented: ORS 685.145  
Hist.: BNE 1-2002, f. & cert. ef. 2-19-02; BNE 4-2002, f. & cert. ef. 8-8-02; BNE 3-2003, f. & cert. ef. 6-9-03

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**Board of Optometry**  
**Chapter 852**

**Adm. Order No.:** OPT 1-2003

**Filed with Sec. of State:** 6-12-2003

**Certified to be Effective:** 7-1-03

**Notice Publication Date:** 5-1-03

**Rules Amended:** 852-005-0005, 852-010-0025, 852-010-0080, 852-050-0005, 852-050-0006, 852-050-0012, 852-050-0014, 852-070-0040

**Subject:** 852-005-0005 - Establishes budget for 2003-2005 biennium. 852-010-0025, 0080; 852-050-0005, 0006(7) - Implements changes in fees. 852-050-0006(2)(d), 0012(10), 0014(2)(d) - Clarifies rule. 852-070-0040 - Implements changes in fees.

**Rules Coordinator:** David W. Plunkett—(503) 373-7721, ext. 23

## 852-005-0005

### Budget

The Oregon Board of Optometry hereby adopts by reference the Oregon Board of Optometry 2003-2005 Biennium Budget of \$481,520 covering the period from July 1, 2003 through June 30, 2005. The Executive Director of the Board will amend budgeted accounts as necessary within the approved budget of \$481,520 for the effective operation of the Board. The Board will not exceed the approved 2003-2005 Biennium Budget without amending this rule, notifying holders of licenses, and hold-

ing a public hearing thereon as required by ORS Chapter 182.462(1)(2). Copies of the budget are available from the Board's office and are also posted on the Board's website.

Stat. Auth.: ORS 683 & ORS 182

Stats. Implemented: ORS 182.462(1) & ORS 182.462(2)

Hist.: OPT 1-1999, f. 6-4-99, cert. ef. 7-1-99; OPT 1-2001, f. 6-18-01, cert. ef. 7-1-01; OPT 1-2003, f. 6-12-03, cert. ef. 7-1-03

## 852-010-0025

### Disciplinary Action

- (1) The Oregon Board of Optometry may:
  - (a) Suspend or revoke the license of any licensee;
  - (b) Impose probation on any licensee;
  - (c) Limit the practice of any licensee; or
  - (d) Impose a civil penalty not to exceed \$1,000 for each offense upon any licensee or any unlicensed persons.

(2) The Board may take these actions where appropriate for the following reasons:

(a) Conviction of a felony or misdemeanor where such an offense bears a demonstrable relationship to the duties of a doctor of optometry. The record of conviction, or a copy thereof certified by the clerk of the court or by the judge shall be conclusive evidence of such conviction;

(b) Practicing optometry without a license;

(c) Securing a license by practicing fraud or deceit upon the Board;

(d) Unprofessional conduct, or gross ignorance or inefficiency in the practice of optometry;

(e) Failure to comply with the requirements of continuing education; or

(f) Any violation of the provisions of Chapter 683.

(3) The Board shall inform all other optometric licensing jurisdictions within the United States and Canada of any disciplinary action that results in license revocation.

(4) The Board shall levy an additional fee of \$35 for each active status license renewal to cover the cost of carrying out ORS 683.140.

Stat. Auth.: ORS 683 & ORS 182

Stats. Implemented: ORS 683.140, ORS 683.270 & ORS 182.466

Hist.: OE 2, f. 12-5-57; OE 14, f. 2-20-73, ef. 3-1-73; OE 1-1979, f. & ef. 3-8-79; OE 2-1982, f. & ef. 3-18-82; OE 2-1984, f. & ef. 7-14-84; OP 1-1987, f. & ef. 4-30-87; OP 2-1992, f. & cert. ef. 10-21-92; OPT 1-2001, f. 6-18-01, cert. ef. 7-1-01; OPT 1-2003, f. 6-12-03, cert. ef. 7-1-03

## 852-010-0080

### Schedule of Fees

(1) The following fee schedule is established by the Oregon Board of Optometry to set forth in one place all of the fees charged by the Board:

- (a) Annual Renewal — Active License: \$185.
- (b) Annual Renewal — Inactive License: \$90.
- (c) Continuing Education Renewal Fee: \$20.
- (d) Disciplinary Renewal Fee: \$35.
- (e) Additional Office License: \$40.
- (f) Multiple Office License: \$80.
- (g) Application for Examination and Licensure: \$150.
- (h) Application for Endorsement Examination and Licensure: \$250
- (i) Application for TPA Certification: \$75.
- (j) Law and Administrative Rule Examination: \$75.
- (k) Reactivation of License: \$100.
- (l) Reinstatement of License: \$100.
- (m) Wall Display Certificate: \$20.
- (n) License Verification: \$20.
- (o) Law and Administrative Rules Booklet: \$25.
- (p) List of Licensees: \$25 - \$50.
- (q) Late Renewal application, payment, continuing optometric education: \$50 - \$200
- (r) Failure to notify the Board of practice locations: \$50 - \$200.

(2) The Board will not refund any fee unless there has been an error by the Board in the charging of the fee. Information not known by the Board because the licensee, applicant, etc. has not supplied the correct information is not considered an error.

Stat. Auth.: ORS 683 & ORS 182

Stats. Implemented: ORS 683.270 & ORS 182.466

Hist.: OPT 1-2001, f. 6-26-01, cert. ef. 7-1-01; OPT 1-2003, f. 6-12-03, cert. ef. 7-1-03

## 852-050-0005

### Certificate of Registration

(1) Upon the successful completion of the practical examination for licensure each licensee shall pay to the Oregon Board of Optometry a \$20 fee for the certificate of registration (wall certificate). Each licensee shall be required to pay a license renewal fee on or before the license renewal date established by the Board. The licensee will be given written notifica-

# ADMINISTRATIVE RULES

tion of the license renewal period at the time of licensure. The license renewal period will remain the same for the licensee once established.

(2) If a licensee engages in practice in more than one office or place of business, the licensee shall post a current license conspicuously in each office or place of business. For such purpose, upon written application of the licensee to the Administrator, the Board shall issue such number of licenses upon receipt of \$40 for each license. The licensee must renew each practice location on an annual basis during the license renewal period.

(3) If a licensee engages in practice at multiple locations, the Board may issue upon written application to the Administrator and receipt of an additional \$80 fee, a license for practicing at multiple locations. This license shall be conspicuously displayed at each location prior to practicing there. It is the responsibility of the licensee to keep the Board informed of all practice locations.

(4) The licensee's status (active or inactive, DPA or TPA certified, etc.) shall be indicated directly upon the annual license form.

Stat. Auth.: ORS 683 & ORS 182

Stats. Implemented: ORS 683.070, ORS 683.100, ORS 683.120, ORS 683.270 & ORS 182.466

Hist.: OE 11, f. 5-19-72, ef. 6-1-72; OE 14, f. 2-20-73, ef. 3-1-73; OE 2-1980, f. 12-23-80, ef. 12-29-80; OE 2-1984, f. & ef. 7-14-84; OP 1-1987, f. & ef. 4-30-87; OP 1-1991, f. & cert. ef. 4-12-91; OP 2-1992, f. & cert. ef. 10-21-92; OP 2-1994, f. & cert. ef. 7-22-94; OP 2-1997, f. & cert. ef. 10-1-97; OPT 3-1998, f. 6-10-98, cert. ef. 7-1-98; OPT 1-2001, f. 6-18-01, cert. ef. 7-1-01; OPT 2-2002, f. & cert. ef. 12-18-02; OPT 1-2003, f. 6-12-03, cert. ef. 7-1-03

## 852-050-0006

### Annual Renewal of Active License

(1) Active licensees shall annually renew their license to practice optometry for the license period established by the Board. License year renewal periods are established by the Board based upon birth dates of licensees in order that expiration dates fall due each month of the year.

(a) If the licensee's date of birth is not available to the Board, a license renewal period will be established for the licensee.

(b) License renewals will cover 12-month license periods based upon birth dates.

(2) License renewal applications are due in the Board's office on the first day of the month of license expiration (month of licensee's birth date).

(3) The license renewal application must include the following to be considered complete:

(a) A completed license renewal form signed by the licensee;

(b) Check or money order for the correct license renewal fees;

(c) Documentation of completion of the required continuing optometric education.

(d) Documentation of current CPR certification, as required in OAR 852-080-0040(4)(F), if licensed to use Nontopical TPA's.

(4) The Board will, as a courtesy, send license year renewal forms to the licensees last address of record. The license renewal application is due and must be postmarked on or before the first day of the month of license expiration.

(5) A licensee who is not more than 30 days delinquent in renewing the license may renew the license upon payment to the Board of the required fee plus a delinquent fee. If a licensee is more than 30 days delinquent the license is automatically suspended upon 30 day notice given to the licensee.

(6) If a person is more than 60 days in renewing the license the person may be required to take an examination and pay the examination fee as required in ORS 683.060. The Board may, upon written application, waive the examination requirement when in its opinion it is in the best interest of the public to do so.

(7) The annual fee for the renewal of a license to practice optometry shall be \$185, plus an additional \$20 assessed for continuing education offerings and a \$35 disciplinary fee.

(8) Any licensee whose license renewal fee is postmarked after the first day of the month of license expiration shall be subject to a late payment fee of \$50 for the first failure; \$100 for the second failure; \$200 for each subsequent failure. This late payment fee must be received before the license will be issued.

Stat. Auth.: ORS 683 & ORS 182

Stats. Implemented: ORS 683.070, ORS 683.100, ORS 683.120, ORS 683.270 & ORS 182.466

Hist.: OE 2-1982, f. & ef. 3-18-82; OE 2-1984, f. & ef. 7-14-84; OP 1-1987, f. & ef. 4-30-87; OP 1-1988, f. & cert. ef. 6-28-88; OP 1-1989, f. 1-13-89, cert. ef. 1-16-89; OP 2-1992, f. & cert. ef. 10-21-92; OP 3-1993, f. & cert. ef. 10-27-93; OP 2-1997, f. & cert. ef. 10-1-97; OPT 3-1998, f. 6-10-98, cert. ef. 7-1-98; OPT 1-2001, f. 6-18-01, cert. ef. 7-1-01; OPT 1-2002, f. & cert. ef. 7-26-02; OPT 1-2003, f. 6-12-03, cert. ef. 7-1-03

## 852-050-0012

### Inactive Status License

(1) Eligible licensees may be granted an inactive status license by petitioning the board by letter.

(a) If the licensee's date of birth is not available to the Board, a license renewal period will be established for the licensee.

(2) Inactive licensees shall annually renew their license to practice optometry for the license period established by the Board. License year renewal periods are established by the Board based upon birth dates of licensees in order that expiration dates fall due each month of the year. License renewals will cover 12-month license periods based upon birth dates.

(3) License renewal applications are due in the Board's office on the first day of the month of license expiration (month of licensee's birth date).

(4) The license renewal application must include the following to be considered complete:

(a) A completed license renewal form signed by the licensee;

(b) Check or money order for the correct license renewal fees;

(5) The Board will, as a courtesy, send license year renewal forms to inactive status licensees last address of record. The license renewal application is due and must be postmarked on or before the first day of the month of license expiration.

(6) A licensee who is not more than 30 days delinquent in renewing the license may renew the license upon payment to the Board of the required fee plus a delinquent fee. If a licensee is more than 30 days delinquent the license is automatically suspended upon 30 day notice given to the licensee.

(7) If a person is more than 60 days delinquent in renewing the license the person may be required to take an examination and pay the examination fee as required in ORS 683.060. The Board may, upon written application, waive the examination requirement when in its opinion it is in the best interest of the public to do so.

(8) The renewal fee for inactive status licensees shall be \$90.

(9) Any licensee whose license renewal fee is postmarked after the first day of the month of license expiration shall be subject to a late payment fee of \$50 for the first failure; \$100 for the second failure; \$200 for each subsequent failure. This late payment fee must be received before the license will be issued.

(10) To reactivate a license to practice optometry in Oregon an inactive status licensee shall meet the following prior to the first day of practice in Oregon:

(a) Pay the difference between the inactive and active status license renewal fees;

(b) Submit continuing education hours equivalent to Oregon requirements for the previous license renewal period;

(c) submit documentation of current CPR certification, as required in OAR 852-080-0040(4)(F), if licensed to use Nontopical TPA's;

(d) Submit the inactive license certificate issued during the current license renewal period;

(e) Provide the Board's office with the current practice location in the State of Oregon;

(f) Submit written verification of good standing from state(s) licensed. This verification shall contain a statement to indicate the status of the licensee regarding past and/or present sanctioning or investigations for sanctioning; and

(g) Pass the Oregon optometric law and administrative rules examination if it has been more than two years since the person held an active status license in Oregon.

(h) If the request for reactivation occurs within one year from the date of being placed in inactive license status by the Board there will be a \$100 reactivation fee in addition to the other conditions in (a) through (f) above.

Stat. Auth.: ORS 683 & ORS 182

Stats. Implemented: ORS 683.070, ORS 683.100, ORS 683.120, ORS 683.270 & ORS 182.466

Hist.: OE 2-1984, f. & ef. 7-14-84; OP 1-1987, f. & ef. 4-30-87; OP 2-1992, f. & cert. ef. 10-21-92; OP 3-1993, f. & cert. ef. 10-27-93; OP 2-1997, f. & cert. ef. 10-1-97; OPT 3-1998, f. 6-10-98, cert. ef. 7-1-98; OPT 1-2001, f. 6-18-01, cert. ef. 7-1-01; OPT 1-2002, f. & cert. ef. 7-26-02; OPT 1-2003, f. 6-12-03, cert. ef. 7-1-03

## 852-050-0014

### Reinstatement of License

(1) A person who has been previously licensed by the Board may have his/her license reinstated to its former status if the person:

(a) voluntarily surrendered his/her license to the Board and at the time of so doing was in good standing and not under investigation, notice for proposed disciplinary action, or final order of the Board, or

# ADMINISTRATIVE RULES

(b) had his/her license suspended due to nonpayment of the license renewal fee or late fee and at the time of suspension was not under investigation, notice for proposed disciplinary action, or final order of the Board.

(2) To reinstate an Oregon optometry license a Doctor of Optometry shall meet the following:

- (a) provide confirmation from all states ever licensed regarding violation of laws, rules and standards of ethics while licensed in those states;
  - (b) pay delinquent fees as determined by the Board;
  - (c) pay the reinstatement fee of \$100; and
  - (d) submit documentation of current CPR certification, as required in OAR 852-080-0040(4)(F), if licensed to use Nontopical TPA's.
- (e) the requirements in (2)(a) and (2)(c) above may be waived by the Board if the license is not more than 60 days expired.

(3) Reinstatement of a license to active status shall require in addition to (2)(a)(b)(c)(d) above, passage of the Oregon optometric law and administrative rules examination if it has been more than two years since the person held an active status license in Oregon and submission of continuing education hours equivalent to Oregon requirements for the previous license renewal period.

Stat. Auth.: ORS 683 & ORS 182  
Stats. Implemented: ORS 683.070, ORS 683.120, ORS 683.270 & ORS 182.466  
Hist.: OPT 1-2001, f. 6-18-01, cert. ef. 7-1-01; OPT 2-2001, f. 12-13-01, cert. ef. 1-1-02; OPT 1-2002, f. & cert. ef. 7-26-02; OPT 1-2003, f. 6-12-03, cert. ef. 7-1-03

## 852-070-0040 Fees

The Board shall assess a fee of \$20 for continuing education to each licensee upon application for renewal to carry out the provisions of ORS 683.210.

Stat. Auth.: ORS 683 & ORS 182  
Stats. Implemented: ORS 683.210 & ORS 182.466  
Hist.: OE 2-1984, f. & ef. 7-14-84; OP 1-1987, f. & ef. 4-30-87; OPT 1-2003, f. 6-12-03, cert. ef. 7-1-03

## Board of Parole and Post-Prison Supervision Chapter 255

**Adm. Order No.:** PAR 3-2003(Temp)

**Filed with Sec. of State:** 6-13-2003

**Certified to be Effective:** 6-13-03 thru 12-9-03

**Notice Publication Date:**

**Rules Amended:** 255-060-0009

**Subject:** The amendment is necessary so that the rule would fall within the intent and scope of the enabling statute.

**Rules Coordinator:** Michael R. Washington—(503) 945-9009

## 255-060-0009

**Residence Requirements for Certain Sex Offenders Upon Release from Custody**

(1) A sex offender classified as a sexually violent dangerous offender (ORS 137.765) or a predatory sex offender (ORS 181.765) may not reside near locations where children are the primary occupants or users.

(2) This prohibition applies to permanent housing and not to transitional housing. For purposes of this rule, transitional housing means housing intended to be occupied by a sexually violent dangerous offender or a predatory sex offender for 45 days or less immediately after release from custody.

(3) Exceptions to this prohibition may be made by the supervising parole/probation officer if it is determined that there is sufficient information to support this placement in terms of public safety and the rehabilitation of the offender. In making this determination, the following factors must be considered:

- (a) Other residential placement options pose a higher risk to the community; or
  - (b) An enhanced support system that endorses supervision goals and community safety efforts is available at this residence; or
  - (c) Enhanced supervision monitoring will be in place (e.g. electronic supervision, curfew, live-in-care provider, along with community notification); or
  - (d) This residence includes 24-hour case management; or
  - (e) The offender is being released from prison unexpectedly and more suitable housing will be arranged as soon as possible. If any of these factors apply to the offender and the residence under review, an exception to the permanent residence prohibition may be allowed.
- (4) The supervising officer must inform the community affected by this decision about the reasons for the decision prior to the offender's release from custody.

Stat. Auth.: ORS 144.644  
Stats. Implemented:  
Hist.: PAR 5-2001(Temp), f. 12-10-01, cert. ef. 1-1-02 thru 6-29-02; PAR 2-2002, f. & cert. ef. 1-29-02; PAR 6-2002(Temp), f. & cert. ef. 4-15-02 thru 10-11-02, PAR 7-2002, f. & cert. ef. 6-17-02; PAR 3-2003(Temp), f. & cert. ef. 6-13-03 thru 12-9-03

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**Adm. Order No.:** PAR 4-2003(Temp)

**Filed with Sec. of State:** 6-13-2003

**Certified to be Effective:** 6-13-03 thru 12-9-03

**Notice Publication Date:**

**Rules Amended:** 255-070-0001

**Subject:** The amendment is necessary to clarify rules and conditions an offender must comply with while participating in a sex offender treatment program and to make the general conditions of supervision consistent with the general conditions of probation.

**Rules Coordinator:** Michael R. Washington—(503) 945-9009

## 255-070-0001

**Conditions Not Limited by Exhibit J**

(1) The Board may order parole conditions pursuant to OAR 255-070-0015.

(2) The Board shall approve post-prison supervision conditions pursuant to OAR 213-011-0001.

(3) Conditions of parole and post-prison supervision are not limited to those shown in Exhibit J.

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

Stat. Auth.: ORS 144.096, ORS 144.102 & ORS 144.270

Stats. Implemented:

Hist.: 2PB 15-1985, f. & ef. 5-31-85; 2PB 1-1986(Temp), f. & ef. 11-3-86; PAR 2-1987, f. & ef. 4-1-87; PAR 5-1988(Temp), f. & ef. 4-15-88; PAR 6-1988, f. & ef. 5-19-88; PAR 8-1988, f. & ef. 7-1-88; PAR 17-1988, f. & ef. 10-18-88; PAR 2-1990, f. & cert. ef. 4-5-90; PAR 4-1990, f. 6-29-90, cert. ef. 7-1-90; PAR 3-1992, f. & cert. ef. 4-15-92; PAR 4-1992(Temp), f. & cert. ef. 4-30-92; PAR 8-1992, f. & cert. ef. 10-9-92; PAR 3-1993, f. & cert. ef. 10-15-93; PAR 5-1993(Temp), f. & cert. ef. 12-3-93; PAR 1-1994, f. & cert. ef. 4-4-94; PAR 3-1994, f. 11-9-94, cert. ef. 12-1-94; Administrative correction 8-14-97; PAR 5-1998, f. & cert. ef. 11-9-98; PAR 2-1999, f. & cert. ef. 1-15-99; PAR 6-1999(Temp), f. & cert. ef. 9-15-99 thru 3-12-00; PAR 9-1999, f. & cert. ef. 11-15-99; PAR 5-2000, f. & cert. ef. 5-22-00; PAR 6-2001(Temp), f. 12-10-01, cert. ef. 1-1-02 thru 6-29-02; PAR 3-2001, f. & cert. ef. 2-29-02; PAR 5-2002(Temp), f. & cert. ef. 4-15-02 thru 10-11-02; PAR 8-2002, f. & cert. ef. 6-17-02; PAR 4-2003(Temp), f. & cert. ef. 6-13-03 thru 12-9-03

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## Capitol Planning Commission Chapter 110

**Adm. Order No.:** CPC 2-2003

**Filed with Sec. of State:** 5-22-2003

**Certified to be Effective:** 5-22-03

**Notice Publication Date:** 5-1-03

**Rules Amended:** 110-060-0010, 110-060-0015

**Subject:** The amended rule relates to the adoption of the Oregon State Fair & Exposition Center Area Plan 2003, and the Standards for Development in the Oregon State Fair and Exposition Center Area. The rule revises the currently adopted Master Plan of Development, adopted by the Capitol Planning Commission in 1982, and puts in its place a new Area Plan and policies setting directions for future development and land uses at the Fairgrounds. It also amends the Development Standards for projects reviewed by the Capitol Planning Commission.

The Oregon State Fair and Exposition Center Area Plan —2003 is available for public review during regular business hours at the Capitol Planning Commission Offices, 431 State Capitol, 900 Court Street, Salem, Oregon, or it may be viewed on the Commission's web site at [www.cpc.state.or.us](http://www.cpc.state.or.us)

**Rules Coordinator:** Douglass Capps—(503) 378-8163

## 110-060-0010

**Oregon State Fair and Exposition Center Master Plan**

The *Oregon State Fair and Exposition Center Area Plan, 2003*, is hereby adopted by reference.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 183.341 & ORS 276.028 - ORS 276.043

Stats. Implemented: ORS 276.034(1)

Hist.: CPC 1-1982(Temp), f. & ef. 1-5-82; CPC 4-1982, f. & ef. 4-6-82; CPC 1-2003(Temp), f. & cert. ef. 3-19-03 thru 9-14-03; CPC 2-2003, f. & cert. ef. 5-22-03

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## 110-060-0015

### Standards for Development in the Oregon State Fair and Exposition Center Area

The following standards for development shall apply to projects in the Oregon State Fair and Exposition Center Area:

(1) Set back requirements for buildings located in the Oregon State Fair and Exposition Center Area are as follows:

(a) From a street — A minimum depth of 20 feet;

(b) From other buildings — As required by the Oregon Structural Specialty Code and Fire and Life Safety Code.

(2) No building or other structure in the Oregon State Fair and Exposition Center Area shall exceed 70 feet in height.

(3) The maximum building coverage in the Oregon State Fair and Exposition Center area is 50 percent of the land area.

(4) Development within the Oregon State Fair and Exposition Center Area shall be landscaped in a manner protective of the surrounding community environment.

(5) Consistency with the *Oregon State Fair and Exposition Center Area Plan 2003*.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 183.341 & ORS 276.028 - ORS 276.043

Stats. Implemented: ORS 276.034(1)

Hist.: CPC 1-1982(Temp), f. & ef. 1-5-82; CPC 4-1982, f. & ef. 4-6-82; CPC 1-2003(Temp), f. & cert. ef. 3-19-03 thru 9-14-03; CPC 2-2003, f. & cert. ef. 5-22-03

## Construction Contractors Board Chapter 812

**Adm. Order No.:** CCB 4-2003

**Filed with Sec. of State:** 6-3-2003

**Certified to be Effective:** 6-3-03

**Notice Publication Date:** 4-1-03

**Rules Amended:** 812-001-0020, 812-002-0100, 812-002-0260, 812-002-0280, 812-002-0340, 812-002-0420, 812-002-0640, 812-003-0000, 812-003-0002, 812-003-0020, 812-003-0025, 812-003-0050, 812-004-0400, 812-006-0030, 812-008-0050, 812-008-0060, 812-008-0072, 812-008-0074, 812-008-0110

**Rules Repealed:** 812-008-0110(T), 812-001-0020(T)

**Subject:** 812-001-0020 is amended to adopt the date (March 11, 2003) the form "Information Notice to Property Owners About Construction Responsibilities" was amended to correct the phone numbers listed in the form.

812-002-0100, 812-002-0260, 812-002-0280, 812-002-0340, 812-002-0420, 812-002-0640 and 812-003-0002 are amended to correct ORS cites.

812-003-0000 is amended for housekeeping purposes, corrects cites, and deletes the Employment Department reference because they no longer use SIC codes.

812-003-0020 is amended to delete the reference to a statute that has been repealed.

812-003-0025 is amended to delete the reference to a notarized acknowledgment that is no longer required.

812-003-0050 is amended to correct the grammar.

812-004-0400 is amended to change the words "on-site investigation" to "on-site meeting".

812-006-0030 is amended to clarify how agency will publish passing rates of education providers.

812-008-0050 is amended to clarify the deadlines for passing all sections of the test.

812-008-0060 is amended to correctly renumber the section.

812-008-0072 and 812-008-0074 are amended to allow distance-learning (home study) courses for certified home inspectors continuing education units.

812-008-0110 is amended to clarify refunds for home inspector fees and to NSF check charges for home inspectors.

**Rules Coordinator:** Cathy Heine—(503) 378-4621, ext. 4077

## 812-001-0020

### Information Notice to Owners

(1) The Construction Contractors Board adopts the form entitled "Information Notice to Owner," as revised October 18, 2002. This form

may be obtained from the agency. Previously adopted versions of the Information Notice may also be used.

(2) The Construction Contractors Board adopts the form "Information Notice to Property Owners About Construction Responsibilities" as revised March 11, 2003.

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

Stat. Auth.: ORS 87.093 & ORS 701.055, ORS 701.235

Stats. Implemented: ORS 87.093 & ORS 701.055

Hist.: IBB 4-1981, f. 11-24-81, ef. 1-1-82; IBB 3-1982, f. 6-4-82, ef. 1-1-83; IBB 1-1983, f. & ef. 3-1-83; Renumbered from 812-011-0076; IBB 3-1983, f. 10-5-83, ef. 10-15-83; BB 2-1987, f. & ef. 7-2-87; CCB 1-1989, f. & cert. ef. 11-1-89; CCB 5-1992, f. 7-31-92, cert. ef. 8-1-92; CCB 1-1999, f. 3-29-99, cert. ef. 4-1-99; CCB 5-1999, f. & cert. ef. 9-10-99; CCB 6-2000(Temp), f. 5-22-00, cert. ef. 5-22-00 thru 11-17-00; CCB 9-2000, f. & cert. ef. 9-24-00; CCB 7-2002, f. 6-26-02 cert. ef. 7-1-02; CCB 11-2002, f. 12-20-02, cert. ef. 12-23-02; CCB 3-2003(Temp), f. & cert. ef. 3-11-03 thru 9-6-03; CCB 4-2003, f. & cert. ef. 6-3-03

## 812-002-0100

### Building Trades or Crafts

"Building trades or crafts", as used in ORS 701.005(3) and these rules, means the following special trade contractors as defined by the four-digit codes in the 1987 Standard Industrial Classification Manual:

(1) Building trade contractors including:

(a) 1711 — Plumbing, Heating and Air Conditioning.

(b) 1721 — Painting and Paper Hanging.

(c) 1731 — Electrical Work.

(d) 1741 — Masonry, Stone Setting and Other Stone Work.

(e) 1742 — Plastering, Drywall, Acoustical and Insulation Work.

(f) 1743 — Terrazzo, Tile, Marble, and Mosaic Work.

(g) 1751 — Carpentry Work.

(h) 1752 — Floor Laying and Other Floor Work.

(i) 1761 — Roofing, Siding and Sheet Metal Work.

(j) 1771 — Concrete Work.

(k) 1791 — Structural Steel Erection.

(l) 1793 — Glass and Glazing Work.

(m) 1794 — Excavation Work.

(n) 1795 — Wrecking and Demolition Work.

(o) 1796 — Installation or Erection of Building Equipment Not Elsewhere Classified.

(p) 1799 — Special Trade Contractors, Not Elsewhere Classified.

(2) Heavy construction (other than building construction) contractors, when the contractor is performing as a subcontractor, including:

(a) 1611 — Highway and Street Construction.

(b) 1622 — Bridge, Tunnel and Elevated Highways.

(c) 1623 — Water, Sewer, Pipeline and Communication and Power Line Construction.

(d) 1629 — Heavy Construction, Not Elsewhere Classified.

(3) Other

(a) 0783 — Tree Service.

(b) 7342 — Pest Control.

(c) 7363 — Chimney and other structural cleaning.

(d) 7389 — Inspection Services.

Stat. Auth.: ORS 670.310 & ORS 701.235

Stats. Implemented: ORS 701.005 & ORS 701.013

Hist.: CCB 4-1998, f. & cert. ef. 4-30-98; CCB 6-2001, f. & cert. ef. 9-27-01; CCB 4-2003, f. & cert. ef. 6-3-03

## 812-002-0260

### Dishonest or Fraudulent Conduct

"Dishonest or fraudulent conduct", as used in ORS 701.135(1)(L) includes, but is not limited to, the following:

(1) Acting in a manner that, because of a wrongful or fraudulent act by the applicant or licensee, has resulted in injury or damage to another person; or

(2) Failing to pay monies when due for materials or services rendered in connection with the applicant's or licensee's operations as a contractor when the applicant or licensee has received sufficient funds as payment for the particular construction work project or operation for which the services or materials were rendered or purchased; or

(3) Accepting payment in advance on a contract or agreement and failing to perform the work or provide services required by the contract or agreement in a diligent manner and failing to return payment for unperformed work, upon reasonable and proper demand, within ten days of demand; or

(4) Displaying to the public false, misleading, or deceptive advertising whereby a reasonable person could be misled or injured; or

(5) Submitting a license application that includes false or misleading information; or



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(6) Submitting a false gross business volume certification in order to qualify for a reduced bond amount as set forth in section 812-003-0025(4); or

(7) Failing to pay minimum wages or overtime wages as required under state or federal law; or

(8) Failing to comply with the state Prevailing Wage Rate Law, ORS 279.348 to 279.380; or

(9) Failing to comply with the federal Davis-Bacon and related acts when the terms of the contract require such compliance.

(10) Failing to pay wages as determined by the Bureau of Labor & Industries, Wage and Hour Division.

(11) Failing to timely pay a civil penalty or fine imposed by a unit of local, state, or federal government.

(12) Presenting for payment to the Board a check that subsequently is returned to the agency due to non-sufficient funds or closure of the account.

Stat. Auth.: ORS 670.310 & ORS 701.235

Stats. Implemented: ORS 701.135

Hist.: CCB 4-1998, f. & cert. ef. 4-30-98; CCB 7-2000, f. 6-29-00, cert. ef. 7-1-00; CCB 11-2000(Temp), f. 9-21-00, cert. ef. 9-21-00 thru 3-19-01; CCB 14-2000, f. & cert. ef. 12-4-00; CCB 8-2001, f. 12-12-01, cert. ef. 1-1-02; CCB 5-2002, f. 5-28-02, cert. ef. 6-1-02; CCB 4-2003, f. & cert. ef. 6-3-03

## 812-002-0280

### For Compensation or With the Intent to Sell

“For compensation or with the intent to sell” as used in ORS 701.005 is not intended to include real estate licensees engaged in professional real estate activities as defined in ORS 696.010(13).

Stat. Auth.: ORS 670.310 & ORS 701.235

Stats. Implemented: ORS 701.005, ORS 701.010, ORS 701.055 & ORS 701.065

Hist.: CCB 4-1998, f. & cert. ef. 4-30-98; CCB 4-2003, f. & cert. ef. 6-3-03

## 812-002-0340

### Help Hired

“Help hired,” as used in ORS 701.075(1)(f), includes trading labor, working off debts, and trading labor for goods and/or services.

Stat. Auth.: ORS 670.310 & ORS 701.235

Stats. Implemented: ORS 701.075

Hist.: CCB 4-1998, f. & cert. ef. 4-30-98; CCB 4-2003, f. & cert. ef. 6-3-03

## 812-002-0420

### Lapse in License

“Lapse in license” as used in ORS 701.065(2)(b)(A) and ORS 701.075(6) commences at the time that a license expires or is terminated for any reason and ends when the license is renewed or reinstated by the agency.

Stat. Auth.: ORS 670.310 & ORS 701.235

Stats. Implemented: ORS 701.065, ORS 701.115 & ORS 701.225

Hist.: CCB 4-1998, f. & cert. ef. 4-30-98; CCB 7-2000, f. 6-29-00, cert. ef. 7-1-00; CCB 4-2003, f. & cert. ef. 6-3-03

## 812-002-0640

### Renewal

“Renewal” (of license) as used in ORS 701.065, 701.085 and 701.115 includes but is not limited to the act of submitting a replacement bond, a bond rider, a certificate of insurance, a fee, the renewal form, any employer account numbers, and any prerequisite education.

Stat. Auth.: ORS 670.310 & ORS 701.235

Stats. Implemented: ORS 670.410, ORS 701.055, ORS 701.065, ORS 701.075, ORS 701.105, ORS 701.115, ORS 701.125 & ORS 701.130

Hist.: CCB 4-1998, f. & cert. ef. 4-30-98; CCB 6-1998, f. 8-31-98, cert. ef. 9-1-98; CCB 7-2000, f. 6-29-00, cert. ef. 7-1-00; CCB 4-2003, f. & cert. ef. 6-3-03

## 812-003-0000

### Licensing Generally

(1) A license and its identifying license number will be issued to one entity only. Other entities shall not be included in that license, but each shall be separately licensed and shall separately meet the licensing requirements. No entity may perform work subject to ORS chapter 701 through the use of another entity’s license.

(2) The Board adopts the form “Independent Contractor Certification Statement” as approved October 24, 1989, as required by ORS 701.075(3).

(3) If an entity licensed as a sole proprietorship, partnership, corporation, limited liability company, limited liability partnership, or joint venture seeks to change to another entity, the former license may be terminated. The new entity must license anew.

(4) All partners within a partnership shall be on record with the Construction Contractors Board. Partnerships consisting of spouses shall be treated the same as partnerships consisting of unrelated persons. License becomes invalid upon any change in the composition of that partnership.

(5) Each entity shall:

(a) List on its license application or renewal all assumed business names under which business as a contractor is conducted. All assumed business names listed shall be on record with the Corporation Division; and

(b) Provide evidence to the agency that the applicant’s responsible managing individual has completed the education required by ORS 701.280 as governed by Division 6 of these rules.

(c) List on its license application or renewal the Standard Industrial Classification (SIC) code number of its main construction activities.

(6)(a) A license card is valid for the term for which it is issued only if the following conditions are met throughout the license period:

(A) The surety bond remains in effect and undiminished by payment of Construction Contractors Board final orders; and

(B) The insurance required by ORS 701.105 remains in effect; and

(C) If the licensee is a sole proprietorship, survival of the sole proprietorship; or

(D) If the licensee is a partnership or limited liability partnership, no change in the composition of that partnership, by death or otherwise; or

(E) If the licensee is a corporation or limited liability company, survival of that corporation or limited liability company, including compliance with all applicable laws governing corporations or limited liability companies.

(b) If the licensee’s bond is cancelled, the license will lapse 30 days from the date the cancellation is received by the agency.

(c) An entity whose license has lapsed is considered unlicensed from the date the lapse occurred until the date the license is backdated and renewed, reissued, or reinstated. During a period of lapse, the entity shall not perform the work of a contractor.

(d) A period of lapse will end and the license previously issued will again become valid on the date upon which the agency receives the missing items that caused the lapse. This includes but is not limited to a new bond or a notice of reinstatement for the existing bond or on the effective date of a backdated bond or backdated reinstatement for the existing bond.

(e) If a license becomes invalid, the agency may require the return of the license and pocket card(s).

(7) No person shall advertise or otherwise hold out to the public that person’s services as a contractor unless that person holds a current, valid license, nor shall any person claim by advertising or by any other means to be licensed, bonded, insured, or licensed unless that person holds a current, valid license.

(8) License number in advertising and contracts:

(a) All newsprint classified advertising and newsprint display advertising for work subject to ORS chapter 701 prepared by a contractor or at the contractor’s request or direction, shall show the contractor’s license number.

(b) All written bids, written inspection reports and building contracts subject to ORS chapter 701 shall show the contractor’s license number.

(c) All telephone directory space ads and display ads shall show the contractor’s license number.

(d) Except as set forth in sub paragraph (e) all business cards, business letterhead, business signs at construction sites, all advertising, shall show the contractor’s license number. This rule is effective upon filing for all contractors filing for new license, and is effective for all existing contractors when they purchase new business cards, business letterhead, and business signs for construction sites, or January 1, 1998, whichever date occurs sooner.

(e) Sub paragraph (d) does not apply to a company whose primary business is other than construction and has a Standard Industrial Classification (SIC) code from other than Major Groups 15, 16, and 17.

(9) The initial two-year license fee for all license applications received on or after January 1, 1999, are as follows:

(a) Residential-Only Contractor — \$190

(b) Limited Contractor — \$190

(c) All-Structures Contractor — \$225

(d) Inspector — \$190

(10) The two-year renewal fee for all license renewals with a renewal date of January 1, 1999, and after and all other license renewal applications received by the agency on or after January 1, 1999, are as follows:

(a) Residential-Only Contractor — \$160

(b) Limited Contractor — \$160

(c) All-Structures Contractor — \$190

(d) Inspector — \$160

(11) The reinstatement fee is \$15 for Inspectors, Residential-Only and Limited Contractors, and is \$20 for All-Structures contractors.

# ADMINISTRATIVE RULES

(a) Except as set forth in (b), the reinstatement fee shall be charged for any renewal, reissue, or reinstatement received by the agency after the prior license expiration date.

(b) The agency may waive the reinstatement fee if:

(A) The properly-completed renewal form and correct fee are received by the agency prior to the expiration date and all other renewal requirements are met within one month after the expiration date; or

(B) The licensee's failure to meet the renewal date was caused entirely or in part by an agency error or omission.

(12) A person licensed as a General Contractor — All-Structures may also perform the work of a Specialty Contractor — All-Structures. A person licensed as a General Contractor — Residential-Only may also perform the work of a Specialty Contractor — Residential-Only.

(13) A Limited Contractor may perform Specialty Contractor, General Contractor, residential, small commercial and large commercial construction work, so long as all of the following conditions are met:

(a) The licensee's annual gross business sales do not exceed \$40,000;

(b) The licensee does not enter into a contract in which the contract price exceeds \$5,000;

(c) If the contract price in a contract for work performed by the licensee is based on time and materials, the amount charged by the licensee shall not exceed \$5,000;

(d) The licensee consents to inspection by the Construction Contractors Board of its Oregon Department of Revenue tax records to verify compliance with subsection (a).

(e) For purposes of this section, "contract" includes a series of agreements between the licensee and a person for work on any single work site within a one-year period.

(14) An Inspector may perform inspections, but may not construct, alter, repair, add to, subtract from, improve, move, wreck or demolish for another, any building, highway, road, railroad, excavation or other structure, project, development or improvement attached to real estate or do any part thereof, or act as a contractor performing construction management on a project that involves any of these activities.

(15) The following surety bond amounts are required:

(a) For those applicants applying for a new license or reissue prior to July 1, 1999, and for those applicants applying for renewal prior to August 1, 1999, the bond amount required is as follows:

- (A) General Contractor — All Structures — \$10,000
- (B) General Contractor — Residential — \$10,000
- (C) Specialty Contractor — All Structures — \$5,000
- (D) Specialty Contractor — Residential — \$5,000
- (E) Limited Contractor — \$2,000

(b) As required by ORS 701.085 as amended by chapter 325, 1999 Session Laws, for those applicants applying for a new license or reissue on or after July 1, 1999, and for those applicants applying for renewal on or after August 1, 1999, or with an expiration date of August 1, 1999, or later the bond amount required is as follows:

- (A) General Contractor — All Structures — \$15,000
- (B) General Contractor — Residential — \$15,000
- (C) Specialty Contractor — All Structures — \$10,000
- (D) Specialty Contractor — Residential — \$10,000
- (E) Limited Contractor — \$5,000
- (F) Inspector — \$10,000

(c) A contractor may obtain or maintain a bond in an amount that exceeds the amount required under subsection (b) of this section if the bond obtained or maintained is in an amount that is equal to an amount required under subsection (b) of this section.

(16) The following general liability insurance amounts are required:

(a) For those applicants applying for a new license or reissue prior to July 1, 1999, and for those applicants applying for renewal prior to August 1, 1999, the following general liability insurance amount is required as follows:

- (A) General Contractor — All Structures — \$500,000
- (B) General Contractor — Residential — \$100,000
- (C) Specialty Contractor — All Structures — \$500,000
- (D) Specialty Contractor — Residential — \$100,000
- (E) Limited Contractor — \$100,000

(b) As required by ORS 701.105, for those applicants applying for a new license or reissue on or after July 1, 1999, and for those applicants applying for renewal on or after August 1, 1999, or with an expiration date of August 1, 1999, or later the following general liability insurance amount is required as follows:

- (A) General Contractor — All Structures — \$500,000
- (B) General Contractor — Residential — \$500,000

(C) Specialty Contractor — All Structures — \$500,000

(D) Specialty Contractor — Residential — \$300,000

(E) Limited Contractor — \$100,000

(F) Inspector — \$300,000

(17) A fee of \$20 shall be charged for any changed license category.

(18) On all construction projects regulated under the state Prevailing Wage Law, ORS 279.348 to 279.365 or the Davis Bacon Act and related acts, 40 USC 276a, the primary contractor shall provide the list of subcontractors required by ORS 701.055(11) to the contracting public agency and to the Wage and Hour Division of the Bureau of Labor and Industries, 800 NE Oregon #32, Portland, OR 97232.

(a) The initial list of subcontractors will be submitted to the contracting public agency and to the Wage and Hour Division of the Bureau of Labor and Industries on the same date that the initial Payroll and Certified Statement form (WH-38) is due. Instructions for submitting form WH-38 are contained in OAR 839-016-0010.

(b) The primary contractor will prepare and submit updated lists of subcontractors with each submittal of the Payroll and Certified Statement form (WH-38).

(19) A contractor shall not engage in dishonest or fraudulent conduct injurious to the welfare of the public.

(20) A contractor shall cooperate fully with any investigation undertaken by the Board pursuant to ORS 701.225.

[ED. NOTE: Forms & Publications referenced are available from the agency.]

Stat. Auth.: ORS 670.310, ORS 701.235, ORS 701.280, ORS 701.992 & ORS 183.310 - ORS 183.500

Stats. Implemented: ORS 701.055, ORS 701.075, ORS 701.102, ORS 701.125 & ORS 701.280

Hist.: 1BB 5, f. 6-15-76, ef. 7-1-76; 1BB 7, f. & ef. 11-14-77; 1BB 1-1978, f. & ef. 5-23-78; 1BB 3-1980(Temp), f. 6-2-80, ef. 7-1-80; 1BB 4-1980, f. & ef. 7-14-80; 1BB 6-1980, f. & ef. 11-4-80; 1BB 3-1981, f. 10-30-81, ef. 11-1-81; 1BB 1-1982, f. 3-31-82, ef. 4-1-82; 1BB 2-1982, f. 4-1-82, ef. 7-1-82; 1BB 1-1983, f. & ef. 3-1-83; Renumbered from 812-011-0010; 1BB 2-1983, f. & ef. 7-6-83; 1BB 3-1983, f. 10-5-83, ef. 10-15-83; 1BB 3-1984, f. & ef. 5-11-84; BB 1-1987, f. & ef. 3-5-87; BB 2-1987, f. & ef. 7-2-87; BB 3-1987, f. 12-30-87, cert. ef. 1-1-88; BB 2-1988, f. & cert. ef. 6-6-88; BB 2-1989, f. 6-29-89, cert. ef. 7-1-89; CCB 1-1989, f. & cert. ef. 11-1-89; CCB 3-1991, f. 9-26-91, cert. ef. 9-29-91; CCB 2-1992, f. & cert. ef. 4-15-92; CCB 5-1992, f. 7-31-92, cert. ef. 8-1-92; CCB 7-1992, f. & cert. ef. 12-4-92; CCB 8-1992(Temp), f. & cert. ef. 12-4-92; CCB 1-1993, f. & cert. ef. 2-1-93; CCB 3-1993, f. & cert. ef. 6-9-93; CCB 5-1993, f. 12-7-93, cert. ef. 12-8-93; CCB 1-1994, f. 6-23-94, cert. ef. 7-1-94; CCB 1-1995, f. & cert. ef. 2-2-95; CCB 3-1995, f. 9-7-95, cert. ef. 9-9-95; CCB 4-1995, f. & cert. ef. 10-5-95; CCB 3-1996, f. & cert. ef. 8-13-96; CCB 4-1996, f. 11-7-96, cert. ef. 11-8-96; CCB 5-1996, f. 11-25-96, cert. ef. 11-27-96; CCB 7-1996, f. & cert. ef. 12-11-96; CCB 2-1997, f. 7-7-97, cert. ef. 7-8-97; CCB 4-1997, f. & cert. ef. 11-3-97; CCB 1-1998, f. & cert. ef. 2-6-98; CCB 6-1998, f. 8-31-98, cert. ef. 9-1-98; CCB 1-1999, f. 3-29-99, cert. ef. 4-1-99; CCB 3-1999(Temp), f. & cert. ef. 6-29-99 thru 12-25-99; CCB 5-1999, f. & cert. ef. 9-10-99; CCB 7-2000, f. 6-29-00, cert. ef. 7-1-00; CCB 8-2001, f. 12-12-01, cert. ef. 1-1-02; CCB 4-2002(Temp), f. & cert. ef. 5-23-02 thru 11-19-02; CCB 5-2002, f. 5-28-02, cert. ef. 6-1-02; CCB 8-2002, f. & cert. ef. 9-3-02; CCB 5-2003, f. 6-3-03, cert. ef. 10-1-03; CCB 4-2003, f. & cert. ef. 6-3-03

## 812-003-0002

### Employer Status

Contractors shall license as either nonexempt (employer with employees) or exempt (no employees) as provided in ORS 701.035, as modified by chapter 216 Oregon Laws 1995.

(1) The nonexempt class is composed of the following entities:

(a) Sole proprietors, partnerships, limited liability partnerships, corporations, limited liability companies with one or more employees; and

(b) Partnerships, limited liability partnerships, corporations, and limited liability companies with more than two partners, corporate officers, or members, if any of the partners, corporate officers, or members are not part of the same family and related as parents, spouses, sisters, brothers, daughters, sons, daughters-in-law, sons-in-law, or grandchildren.

(2) The exempt class is composed of sole proprietors, partnerships, limited liability partnerships, corporations, and limited liability companies that do not qualify as nonexempt.

(3) The maximum number of exempt individuals in an entity without employees other than same-family partners, members, or corporate officers shall be:

(a) Two partners in a partnership, limited liability partnerships;

(b) Two members in a limited liability company; and

(c) Two corporate officers in a corporation.

(4) An exempt contractor may work with the assistance of individuals who are employees of a nonexempt contractor so long as the nonexempt contractor:

(a) Is in compliance with ORS chapters 316, 656, and 657 and is providing the employee(s) with workers' compensation insurance; and

(b) Does the payroll and pays all its employees, including those employees who assist an exempt contractor.

# ADMINISTRATIVE RULES

(5) Nonexempt entities shall supply employer account numbers for workers' compensation, unemployment, state Department of Revenue, and IRS identification, as specified in ORS 701.075.

(6) Exempt entities need supply no employer account numbers except as stated below.

(7) Partnerships and limited liability partnerships without employees other than the partners may be classed as "nonexempt—no construction work" when the entity certifies that all partners qualify as nonsubject workers as provided in ORS 656.027, by virtue of their not being directly involved in construction work. Such partnerships need supply no employer account numbers except the IRS account number.

(8) Corporations qualifying as exempt as provided by ORS 656.027(10) shall supply Employment Division and Department of Revenue account numbers unless the corporation certifies that corporate officers receive no compensation (salary or profit) from the corporation. Exempt corporations shall supply IRS account numbers. Limited liability companies shall supply IRS account numbers unless the limited liability company has one member only and has no employees.

(9) Out-of-state contractors with no Oregon employees shall supply their home state account numbers, and need not supply an Oregon workers' compensation account number, as provided in OAR 436-050-0055, if they certify that their employees will not work at any job site involving a public contract.

Stat. Auth.: ORS 670.310, ORS 701.235, ORS 701.280, ORS 701.992 & ORS 183.310 - ORS 183.500

Stats. Implemented: ORS 701.035 & ORS 701.135

Hist.: CCB 1-1989, f. & cert. ef. 11-1-89; CCB 3-1991, f. 9-26-91, cert. ef. 9-29-91; CCB 5-1992, f. 7-31-92, cert. ef. 8-1-92; CCB 7-1992, f. & cert. ef. 12-4-92; CCB 4-1993, f. 8-17-93, cert. ef. 8-18-93; CCB 1-1994, f. 6-23-94, cert. ef. 7-1-94; CCB 3-1995, f. 9-7-95, cert. ef. 9-9-95; CCB 2-1997, f. 7-7-97, cert. ef. 7-8-97; CCB 4-1998, f. & cert. ef. 4-30-98; CCB 6-1998, f. 8-31-98, cert. ef. 9-1-98; CCB 4-1999, f. & cert. ef. 6-29-99; CCB 7-2000, f. 6-29-00, cert. ef. 7-1-00; CCB 4-2003, f. & cert. ef. 6-3-03

## 812-003-0020

### Bonds

(1) A "properly executed bond" must be signed by an authorized agent of the surety or by one having power of attorney; must bear a bond number; and must be filed within the time stated on the bond. Additionally, the agency may require the licensee and surety to use the most recent revision of the surety bond form.

(2) The surety bond's effective date is the date on which the licensee has first met all requirements for licensing or renewal. The bond shall be continuous. The surety will be responsible for ascertaining the bond's effective date.

(3) A surety bond may be cancelled only after the surety has given 30 days' notice to the agency. Cancellation will be effective 30 days after receipt of the cancellation notice. The bond shall cover final orders relating to work performed during the work period of a contract entered into prior to the cancellation.

(4) The name of the entity as it appears on the bond must be the same as the name on the application:

(a) If the entity is a sole proprietorship, the bond must include the name of the owner;

(b) If the entity is a partnership, the bond must include the names of all partners (except limited partners) and any business name(s) used;

(c) If the entity is a limited liability partnership, the bond must be issued in the name of all partners and the name of the limited liability partnership;

(d) If the entity is a corporation, the bond must be issued showing the corporate name; or

(e) If the entity is a limited liability company, the bond must be issued in the name of the limited liability company; or

(f) The inclusion or exclusion of business name(s) on a bond shall not limit the liability of an entity. Claims against a licensed and bonded entity will be processed regardless of business names used by such entity.

(5) If at any time an entity amends, deletes, or adds a business name(s) the agency must be notified within 30 days of the date of the change.

(6) If an entity licenses as a sole proprietorship, partnership, limited liability partnership, corporation, or limited liability company, and seeks to change the licensed entity to one of the other types, the application must be accompanied by a new bond. Riders to existing bonds changing the type of entity bonded will be construed as a cancellation of the bond and will not be otherwise accepted.

(7) Bond documents received at the agency office via electronic facsimile shall be accepted as original documents. The surety shall provide the original bond document to the agency upon request.

(8) In accordance with ORS 701.085(7), the agency may require an applicant (any person applying to renew or reinstate his/her license or applying for a new license), to file a bond of up to five times the normally required amount (up to \$75,000 for a General Contractor, \$50,000 for a Specialty Contractor or Inspector, or \$25,000 for a Limited Contractor) or licensee, if it determines that an applicant, or a previous license of a corporate officer, owner, member or partner of a current applicant or licensee; has

(a) A history of unpaid final orders consisting of two or more final orders unpaid for longer than thirty (30) days following the date of issuance; or

(b) Three or more open owner claims filed on three or more different structures by three or more different owner claimants; or

(c) Five or more claims open at one time.

(9) A properly executed bond shall include the following:

(a) "NOW THEREFORE, the conditions of the foregoing obligation are that if said principal with regard to all work done by the principal as a "contractor" as defined by ORS 701.005, shall pay all amounts that may be ordered by the Construction Contractors Board against the principal by reason of negligent or improper work or breach of contract in performing any of said work, in accordance with ORS chapter 701 and OAR chapter 812, then this obligation shall be void; otherwise to remain in full force and effect.

(b) This bond is for the exclusive purpose of payment of final orders of the Construction Contractors Board in accordance with ORS chapter 701.

(c) This bond shall be one continuing obligation, and the liability of the surety for the aggregate of any and all claims, which may arise hereunder, shall in no event exceed the amount of the penalty of this bond.

(d) This bond shall become effective on the date the principal meets all requirements for licensing or renewal and shall continuously remain in effect until depleted by claims paid under ORS chapter 701, unless the surety sooner cancels the bond. This bond may be canceled by the surety and the surety be relieved of further liability for work performed on contracts entered after cancellation by giving 30 days' written notice to the principal and the Construction Contractors Board of the State of Oregon. Cancellation shall not limit the responsibility of the surety for final orders relating to work performed during the work period of a contract entered into prior to the cancellation.

This bond shall not be valid for purposes of licensing in accordance with ORS chapter 701 unless filed with the Construction Contractors Board within sixty (60) days of the date shown below."

(10) If a claim is filed against a licensee for work done during the work period of a contract entered while the security required under ORS 701.085 is in effect, the security shall be held until final disposition of the claim.

(11) Any contractor licensed as of November 7, 1997, who maintains a license in accordance with this chapter shall be in compliance with this rule until the renewal of the contractor's license. At that time, the contractor shall provide a continuous bond that is in compliance with this rule.

(12) This rule permits sureties to file a single rider to amend their present bonds on file with the Construction Contractors Board.

(a) The rider shall be received by the Board prior to November 14, 1997, and shall specify that bonds on file as of January 1, 1998, shall be read to include the new bond conditions as follows:

(A) This rider converts all existing bond forms to continuous until canceled bond forms as required by OAR 812-003-0020. All bonds shall remain in force continuously unless the surety gives written notice to the Construction Contractors Board of its intent to cancel the bond.

(B) The bonds shall cover final orders relating to work performed during the work period of a contract entered into prior to the cancellation.

(C) These bonds may be canceled by the surety and the surety relieved of further liability for work performed on contracts entered into after cancellation by giving thirty (30) days' written notice to the principal and the Construction Contractors Board.

(D) To the extent that the language of the existing bonds being converted may vary from the new language, the new language will be controlling.

(b) This rule shall be liberally construed to effect its purpose of making a practical transition to the new bond form. Nothing in this rule shall be construed to increase the bond amount without a separate increase rider.

(c) Sureties that elect to file a rider shall also file a certificate that the bond principals have been advised of the intended election by the surety.

Stat. Auth.: ORS 701.105, ORS 701.235

Stats. Implemented: ORS 701.085, ORS 701.105

Hist.: IBB 5, f. 6-15-76, ef. 7-1-76; IBB 7, f. & ef. 11-14-77; IBB 1-1978, f. & ef. 5-23-78; IBB 6-1980, f. & ef. 11-4-80; IBB 3-1981, f. 10-30-81, ef. 11-1-81; IBB 1-1982, f. 3-31-82, ef. 4-1-82; IBB 1-1983, f. & ef. 3-1-83; Renumbered from 812-011-0030; IBB 2-1983, f. &

# ADMINISTRATIVE RULES

ef. 7-6-83; 1BB 3-1983, f. 10-5-83, ef. 10-15-83; 1BB 3-1984, f. & ef. 5-11-84; 1BB 4-1984, f. & ef. 8-16-84; 1BB 6-1984(Temp), f. & ef. 9-18-84; 1BB 3-1985, f. & ef. 4-25-85; BB 2-1987, f. & ef. 7-2-87; BB 3-1987, f. 12-30-87, cert. ef. 1-1-88; BB 2-1988, f. & cert. ef. 6-6-88; CCB 1-1989, f. & cert. ef. 11-1-89; CCB 3-1989(Temp), f. 12-29-89, cert. ef. 1-1-90; CCB 2-1990, f. 5-17-90, cert. ef. 6-1-90; CCB 3-1995, f. 9-7-95, cert. ef. 9-9-95; CCB 2-1996, f. & cert. ef. 6-18-96; CCB 5-1997(Temp), f. & cert. ef. 11-7-97; CCB 1-1998, f. & cert. ef. 2-6-98; CCB 6-1998, f. 8-31-98, cert. ef. 9-1-98; CCB 1-1999, f. 3-29-99, cert. ef. 4-1-99; CCB 3-1999(Temp), f. & cert. ef. 6-29-99 thru 12-25-99; CCB 5-1999, f. & cert. ef. 9-10-99; CCB 7-1999(Temp), f. & cert. ef. 11-1-99 thru 4-29-00; CCB 4-2000, f. & cert. ef. 5-2-00; CCB 6-2000(Temp), f. 5-22-00, cert. ef. 5-22-00 thru 11-17-00; CCB 7-2000, f. 6-29-00, cert. ef. 7-1-00; CCB 9-2000, f. & cert. ef. 8-24-00; CCB 2-2001, f. & cert. ef. 4-6-01; CCB 3-2001(Temp), f. & cert. ef. 4-19-01 thru 10-15-01; Administrative correction 11-20-01; CCB 8-2001, f. 12-12-01, cert. ef. 1-1-02; CCB 4-2003, f. & cert. ef. 6-3-03

## 812-003-0025

### Renewal and Reissue of License

(1) A license may be renewed or reissued upon:

(a) The applicant's completion of the renewal form or application form prescribed by the agency; and

(b) Payment of the fee or fees, and

(c) Receipt of the required certification of insurance coverage, and

(d) A non-cancelled bond on file. If it appears to the agency that the required surety bond has been cancelled, the applicant shall submit a reinstatement from the surety on the cancelled bond or a new, original, continuous until cancelled surety bond.

(2) Licensees shall submit a signed acknowledgment that if the licensee qualifies as an independent contractor the licensee understands that the licensee and any heirs of the licensee will not qualify for workers' compensation or unemployment compensation unless specific arrangements have been made for the licensee's insurance coverage and that the licensee's election to be an independent contractor is voluntary and is not a condition of any contract entered into by the licensee.

(3) A licensee may qualify for Limited Contractor license and reduce the bond to \$5,000 upon certification that the licensee will not enter into contracts that exceed \$5,000, that the licensee's gross business sales of work subject to ORS chapter 701 was less than \$40,000 in the previous twelve months, is expected to be less than \$40,000 during the next twelve months, and that the licensee agrees that if the licensee's gross construction business volume exceeds \$40,000 during the coming year the licensee will immediately increase the bond amount to \$10,000 or \$15,000, and increase the insurance coverage if necessary, to meet the requirements of the appropriate license category. The reduced bond may be accomplished by submission of a decrease rider to an existing bond or the submission of a new bond. The effective date on either the decrease rider or the new bond must be the license renewal date or after. In addition, the agency may refuse to authorize a reduced amount until any pending claim(s) against the licensee are resolved.

(4) If a licensee provides a decrease rider to an existing bond in accordance with this rule prior to the license renewal date, the agency will determine the effective date to be the date of renewal or reissue.

(5) The effective date of renewal shall be the previous license expiration date when:

(a) All requirements for renewal are met prior to the previous license expiration date; or

(b) All requirements for renewal, including submission of either a valid continuous until canceled bond or back-dated new bond, certification of insurance coverage, and payment of renewal fee plus reinstatement fee, are met, providing the contractor applies for renewal not more than one year after the license lapses.

(6) If the contractor applies for renewal more than one year after the license lapses, the effective date of reissue shall be the date all requirements for licensing, including, but not limited to, submission of a newly issued continuous until canceled bond or reinstatement of an existing continuous until canceled bond, certification of insurance coverage and payment of new license fee.

(7) For liens perfected and claims commenced on or after January 1, 1998:

(a) The time period under ORS 701.065(2)(a)(A) for a completed application for license to be submitted to the Board is 90 calendar days from the date the contractor became aware of the requirement that the contractor be licensed;

(b) The time period under ORS 701.065(2)(b)(A) for a completed application for license renewal to be submitted to the Board is 90 calendar days from the date the contractor became aware of a lapse in license.

Stat. Auth.: ORS 670.310, ORS 701.235, ORS 701.280, ORS 701.992 & ORS 183.310 - ORS 183.500

Stats. Implemented: ORS 701.065, ORS 701.102 & ORS 701.115

Hist.: 1BB 5, f. 6-15-76, ef. 7-1-76; 1BB 7, f. & ef. 11-14-77; 1BB 1-1978, f. & ef. 5-23-78; 1BB 3-1980(Temp), f. 6-2-80, ef. 7-1-80; 1BB 4-1980, f. & ef. 7-14-80; 1BB 5-1980, f. & ef. 10-7-80; 1BB 6-1980, f. & ef. 11-4-80; 1BB 3-1981, f. 10-30-81, ef. 11-1-81; 1BB 1-1982,

f. 3-31-82, ef. 4-1-82; 1BB 4-1982, f. & ef. 10-7-82; 1BB 1-1983, f. & ef. 3-1-83; Renumbered from 812-001-0035; 1BB 3-1983, f. 10-5-83, ef. 10-15-83; 1BB 4-1984, f. & ef. 8-16-84; 1BB 3-1985, f. & ef. 4-25-85; BB 3-1987, f. 12-30-87, cert. ef. 1-1-88; BB 2-1988, f. & cert. ef. 6-6-88; BB 2-1989, f. 6-29-89, cert. ef. 7-1-89; CCB 1-1989, f. & cert. ef. 11-1-89; CCB 3-1991, f. 9-26-91, cert. ef. 9-29-91; CCB 4-1995, f. & cert. ef. 10-5-96; CCB 4-1997, f. & cert. ef. 11-3-97; CCB 4-1998, f. & cert. ef. 4-30-98; CCB 6-1998, f. 8-31-98, cert. ef. 9-1-98; CCB 3-1999(Temp), f. & cert. ef. 6-29-99 thru 12-25-99; CCB 5-1999, f. & cert. ef. 9-10-99; CCB 6-1999, f. 9-10-99, cert. ef. 11-1-99; CCB 7-2000, f. 6-29-00, cert. ef. 7-1-00; CCB 4-2003, f. & cert. ef. 6-3-03

## 812-003-0050

### Inactive Status

(1) A licensee may not convert a license to an inactive status if the licensee is engaged in work as a contractor.

(2) A licensee may not offer to undertake work, advertise work as a contractor, submit a bid for construction work, obtain a building permit or perform construction work while in an inactive status.

(3) A licensee shall notify the agency of any change of address while in an inactive status. During the period when the status of a license is inactive, the agency shall send notices and any other communications to the licensee at the last known address of record of the licensee.

(4) To convert to an inactive status:

(a) A licensee must have a current active license or a license that lapsed no more than two years prior to the application for inactive status;

(b) If the licensee was subject to discipline by the agency, the licensee must satisfy any conditions imposed by the agency as a result of the discipline;

(c) The licensee must submit a request to convert to inactive status on forms provided by the agency; and

(d) The licensee must comply with section (5), (7) or (9) as applicable.

(5) A request to convert a license to inactive status made at the time of renewal of the license must be accompanied by fees required under OAR 812-003-0000(10) and, if applicable, OAR 812-003-0000(11);

(6) If a license is converted to inactive status at the time of renewal of the license, the effective date of the renewed license shall be the expiration date of the previous license. The renewed license shall expire two or four years after its effective date, at the discretion of the licensee.

(7) A request to convert a license to inactive status made prior to the expiration date of the license but at a time other than the time of renewal of the license will be accepted only if the licensee making the request has paid all applicable fees required under OAR 812-003-0000(10), 812-003-0000(11) and 812-001-0015(7)(d).

(8) If a license is converted to inactive status prior to the expiration date of the license but at a time other than the time of renewal of the license, the effective dates of the license will remain unchanged and the license will expire at the upcoming expiration date.

(9) A request to renew a license and convert it to inactive status made after a lapse due to the expiration of the license must be accompanied by:

(a) Fees required under OAR 812-003-0000(10) and, if applicable, 812-003-0000(11), if the lapse is less than or equal to one year in duration; or

(b) Fees required under OAR 812-003-0000(9) if the lapse is more than one year in duration.

(10) If a license is renewed and converted to inactive status after a lapse due to expiration of the license, the agency will establish the effective date of the license. The renewed license shall expire two or four years after its effective date, at the discretion of the licensee.

(11) To renew an inactive license in an inactive status:

(a) If the licensee was subject to discipline by the agency, the licensee must satisfy any conditions imposed by the agency as a result of the discipline;

(b) The licensee must submit the request to renew the license in inactive status on forms provided by the agency; and

(c) The licensee must submit the fees required under OAR 812-003-0000(10) and, if applicable, the fees required under OAR 812-003-0000(11).

(12) To convert from an inactive status back to an active status, the licensee must:

(a) Submit a request to convert to an active status on forms provided by the agency; and

(b) Comply with section (13), (14) or (15) as applicable.

(13) A licensee requesting conversion from an inactive status to an active status at the time of renewal must:

(a) Submit the fees required under OAR 812-003-0000(10) and if applicable, the fees required under OAR 812-003-0000(11);

(b) Submit the required surety bond and general liability insurance for the category requested; and

# ADMINISTRATIVE RULES

(c) Comply with all other licensing requirements prescribed by the Board.

(14) A licensee requesting conversion from an inactive status to an active status at a time other than renewal and prior to the expiration date of the license must:

(a) Submit all fees to date as required by OAR 812-003-0000(10), 812-003-0000(11) and 812-001-0015(7)(d);

(b) Submit the required surety bond and general liability insurance for the category requested; and

(d) Comply with all other licensing requirements prescribed by the Board.

(15) A licensee requesting conversion from an inactive status to an active status during a lapse due to the expiration of the license must:

(a) Request the conversion within two years from the date of lapse;

(b) Comply with all licensing requirements prescribed by the Board;

(c) Submit the required surety bond and general liability insurance for the category requested; and

(d) Submit all fees required under:

(A) OAR 812-003-0000(10) and 812-003-0000(11) if the lapse is one year or less; or

(B) OAR 812-003-0000(9) if the lapse is more than one year.

(16) If a license is converted from an inactive to an active status, the agency shall establish the effective date of the license.

Stat. Auth.: ORS 670.310 & ORS 701.235

Stats. Implemented: ORS 701.115

Hist.: CCB 8-2001, f. 12-12-01, cert. ef. 1-1-02; CCB 9-2001, f. 12-13-01, cert. ef. 1-1-02; CCB 5-2002, f. 5-28-02, cert. ef. 6-1-02; CCB 4-2003, f. & cert. ef. 6-3-03

## 812-004-0400

### Initial Administrative Processing of Claims

Upon acceptance of a claim, the agency shall send a copy of the claim to the respondent and shall initiate an investigation to determine the validity of the claim. The investigation may include an investigation conducted at an on-site meeting.

Stat. Auth.: ORS 670.310 & ORS 701.235

Stats. Implemented: ORS 183.415, ORS 183.460, ORS 701.140 & ORS 701.145

Hist.: CCB 8-1998, f. 10-29-98, cert. ef. 11-1-98; CCB 7-2000, f. 6-29-00, cert. ef. 7-1-00; CCB 8-2001, f. 12-12-01, cert. ef. 1-1-02; CCB 4-2003, f. & cert. ef. 6-3-03

## 812-006-0030

### Education Provider Approval

(1) No education shall meet the requirements of ORS 701.280 unless it is offered by a provider approved by the agency.

(2) To receive agency approval, individuals and organizations shall make application and sign an agreement with the agency prior to offering the 16 hours of education.

(a) The provider application shall include, but will not be limited to, provisions for:

(A) Recording the name, address, and contact information, and name of responsible administrator of the provider.

(B) Demonstrating that all its instructors have at least two years total experience either teaching adults or working in the instructor's subject area or a combination of the two, including the submission of instructor resumes or work history summaries.

(b) No provider may instruct any part of the 16-hour course until there is a fully executed agreement.

(c) A provider must comply at all times with the following requirements:

(A) The provider will provide 16-hours of instruction which will exclude registration and breaks.

(B) The provider will verify that each student taking the 16-hour course has a current agency-approved manual.

(C) The provider will instruct using all the approved curriculum and the approved course manual.

(D) The provider will send electronic course completion records to the agency in a format approved by the agency and keep course completion records for a minimum of five years.

(E) The provider will communicate law changes and program procedural changes sent to them in writing from the agency to the provider's instructors and will implement these changes within 30 business days.

(F) The provider will only use approved instructors who have at least two years total experience either teaching adults or working in the instructor's subject area or a combination of the two.

(G) The provider will request and receive in writing agency approval of all instructors at least 10 business days before instructor is scheduled to teach.

(H) The provider will provide a mechanism for students to contact their instructor(s) outside of class for a minimum of one hour per week for 90 days from date of enrollment in course.

(I) The provider will give all students information about how to contact instructors and hours of availability before the end of the 16-hour course.

(J) The provider will comply with all applicable federal and state laws.

(K) The agency may publicize a provider's test passage rate for its students.

(3) The agency may revoke a provider's right to offer classes and terminate the agreement of a provider at any time the provider fails to:

(a) Meet all requirements of the agreement, and

(b) Comply with administrative rules in OAR 812-006-0030.

(4) The agency may revoke a provider's right to offer classes and terminate the agreement of a provider

(a) Whose students do not pass the agency test at least 70 percent of the time after the provider has provided classes for three months, and

(b) That fails to maintain the 70 percent test passing rate during the remaining period of the agreement.

(5) The agency will publish passing rates for education providers based on the past year's statistical data, and place the information on the agency's web site and in the agency's license application. The statistics will also include the number of each provider's students who have taken the test.

Stat. Auth.: ORS 701.075 & ORS 701.280

Stats. Implemented: ORS 701.075 & ORS 701.280

Hist.: CCB 1-1992, f. 1-27-92, cert. ef. 2-1-92; CCB 4-2000, f. & cert. ef. 5-2-00; CCB 8-2001, f. 12-12-01, cert. ef. 1-1-02; CCB 5-2002, f. 5-28-02, cert. ef. 6-1-02; CCB 4-2003, f. & cert. ef. 6-3-03

## 812-008-0050

### Testing Requirements

(1) The agency shall provide a written test for certification of individuals.

(2) The test shall be divided into five sections and weighted as follows:

(a) 20 percent: Structure, roofing, site, exterior, and interior.

(b) 20 percent: Heating, cooling, insulation, ventilation, fireplaces and wood stoves.

(c) 20 percent: Electrical.

(d) 20 percent: Plumbing.

(e) 20 percent: Agreements, reports and standards.

(3) To be certified, applicants must successfully pass the test.

(4) Applicants shall schedule an appointment with the agency, or designated proctors throughout the state, to take the test after receipt of a letter of authorization from the agency and payment of the fee prescribed in Division 8.

(5) The passing score shall be 75 percent or higher based on 100 percent possible.

(6) Applicants shall score 75 percent or higher on each of five sections of the test.

(7) Applicants shall not take the same test version on consecutive attempts.

(8) The agency will notify applicants by mail of their test scores on each section of the test.

(9) Applicants who fail one or more sections of the test need not retake test sections already passed except as provided in (10) below.

(10) Applicants shall pass all sections of the test within one year of the date the person first took the test or retake all sections of the test.

(11) Applicants shall complete the certification process within one year from the date the person passed all sections of the test or retake the entire test.

(12) Applicants shall show picture identification before taking the test.

(13) Applicants shall not be accompanied by another individual while taking the test unless it is a translator.

(14) Applicants needing a translator shall pay for translator.

(15) Applicants taking the test shall not leave the testing room.

(16) Applicants shall not retain notes or other materials during the test.

(17) Applicants who attempt and fail the first test may take the second test in no less than 30 days. The applicant must wait at least 90 days to take the test on all subsequent attempts.

(18) Applicants shall not review test questions or answer sheets.

Stat. Auth.: ORS 670.310, ORS 701.235 & ORS 701.350

Stats. Implemented: ORS 355 & ORS 701.350

# ADMINISTRATIVE RULES

Hist.: CCB 1-1998, f. & cert. ef. 2-6-98; CCB 4-1998, f. & cert. ef. 4-30-98; CCB 5-1998(Temp), f. & cert. ef. 5-28-98 thru 7-1-98; CCB 8-1998, f. 10-29-98, cert. ef. 11-1-98; CCB 6-1999, f. 9-10-99, cert. ef. 11-1-99; CCB 6-2001, f. & cert. ef. 9-27-01; CCB 4-2003, f. & cert. ef. 6-3-03

## 812-008-0060

### Certification Issuance

- (1) When granted, the certificate shall be mailed to the applicant.
- (2) The effective date of the certificate will be the date applicant meets all agency requirements.
- (3) A unique certification number will be assigned to each certificate.
- (4) All certificates shall be issued in the name of the individual who passed the test.
- (5) An application may be withdrawn at any time by written request to the agency.
- (6) If denied, the agency shall state, in writing, the reasons for denial.
- (7) A certificate shall be non-transferable and shall be effective for two years from date of issue.

Stat. Auth.: ORS 670.310, ORS 701.235 & ORS 701.350  
Stats. Implemented: ORS 701.350 & ORS 701.355

Hist.: CCB 1-1998, f. & cert. ef. 2-6-98; CCB 9-2000, f. & cert. ef. 8-24-00; CCB 4-2003, f. & cert. ef. 6-3-03

## 812-008-0072

### Approved Continuing Education Units

(1) The following continuing education units (CEUs) are approved. At least 20 CEUs for each renewal period must be instructor-led courses.

(a) One CEU for each completed clock hour of instruction of approved courses. All required CEU's per renewal may be from this category.

(b) Courses in approved subject areas in OAR 812-008-0074(1) that provide for college credit given by institutions of higher learning (community colleges or state universities) are approved for hours in home inspector continuing education.

(c) Courses in approved subject areas in OAR 812-008-0074(1) given by federal, state or local government agencies.

(d) One CEU for accompanying a plumbing, electrical, or heating and air conditioning contractor who is licensed with the Building Codes Division, on a repair or maintenance job that lasts a minimum of four hours. No more than one CEU shall be granted in each of the three areas per two-year renewal period for a total of three CEUs.

(e) One CEU for each year completed for serving as an officer of an Oregon or national home inspector professional trade association.

Stat. Auth.: ORS 701.350 & ORS 701.355  
Stats. Implemented: ORS 701.350 & ORS 701.355

Hist.: CCB 4-1999, f. & cert. ef. 6-29-99; CCB 5-1999, f. & cert. ef. 9-10-99; CCB 2-2000, f. 2-25-00, cert. ef. 3-1-00; CCB 9-2000, f. & cert. ef. 8-24-00; CCB 10-2002, f. & cert. ef. 11-20-02; CCB 4-2003, f. & cert. ef. 6-3-03

## 812-008-0074

### Approved Course Subjects and Education Providers

(1) The following subject areas are approved for continuing education: Report writing, communication skills, business practices, legal issues, ethics, agency study guide items, building codes, and agency standards of practice.

(2) Education provider applicants shall submit application form, instructor qualifications, course content outlines, course materials and other materials as required by the agency.

(3) The agency shall approve education providers' courses based on written evaluation criteria approved by the agency and made available to providers. Criteria include:

(a) Instructor has experience in subject matter.  
(b) Instructor has licenses, certificates, and/or degrees in subject matter.

(c) Instructor has background in training or adult education.  
(d) Instructor has knowledge of home inspection industry.  
(e) Criteria used to approve and evaluate instructors are stringent and ongoing.

(f) Goals and objectives are clear and are appropriate for Oregon home inspectors.

(g) Course is in approved subject area stated in OAR 812-008-0074(1).

(h) Course content is relevant and appropriate for Oregon home inspectors.

(i) Course content is thorough.  
(j) Course can be evaluated against CCB standards of practice and study guide.

(k) Course materials are accurate and current.

(l) Input is received from home inspection industry.

(4) The agency shall approve education providers' programs based on written evaluation criteria approved by the agency and made available to providers. Criteria include:

(a) Instructors are qualified.

(b) Criteria used to approve and evaluate instructors are stringent and ongoing.

(c) Goals and objectives are clear and appropriate for Oregon home inspectors.

(d) Course is in approved subject area stated in OAR 812-008-0074(1).

(e) Course content is relevant and appropriate for Oregon home inspectors.

(f) Course can be evaluated against CCB standards of practice and study guide.

(g) Course materials are accurate and current.

(h) Input is received from home inspection industry.

(5) Education providers' courses and programs approved by the agency shall be granted retroactive credit for certified home inspectors for two years.

(6) The agency may terminate a provider's right to offer a course or their program if the course(s) do not meet the agency's approved criteria.

Stat. Auth.: ORS 701.350 & ORS 701.355

Stats. Implemented: ORS 701.350 & ORS 701.355

Hist.: CCB 5-1999, f. & cert. ef. 9-10-99; CCB 4-2003, f. & cert. ef. 6-3-03

## 812-008-0110

### Prescribed Fees

The following prescribed fees are established:

(1) Application to become certified; \$50.

(2) Test, first attempt; \$50.

(3) Test, each sitting to retake one or more sections; \$25.

(4) Certification; \$75 per year.

(5) Certification renewal (two years); \$150.

(6) Reinstatement fee; \$15.

(7) Refunds:

(a) The agency shall not refund fees or civil penalties overpaid by an amount of \$20 or less unless requested by the payer in writing within three years after the date payment is received by the agency, as provided by ORS 293.445.

(b) Except as set forth in subsection (c) of this section, all fees are non-refundable and nontransferable.

(c) When an applicant withdraws their application for a certification or a certification renewal prior to issuance of a certification or certification renewal, or fails to complete the certification process, the agency may refund the certification fee but shall retain a processing fee of \$40.

(d) If the agency receives payment of any fees or penalty by check and the check is returned to the agency as an NSF check, the payer of the fees will be assessed an NSF charge of \$25 in addition to the required payment of the fees or penalty.

Stat. Auth.: ORS 293.445, ORS 670.310, ORS 701.235 & ORS 701.350

Stats. Implemented: ORS 293.445, ORS 701.350 & ORS 701.355

Hist.: CCB 1-1998, f. & cert. ef. 2-6-98; CCB 4-1999, f. & cert. ef. 6-29-99; CCB 6-2001, f. & cert. ef. 9-27-01; CCB 1-2003(Temp), f. & cert. ef. 1-14-03 thru 7-13-03; CCB 4-2003, f. & cert. ef. 6-3-03

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**Adm. Order No.:** CCB 5-2003

**Filed with Sec. of State:** 6-3-2003

**Certified to be Effective:** 10-1-03

**Notice Publication Date:** 4-1-03

**Rules Amended:** 812-003-0000

**Subject:** OAR 812-003-0000(11) is amended to require a flat reinstatement fee for all categories rather than the current two-tiered system that can be confusing.

**Rules Coordinator:** Cathy Heine—(503) 378-4621, ext. 4077

## 812-003-0000

### Licensing Generally

(1) A license and its identifying license number will be issued to one entity only. Other entities shall not be included in that license, but each shall be separately licensed and shall separately meet the licensing requirements. No entity may perform work subject to ORS chapter 701 through the use of another entity's license.

(2) The Board adopts the form "Independent Contractor Certification Statement" as approved October 24, 1989, as required by ORS 701.075(3).

(3) If an entity licensed as a sole proprietorship, partnership, corporation, limited liability company, limited liability partnership, or joint venture

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seeks to change to another entity, the former license may be terminated. The new entity must license anew.

(4) All partners within a partnership shall be on record with the Construction Contractors Board. Partnerships consisting of spouses shall be treated the same as partnerships consisting of unrelated persons. License becomes invalid upon any change in the composition of that partnership.

(5) Each entity shall:

(a) List on its license application or renewal all assumed business names under which business as a contractor is conducted. All assumed business names listed shall be on record with the Corporation Division; and

(b) Provide evidence to the agency that the applicant's responsible managing individual has completed the education required by ORS 701.280 as governed by Division 6 of these rules.

(c) List on its license application or renewal the Standard Industrial Classification (SIC) code number of its main construction activities.

(6)(a) A license card is valid for the term for which it is issued only if the following conditions are met throughout the license period:

(A) The surety bond remains in effect and undiminished by payment of Construction Contractors Board final orders; and

(B) The insurance required by ORS 701.105 remains in effect; and

(C) If the licensee is a sole proprietorship, survival of the sole proprietorship; or

(D) If the licensee is a partnership or limited liability partnership, no change in the composition of that partnership, by death or otherwise; or

(E) If the licensee is a corporation or limited liability company, survival of that corporation or limited liability company, including compliance with all applicable laws governing corporations or limited liability companies.

(b) If the licensee's bond is cancelled, the license will lapse 30 days from the date the cancellation is received by the agency.

(c) An entity whose license has lapsed is considered unlicensed from the date the lapse occurred until the date the license is backdated and renewed, reissued, or reinstated. During a period of lapse, the entity shall not perform the work of a contractor.

(d) A period of lapse will end and the license previously issued will again become valid on the date upon which the agency receives the missing items that caused the lapse. This includes but is not limited to a new bond or a notice of reinstatement for the existing bond or on the effective date of a backdated bond or backdated reinstatement for the existing bond.

(e) If a license becomes invalid, the agency may require the return of the license and pocket card(s).

(7) No person shall advertise or otherwise hold out to the public that person's services as a contractor unless that person holds a current, valid license, nor shall any person claim by advertising or by any other means to be licensed, bonded, insured, or licensed unless that person holds a current, valid license.

(8) License number in advertising and contracts:

(a) All newsprint classified advertising and newsprint display advertising for work subject to ORS chapter 701 prepared by a contractor or at the contractor's request or direction, shall show the contractor's license number.

(b) All written bids, written inspection reports and building contracts subject to ORS chapter 701 shall show the contractor's license number.

(c) All telephone directory space ads and display ads shall show the contractor's license number.

(d) Except as set forth in sub paragraph (e) all business cards, business letterhead, business signs at construction sites, all advertising, shall show the contractor's license number. This rule is effective upon filing for all contractors filing for new license, and is effective for all existing contractors when they purchase new business cards, business letterhead, and business signs for construction sites, or January 1, 1998, whichever date occurs sooner.

(e) Sub paragraph (d) does not apply to a company whose primary business is other than construction and has a Standard Industrial Classification (SIC) code from other than Major Groups 15, 16, and 17.

(9) The initial two-year license fee for all license applications received on or after January 1, 1999, are as follows:

(a) Residential-Only Contractor — \$190

(b) Limited Contractor — \$190

(c) All-Structures Contractor — \$225

(d) Inspector — \$190

(10) The two-year renewal fee for all license renewals with a renewal date of January 1, 1999, and after and all other license renewal applications received by the agency on or after January 1, 1999, are as follows:

(a) Residential-Only Contractor — \$160

(b) Limited Contractor — \$160

(c) All-Structures Contractor — \$190

(d) Inspector — \$160

(11) The reinstatement fee is \$20 for all categories.

(a) Except as set forth in (b), the reinstatement fee shall be charged for any renewal, reissue, or reinstatement received by the agency after the prior license expiration date.

(b) The agency may waive the reinstatement fee if:

(A) The properly-completed renewal form and correct fee are received by the agency prior to the expiration date and all other renewal requirements are met within one month after the expiration date; or

(B) The licensee's failure to meet the renewal date was caused entirely or in part by an agency error or omission.

(12) A person licensed as a General Contractor — All-Structures may also perform the work of a Specialty Contractor — All-Structures. A person licensed as a General Contractor — Residential-Only may also perform the work of a Specialty Contractor — Residential-Only.

(13) A Limited Contractor may perform Specialty Contractor, General Contractor, residential, small commercial and large commercial construction work, so long as all of the following conditions are met:

(a) The licensee's annual gross business sales do not exceed \$40,000;

(b) The licensee does not enter into a contract in which the contract price exceeds \$5,000;

(c) If the contract price in a contract for work performed by the licensee is based on time and materials, the amount charged by the licensee shall not exceed \$5,000;

(d) The licensee consents to inspection by the Construction Contractors Board of its Oregon Department of Revenue tax records to verify compliance with subsection (a).

(e) For purposes of this section, "contract" includes a series of agreements between the licensee and a person for work on any single work site within a one-year period.

(14) An Inspector may perform inspections, but may not construct, alter, repair, add to, subtract from, improve, move, wreck or demolish for another, any building, highway, road, railroad, excavation or other structure, project, development or improvement attached to real estate or do any part thereof, or act as a contractor performing construction management on a project that involves any of these activities.

(15) The following surety bond amounts are required:

(a) For those applicants applying for a new license or reissue prior to July 1, 1999, and for those applicants applying for renewal prior to August 1, 1999, the bond amount required is as follows:

(A) General Contractor — All Structures — \$10,000

(B) General Contractor — Residential — \$10,000

(C) Specialty Contractor — All Structures — \$5,000

(D) Specialty Contractor — Residential — \$5,000

(E) Limited Contractor — \$2,000

(b) As required by ORS 701.085 as amended by chapter 325, 1999 Session Laws, for those applicants applying for a new license or reissue on or after July 1, 1999, and for those applicants applying for renewal on or after August 1, 1999, or with an expiration date of August 1, 1999, or later the bond amount required is as follows:

(A) General Contractor — All Structures — \$15,000

(B) General Contractor — Residential — \$15,000

(C) Specialty Contractor — All Structures — \$10,000

(D) Specialty Contractor — Residential — \$10,000

(E) Limited Contractor — \$5,000

(F) Inspector — \$10,000

(c) A contractor may obtain or maintain a bond in an amount that exceeds the amount required under subsection (b) of this section if the bond obtained or maintained is in an amount that is equal to an amount required under subsection (b) of this section.

(16) The following general liability insurance amounts are required:

(a) For those applicants applying for a new license or reissue prior to July 1, 1999, and for those applicants applying for renewal prior to August 1, 1999, the following general liability insurance amount is required as follows:

(A) General Contractor — All Structures — \$500,000

(B) General Contractor — Residential — \$100,000

(C) Specialty Contractor — All Structures — \$500,000

(D) Specialty Contractor — Residential — \$100,000

(E) Limited Contractor — \$100,000

(b) As required by ORS 701.105, for those applicants applying for a new license or reissue on or after July 1, 1999, and for those applicants applying for renewal on or after August 1, 1999, or with an expiration date

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of August 1, 1999, or later the following general liability insurance amount is required as follows:

- (A) General Contractor — All Structures — \$500,000
- (B) General Contractor — Residential — \$500,000
- (C) Specialty Contractor — All Structures — \$500,000
- (D) Specialty Contractor — Residential — \$300,000
- (E) Limited Contractor — \$100,000
- (F) Inspector — \$300,000

(17) A fee of \$20 shall be charged for any changed license category.

(18) On all construction projects regulated under the state Prevailing Wage Law, ORS 279.348 to 279.365 or the Davis Bacon Act and related acts, 40 USC 276a, the primary contractor shall provide the list of subcontractors required by ORS 701.055(11) to the contracting public agency and to the Wage and Hour Division of the Bureau of Labor and Industries, 800 NE Oregon #32, Portland, OR 97232.

(a) The initial list of subcontractors will be submitted to the contracting public agency and to the Wage and Hour Division of the Bureau of Labor and Industries on the same date that the initial Payroll and Certified Statement form (WH-38) is due. Instructions for submitting form WH-38 are contained in OAR 839-016-0010.

(b) The primary contractor will prepare and submit updated lists of subcontractors with each submittal of the Payroll and Certified Statement form (WH-38).

(19) A contractor shall not engage in dishonest or fraudulent conduct injurious to the welfare of the public.

(20) A contractor shall cooperate fully with any investigation undertaken by the Board pursuant to ORS 701.225.

[ED. NOTE: Forms & Publications referenced are available from the agency.]

Stat. Auth.: ORS 670.310, ORS 701.235, ORS 701.280, ORS 701.992 & ORS 183.310 - ORS 183.500

Stats. Implemented: ORS 701.055, ORS 701.075, ORS 701.102, ORS 701.125 & ORS 701.280

Hist.: 1BB 5, f. 6-15-76, ef. 7-1-76; 1BB 7, f. & ef. 11-14-77; 1BB 1-1978, f. & ef. 5-23-78; 1BB 3-1980(Temp), f. 6-2-80, ef. 7-1-80; 1BB 4-1980, f. & ef. 7-14-80; 1BB 6-1980, f. & ef. 11-4-80; 1BB 3-1981, f. 10-30-81, ef. 11-1-81; 1BB 1-1982, f. 3-31-82, ef. 4-1-82; 1BB 2-1982, f. 4-1-82, ef. 7-1-82; 1BB 1-1983, f. & ef. 3-1-83; Renumbered from 812-011-0010; 1BB 2-1983, f. & ef. 7-6-83; 1BB 3-1983, f. 10-5-83, ef. 10-15-83; 1BB 3-1984, f. & ef. 5-11-84; BB 1-1987, f. & ef. 3-5-87; BB 2-1987, f. & ef. 7-2-87; BB 3-1987, f. 12-30-87, cert. ef. 1-1-88; BB 2-1988, f. & cert. ef. 6-6-88; BB 2-1989, f. 6-29-89, cert. ef. 7-1-89; CCB 1-1989, f. & cert. ef. 11-1-89; CCB 3-1991, f. 9-26-91, cert. ef. 9-29-91; CCB 2-1992, f. & cert. ef. 4-15-92; CCB 5-1992, f. 7-31-92, cert. ef. 8-1-92; CCB 7-1992, f. & cert. ef. 12-4-92; CCB 8-1992(Temp), f. & cert. ef. 12-4-92; CCB 1-1993, f. & cert. ef. 2-1-93; CCB 3-1993, f. & cert. ef. 6-9-93; CCB 5-1993, f. 12-7-93, cert. ef. 12-8-93; CCB 1-1994, f. 6-23-94, cert. ef. 7-1-94; CCB 1-1995, f. & cert. ef. 2-2-95; CCB 3-1995, f. 9-7-95, cert. ef. 9-9-95; CCB 4-1995, f. & cert. ef. 10-5-95; CCB 3-1996, f. & cert. ef. 8-13-96; CCB 4-1996, f. 11-7-96, cert. ef. 11-8-96; CCB 5-1996, f. 11-25-96, cert. ef. 11-27-96; CCB 7-1996, f. & cert. ef. 12-11-96; CCB 2-1997, f. 7-7-97, cert. ef. 7-8-97; CCB 4-1997, f. & cert. ef. 11-3-97; CCB 1-1998, f. & cert. ef. 2-6-98; CCB 6-1998, f. 8-31-98, cert. ef. 9-1-98; CCB 1-1999, f. 3-29-99, cert. ef. 4-1-99; CCB 3-1999(Temp), f. & cert. ef. 6-29-99 thru 12-25-99; CCB 5-1999, f. & cert. ef. 9-10-99; CCB 7-2000, f. 6-29-00, cert. ef. 7-1-00; CCB 8-2001, f. 12-12-01, cert. ef. 1-1-02; CCB 4-2002(Temp), f. & cert. ef. 5-23-02 thru 11-19-02; CCB 5-2002, f. 5-28-02, cert. ef. 6-1-02; CCB 8-2002, f. & cert. ef. 9-3-02; CCB 5-2003, f. 6-3-03, cert. ef. 10-1-03

## Department of Administrative Services, Human Resource Services Division Chapter 105

**Adm. Order No.:** HRSD 10-2003

**Filed with Sec. of State:** 6-11-2003

**Certified to be Effective:** 6-20-03

**Notice Publication Date:** 5-1-03

**Rules Amended:** 105-010-0000

**Subject:** 105-010-0000 - Definitions for Chapter 105 went through a complete review. The definitions that were not applicable to OAR Chapter 105 were deleted. Definitions that are used in OAR Chapter 105 were reviewed and updated if applicable. For clarification, several new definitions were added.

**Rules Coordinator:** Mary Unger—(503) 378-2349, ext. 320

### 105-010-0000

#### Definitions Applicable Generally to Personnel Rules and Policies

The following definitions apply to the Personnel Rules and Policies:

(1) "Administrator": Administrator of the Human Resource Services Division of the Department of Administrative Services.

(2) "Agency": Any department, division, independent board, council, bureau, institution or commission; all the positions of which are under the same appointing authority; a distinct entity for which a separate budget limitation or agency number is maintained.

(3) "Agency Head": An elected or appointed officer who has authority and responsibility for management and operation of a state agency and accountability for appropriate outcomes.

(4) "Allocation": Assignment of a position to a classification.

(5) "Announcement": A written notice of a recruitment which includes a description of duties, salary, entrance requirements, rating process, recruitment period and other pertinent information.

(6) "Appointing Authority": An agency head and any employee designated by the agency head as having power to make appointments to positions in the state service and take other personnel actions.

(7) "Appointment": The hiring of a person into a position in state service.

(8) "Certificate of Eligibles or Certificate": A list of candidates certified to a position.

(9) "Classification": A group of positions sufficiently alike in duties, authorities, and responsibilities for which similar qualifications and schedules of pay can be applied.

(10) "Classified Service": All positions in state service which are not listed in ORS 240.200, 240.205, or 240.212.

(11) "Comparability of the Value of Work": The value of the work measured by the needs of the employer and the knowledge, composite skill, effort, responsibility, and working conditions required in the performance of the work.

(12) "Crossfill": The appointment of an employee to a position in a different classification in the same salary range number.

(13) "Custodian": The custodian of division public records.

(14) "DAS": The Department of Administrative Services

(15) "Delegate": Authorization for agencies to assume responsibility for designated division functions.

(16) "Demotion": The voluntary or involuntary movement of an employee (except temporary employees) from a position in one classification to a position in another classification having a lower salary range number.

(17) "Department": The Department of Administrative Services.

(18) "Direct Appointment": An alternate appointment of an applicant made by the criteria in OAR 105-040-0050.

(19) "Director": The Director of the Department of Administrative Services.

(20) "Disabled Veteran": As defined in ORS 408.225(2).

(21) "Disposition Code": A standardized code assigned by an appointing authority or designee to an applicant on a Certificate. The code identifies the action taken and if their name is inactivated or removed from the List.

(22) "Division": The Human Resource Services Division of the Department of Administrative Services.

(23) "Doublefill": The filling of a position with two or more employees.

(24) "Executive Service": Part of the exempt or unclassified service as specified in HRSD State Policy 30.000.01, Position Management.

(25) "Exempt Service": Positions in state service which are listed in ORS 240.200.

(26) "Full-Time": A work schedule of normally 40 hours during the workweek or any average of 40 hours per week over the course of a monthly pay period.

(27) "Hay Method": The Hay Guide Chart-Profile Method of job evaluation.

(28) "HRSD": The Human Resource Services Division.

(29) "Initial Appointment": The initial appointment to a position in state service or the appointment of a former employee whose reemployment eligibility or layoff rights have expired.

(30) "Injured Worker": an employee who incurred an injury, while employed in a state executive branch agency, determined to be compensable under ORS Chapter 656, who has not exercised or waived reinstatement and reemployment rights under ORS 659A.043 and 659A.046.

(31) "Job Sharing Position": A full-time position identified as one that may be held by two or more employees working part time.

(32) "Layoff": Reduction in force due to lack of work, curtailment of funds, reorganization or but not for reasons specified in ORS 240.555.

(33) "Limited Competitive Appointment": An appointment to a non-competitive classification made by limiting the competition for appointment to economically disadvantaged person who meet the criteria outlined in OAR 105-040-0060.

(34) "Management Service": Positions in state service, not in the exempt or unclassified service, determined to be confidential, under ORS



# ADMINISTRATIVE RULES

243.650(6), or managerial, under 243.650(16), or supervisory, under ORS 243.650(23).

(35) "Minimum Qualifications": Minimum experience, training, knowledge, and skills necessary for admission to a test or for successful entry and performance in a classification or position.

(36) "OAR": Oregon Administrative Rule.

(37) "Official Representative": Any person designated or authorized by an employee to act on behalf of the employee in employment relations matters.

(38) "Part-Time": A work schedule less than full time.

(39) "Part-Time Employee": An employee who works less than full time.

(40) "Permanent Position": A full-time or part-time position that is normally expected to last indefinitely subject to availability of permanent funding.

(41) "PERS": Public Employees Retirement System.

(42) "Position": a group of duties, authorities, and responsibilities assigned to a position by an appointing authority.

(43) "Promotion": The movement of an employee (except temporary) from a position in one classification to a position in another classification having a higher salary range number.

(44) "Protected Classes": Those characteristics of people afforded protection under Title VII of the Civil Rights Act and other civil rights legislation.

(45) "Public Record": Any record containing information relating to the conduct of the public's business which is prepared, owned, used or retained by the Division or delegated agency.

(46) "Reclassification": A position and/or employee classification change based on assignment of significantly different duties with continuation of the same general knowledge and skill requirements. The change in duties usually occurs gradually over a period of time.

(47) "Recognized Service Date": The date reflecting an employee's time in state service, with appropriate adjustments, which is used to determine the employee's vacation accrual rate.

(48) "Recruitment": A process to solicit a pool of qualified applicants to fill current position vacancies or potential position vacancies.

(49) "Reemployment": the noncompetitive return of a former regular or trial service employee to state service, return from demotion, or return following downward reclassification. See OAR 105-040-0080.

(50) "Regular Status": Status accorded a management service or classified unrepresented employee upon successful completion of a designated trial service period.

(51) "Related List": A list for a comparable higher, lower, or equal classification containing names of applicants who have knowledge, skills, and abilities similar to those required for the vacant position and who have been tested in a manner that reasonably measures their ability to perform the duties of the vacant position.

(52) "Represented Position": A position currently represented by a labor union or other official representative.

(53) "Salary Range": A range of pay established for each classification, normally including a minimum rate, a maximum rate and intermediate rates.

(54) "Salary Range Number": The number, along with any alphabetical suffix characters, which identifies salary relationship among classifications within a compensation plan.

(55) "Skill Code": A code assigned to a special qualification for use in selective certification.

(56) "Substantial Disability": As referenced in ORS 240.306(3)

(57) "Termination": The involuntary separation of an employee from state service.

(58) "Test": Any method of giving a rating to a job applicant or of selecting from among the applicants on a certificate of eligibles.

(59) "Transfer": The lateral movement of an employee (except temporary) from one position to another position in the same classification or from a position in one classification to a position in another classification having the same salary range number.

(60) "Trial Service": a working test period during which an employee is required to demonstrate, by conduct and actual performance of duties, the qualifications and fitness for the position.

(61) "Unclassified Service": Positions in state service which are listed in ORS 240.205.

(62) "Underfill": Employment of a person in a classification lower than the established classification level of the position.

(63) "Unrepresented Position": A position eligible for official representation by a union or association, but for which representation has not been elected.

(64) "Veteran": As defined in ORS 408.225(1).

(65) "Veteran Preference Points": See ORS 408.230 and 408.235.

Stat. Auth.:

Stats. Implemented:

Hist.: PD 7-1981, f. & ef. 12-18-81; PD 2-1989, f. & cert. ef. 12-1-89; PD 1-1992(Temp), f. & cert. ef. 2-14-92; PD 4-1992, f. & cert. ef. 8-12-92; HRSD 10-2003, f. 6-11-03, cert. ef. 6-20-03

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## Department of Administrative Services, Office of Business Administration Chapter 121

**Adm. Order No.:** BAD 1-2003(Temp)

**Filed with Sec. of State:** 6-11-2003

**Certified to be Effective:** 6-11-03 thru 12-8-03

**Notice Publication Date:**

**Rules Amended:** 121-030-0040

**Subject:** 121-030-0040(2) - "Sexual Orientation" was added to the rule to clarify the CFD's non-discrimination clause. The need to add this language immediately is to allow for the 2003 campaign to meet timelines in certifying funds and federations based upon established criteria.

**Rules Coordinator:** Mary Unger—(503) 378-2349, ext. 320

### 121-030-0040

#### Participation Requirements for Charitable Organizations

(1) In order to participate in the annual charitable fund drive, each charitable organization shall participate as a member of an eligible federation/fund, shall satisfy each of the following standards and shall submit the following to the federation/fund for submission to the department upon request:

(a) Evidence that the organization meets the definition of "charitable organization" in OAR 121-030-0010;

(b) Evidence that the organization has the required local presence defined in OAR 121-030-0010;

(c) A copy of the Internal Revenue Service determination letter indicating that the charitable organization is an exempt organization under Internal Revenue Code Section 501(c)(3). An advance ruling on such exempt status shall meet this requirement;

(d) Evidence that the charitable organization has complied with the relevant provisions of ORS 128.610 to 128.995 concerning registration with and reporting to the Attorney General;

(e) Evidence that it has not been removed from participation in the drive within the last three years under OAR 121-030-0050.

(2) A copy of the charitable organization's written policy on nondiscrimination regarding race, color, religion, national origin, disability, age, sex, sexual orientation, or association with any of these protected classes applicable to persons served by it.

(3) Public Accountability Standards: The charitable organization shall annually prepare and make available to the federation/fund a report which includes a full description of its activities, including types of solicitation for contributions, the names of its chief administrative personnel, and full disclosure of the source of and use of all contributions. The report shall also disclose the charitable organization's fund-raising cost and the estimated percentage of money collected which will be applied to administrative costs and to the charitable purpose. The federation/fund shall disclose this information to the state employees during the annual solicitation.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 184.340, ORS 292.045 & OL 1993, Ch. 500, Sec. 2

Stats. Implemented: ORS 184.340, ORS 292.045 & OL 1993, Ch. 500, Sec. 2

Hist.: ASD 1-1993, f. 12-29-93, cert. ef. 1-1-94; BAD 2-1998, f. 12-17-98, cert. ef. 12-24-98; BAD 2-2002, f. & cert. ef. 7-30-02; BAD 1-2003(Temp), f. & cert. ef. 6-11-03 thru 12-8-03

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## Department of Agriculture Chapter 603

**Adm. Order No.:** DOA 19-2003

**Filed with Sec. of State:** 6-11-2003

**Certified to be Effective:** 6-11-03

**Notice Publication Date:** 5-1-03

**Rules Amended:** 603-073-0070

# ADMINISTRATIVE RULES

**Subject:** To make minor editorial and formatting corrections to the Oregon Threatened and Endangered Species plant list.

**Rules Coordinator:** Sherry Kudna—(503) 986-4619

## 603-073-0070

### State List of Endangered and Threatened Species

The state list of endangered and threatened species is as follows:

(1) Plant Species Listed as Endangered:

(a) *Abronia umbellata* Lam. subsp. *breviflora* (Standl.) Munz — Pink sand-verbena;

(b) *Artemisia campestris* L. subsp. *borealis* (Pall.) Hall & Clem. var. *wormskioldii* (Bess.) Cronquist — Northern wormwood;

(c) *Astragalus applegatei* Peck — Applegate's milk-vetch;

(d) *Astragalus mulfordiae* M.E. Jones — Mulford's milk-vetch;

(e) *Calochortus coxii* Godfrey & Callahan — Crinite mariposa-lily;

(f) *Calochortus indecorus* Ownbey & Peck — Sexton Mountain mariposa-lily;

(g) *Calochortus umpquaensis* Fredricks — Umpqua mariposa-lily;

(h) *Castilleja levisecta* Greenm. — Golden paintbrush;

(i) *Cordylanthus maritimus* Nutt. ex Benth. subsp. *palustris* (Behr.) Chuang & Heckard — Saltmarsh bird's-beak;

(j) *Delphinium leucophaeum* Greene — White rock larkspur;

(k) *Delphinium pavonaceum* Ewan — Peacock larkspur;

(l) *Erigeron decumbens* Nutt. — Willamette daisy;

(m) *Fritillaria gentneri* Gilkey — Gentner's fritillary;

(n) *Haplopappus radiatus* (Nutt.) Cronq. — Snake River golden-weed;

(o) *Ivesia rhypara* Ertter & Reveal var. *rhypara* — Grimy ivesia;

(p) *Lilium occidentale* Purdy — Western lily;

(q) *Limnanthes floccosa* How. subsp. *grandiflora* Arroyo — Big-flowered woolly meadowfoam;

(r) *Lomatium bradshawii* (Rose) Math. & Const. — Bradshaw's desert parsley;

(s) *Lomatium cookii* Kagan — Cook's desert parsley;

(t) *Lomatium erythrocarpum* Meinke & Const. — Red-fruited lomatium;

(u) *Lupinus cusickii* Wats. — Cusick's lupine;

(v) *Mentzelia mollis* Peck — Smooth mentzelia;

(w) *Mirabilis macfarlanei* Const. & Roll. — MacFarlane's four-o'clock;

(x) *Plagiobothrys hirtus* (Greene) Johnst. — Rough allocarya;

(y) *Plagiobothrys lamprocarpus* (Piper) Johnst. — Shiny-fruited allocarya;

(z) *Ranunculus reconditus* Nels. & Macbr. — Dalles Mountain buttercup;

(AA) *Silene spaldingii* Wats. — Spalding's campion;

(BB) *Stephanomeria malheurensis* Gottl. — Malheur wire-lettuce;

(CC) *Thelypodium howellii* Wats. subsp. *spectabilis* (Peck) Al-Shehbaz — Howell's thelypody;

(DD) *Trifolium owyheense* Gilkey — Owyhee clover.

(2) Plant Species Listed as Threatened:

(a) *Amsinckia carinata* Nels. & Macbr. — Malheur Valley fiddleneck;

(b) *Aster curtus* Cronquist — White-topped aster;

(c) *Aster vialis* (Brads.) Blake — Wayside aster;

(d) *Astragalus collinus* Dougl. ex Hook. var. *laurentii* (Rydb.) Barn. — Lawrence milk-vetch;

(e) *Astragalus diaphanus* Dougl. var. *diurnus* — South Fork John Day (Wats.) Barn. milk-vetch;

(f) *Astragalus peckii* Piper — Peck's milk-vetch;

(g) *Astragalus sterilis* Barn. — Sterile milk-vetch;

(h) *Astragalus tyghensis* Peck — Tygh Valley milk-vetch;

(i) *Botrychium pumicola* Cov. in Underw. — Pumice grape-fern;

(j) *Calochortus howellii* Wats. — Howell's mariposa-lily;

(k) *Eriogonum chrysops* Rydb. — Golden buckwheat;

(l) *Eriogonum crosbyae* Reveal — Crosby's buckwheat;

(m) *Erythronium elegans* Hammond & Chamb. — Coast Range fawn lily;

(n) *Gratiola heterosepala* Mason & Bacig. — Boggs Lake hedge-hyssop;

(o) *Hackelia cronquistii* J.L. Gentry — Cronquist's stickseed;

(p) *Hastingsia bracteosa* Wats. — Large-flowered rush lily;

(q) *Lepidium davisii* Roll. — Davis' peppergrass;

(r) *Limnanthes floccosa* How. subsp. *pumila* (How.) Arroyo — Dwarf meadowfoam;

(s) *Lomatium greenmanii* Mathias — Greenman's desert parsley;

(t) *Lupinus sulphureus* subsp. *kincaidii* (Smith) Phillips — Kincaid's lupine;

(u) *Mentzelia packardiae* Glad — Packard's mentzelia;

(v) *Microseris howellii* Gray — Howell's microseris;

(w) *Oenothera wolfii* (Munz) Raven, Dietrich & Stubbe — Wolf's evening-primrose;

(x) *Phacelia argentea* Nels. & Macbr. — Silvery phacelia;

(y) *Pleuropogon oregonus* Chase — Oregon semaphore grass;

(z) *Sidalcea nelsoniana* Piper — Nelson's checker-mallow;

(AA) *Silene douglasii* Hook var. *oraria* (Peck) C.L. Hitchc. & Maguire — Cascade Head catchfly;

(BB) *Thelypodium eucosmum* Robins. — Arrow-leaf thelypody.

Stat. Auth.: ORS 561 & ORS 564

Stats. Implemented: ORS 561.190, ORS 564.020 & ORS 564.105

Hist.: AD 16-1989, f. & cert. ef. 10-27-89; AD 13-1995, f. & cert. ef. 7-12-95; DOA 18-2001, f. & cert. ef. 9-6-01; DOA 19-2003, f. & cert. ef. 6-11-03

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

**Adm. Order No.:** BCD 9-2003

**Filed with Sec. of State:** 6-13-2003

**Certified to be Effective:** 7-1-03

**Notice Publication Date:** 4-1-03

**Rules Adopted:** 918-309-0025

**Rules Amended:** 918-311-0020

**Subject:** Allows a partial or phased permit to be issued for electrical work to begin while plan review is being completed.

**Rules Coordinator:** Louann P. Rahmig—(503) 373-7438

### 918-309-0025

#### Phased Permitting

(1) During the plan review process, an electrical contractor may request a complete or partial permit before the entire plans and specifications are submitted or approved, if adequate information is provided showing compliance with pertinent portions of the code. The permittee proceeds at his or her own risk, without assurance that the permit for the entire installation will be granted, or that corrections will not be required, including those portions permitted. The partial permit shall allow the electrical contractor to proceed with work pertaining to the electrical system of the structure.

(2) Any inspections performed by the local jurisdiction on the site or of the ground work shall be counted toward the number of electrical inspections allowed by the full permit once plan review is complete and the permit is issued.

Stat. Auth.: ORS 479.730

Stats. Implemented: ORS 479.730

Hist.: BCD 9-2003, f. 6-13-03, cert. ef. 7-1-03

### 918-311-0020

#### Time Limit for Electrical Plan Review

(1) Electrical plan reviews shall be approved or denied within ten working days from receipt of the complete electrical plans by the jurisdiction requiring plan review. A reviewed set of plans shall be returned to the plan applicant:

(a) If a plan is rejected, the deficiencies must be set out in writing. Upon resubmission of the necessary items, the ten-day requirement starts again;

(b) If, because of the complexity or size of the installation, additional time beyond the ten working days is required to complete the review, the jurisdiction shall notify the person taking out the electrical permit of the reasons for the delay and the date the review will be completed.

(2) Phased permits may be issued as described in OAR 918-309-0025.

Stat. Auth.: ORS 479.870

Stats. Implemented: ORS 479.870

Hist.: BCA 33-1991(Temp), f. & cert. ef. 9-30-91; BCA 44-1991, f. & cert. ef. 12-26-91; BCD 19-1996, f. 9-17-96, cert. ef. 10-1-96; Renumbered from 918-320-0310; BCD 9-2003, f. 6-13-03, cert. ef. 7-1-03

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

**Adm. Order No.:** DO 1-2003

**Filed with Sec. of State:** 5-27-2003

**Certified to be Effective:** 5-27-03

# ADMINISTRATIVE RULES

**Notice Publication Date:** 5-1-03

**Rules Amended:** 440-035-0070

**Subject:** The Administrator intends to allow certified associations to be granted an initial grant of \$5,000 and opportunity to apply for subsequent grants from the funds remaining in the Sellers of Travel program until the balance is exhausted.

**Rules Coordinator:** Myrna Curzon—(503) 947-7478

## 440-035-0070

### Dispersal of Unspent Licensing Fees

(1) A Certified Association of Sellers of Travel may apply for a grant of funds remaining in the Seller of Travel program fund balance provided:

(a) The association has submitted a complete application for Certification ;

(b) The Director has determined that the association is constituted in a manner to afford significant provisions and mechanisms for consumer protection; and

(c) The Director has certified the Association.

(2) A Certified Association may be granted an initial grant of \$5,000 or in an amount determined by the director. Initial grants shall be made on a first come first served basis.

(3) A Certified Association may apply for subsequent grants in an amount determined by the director provided:

(a) The association satisfies the requirements of an annual examination and is in compliance with the provisions of ORS 646.185 to 646.195, and OAR 440-035-0050 to 440-035-0080; and

(b) The Seller of Travel program fund balance has sufficient funds available.

Stat. Auth.: ORS 646.191(3)

Stats. Implemented: ORS 646.191(3)

Hist.: DO 3-1999, f. & cert. ef. 11-8-99; DO 1-2003, f. & cert. ef. 5-27-03

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

**Adm. Order No.:** OSHA 5-2003

**Filed with Sec. of State:** 6-2-2003

**Certified to be Effective:** 12-1-03

**Notice Publication Date:** 11-1-02

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**Rules Repealed:** 437-006-0001, 437-006-0003, 437-006-0004, 437-006-0005, 437-006-0007, 437-006-0008, 437-006-0015, 437-006-0020, 437-006-0023, 437-006-0025, 437-006-0028, 437-006-0030, 437-006-0035, 437-006-0040, 437-006-0045, 437-006-0050, 437-006-0055, 437-006-0060, 437-006-0065, 437-006-0068, 437-006-0080, 437-006-0082, 437-006-0084, 437-006-0086, 437-006-0088, 437-006-0090, 437-006-0091, 437-006-0095, 437-006-0100, 437-006-0105, 437-006-0110, 437-006-0120, 437-006-0125, 437-006-0130, 437-006-0135, 437-006-0140, 437-006-0145, 437-006-0150, 437-006-0155, 437-006-0160, 437-006-0162, 437-006-0165, 437-006-0170, 437-006-0175, 437-006-0205, 437-006-0210, 437-006-0215, 437-006-0220, 437-006-0225, 437-006-0230, 437-006-0235, 437-006-0240, 437-006-0245, 437-006-0260, 437-006-0265, 437-006-0270, 437-006-0275, 437-006-0280, 437-006-0285, 437-006-0290, 437-006-0295, 437-006-0300, 437-006-0310, 437-006-0350, 437-006-0355, 437-006-0360, 437-006-0365, 437-006-0370, 437-006-0375, 437-006-0380, 437-006-0400, 437-006-0405, 437-006-0410, 437-006-0415, 437-006-0420, 437-006-0425, 437-006-0427, 437-006-0430, 437-006-0435, 437-006-0440, 437-006-0460, 437-006-0465, 437-006-0470, 437-006-0475, 437-006-0480, 437-006-0485, 437-006-0490, 437-006-0495, 437-006-0500, 437-006-0505, 437-006-0510, 437-006-0515, 437-006-0530, 437-006-0535, 437-006-0540, 437-006-0545, 437-006-0550, 437-006-0555, 437-006-0565, 437-006-0570, 437-006-0575, 437-006-0580, 437-006-0585, 437-006-0590, 437-006-0427

**Subject:** Oregon OSHA evaluated public hearings input and written comments to complete the review and revision of the Forest Activities rules. Based on the comments received we have made a number of minor changes to the final standard. There were also changes to the requirements for employer payment for PPE, guarding of machine cabs and first aid training which were necessary to meet our Federal OSHA obligations as a state plan state. The current Division 6, Forest Activities rules are being replaced with a series of forest activities rules and notes in a new Division 7, Forest Activities which:

1. Make rules more clear and concise for users;
2. Update rules to include current technology;
3. Eliminate outdated/obsolete rules;
4. Provide uniformity between Forest Activities rules and other rules;
5. Address areas not currently addressed; and
6. Satisfies the requirements for periodic rule review.

Visit Oregon OSHA's web site for proposed and final rules:  
[www.orosha.org](http://www.orosha.org)

**Rules Coordinator:** Sue C. Joye—(503) 947-7449

## 437-007-0001

### Authority of Rules

These rules are promulgated under the Director's authority contained in ORS 654.025(2) and 656.726(4).

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

Stats. Implemented: ORS 654.001 - ORS 654.295

Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-0002

### Purpose of Rules

The purpose of the rules contained in this Division is to prescribe minimum safety and health requirements for all employees employed in forest activities work.

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

Stats. Implemented: ORS 654.001 - ORS 654.295

Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-0003

### Scope of Rules

The rules in this Division apply to all public and private employers who engage in forest activities as listed in OAR 437-007-0004.

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

# ADMINISTRATIVE RULES

Stats. Implemented: ORS 654.001 - ORS 654.295  
Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-0004

### Applicability of Rules

(1) These rules establish occupational safety and health practices for all forest activity operations including but not limited to:

- (a) Chemical application;
- (b) Chipping;
- (c) Clearing and slash disposal;
- (d) Fire fighting;
- (e) Forest road construction, maintenance and decommissioning
- (f) Log dumps, ponds, plantsite log yards and independent sort yards;
- (g) Log hauling;
- (h) Marking;
- (i) Pulpwood and non-pulpwood logging;
- (j) Reforestation/vegetation management;
- (k) Stream restoration;
- (l) Timber cutting and thinning operations;
- (m) Timber cruising.

(2) Any situation or condition not specifically addressed will be subject to other applicable provisions of the Oregon Administrative Rules, chapter 437, Oregon Occupational Safety and Health Standards.

Stat. Auth.: ORS 654.025(2) & ORS 656.726(4)  
Stats. Implemented: ORS 654.001 - ORS 654.295  
Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-0010

### Worker Protection Standard

Oregon OSHA administers and enforces the Worker Protection Standard (40 CFR 170). All parts apply in addition to, and not instead of, any other part of Division 7, Forest Activities. Should any of the parts of these two standards conflict, comply with the part offering the most protection to workers.

Stat. Auth.: ORS 654.025(2) & ORS 656.726(4)  
Stats. Implemented: ORS 654.001 - ORS 654.295  
Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-0025

### Definitions

The following definitions apply to terms used in this Division:

- (1) A-frame — A structure made of two independent columns fastened together at the top and separated by a reasonable width at the bottom to stabilize the unit from tipping sideways.
- (2) Alternative communication system — A system by voice, hand or media other than horn or whistle which provides a safe and reliable method of communication between crew members.
- (3) Approved container — A metal or polyethylene (plastic) container that can be used to carry flammable liquids in quantities up to 5 gallons. These containers must be accepted as satisfactory to contain flammable liquids by a nationally recognized testing lab, such as Underwriters Lab (UL) or Factory Mutual (FM).
- (4) Arch — Any device attached to the back of a mobile vehicle and used for raising one end of logs to facilitate movement.
- (5) Authorized person — See "Designated Person."
- (6) Backcut (falling cut) — The cut opposite of the face cut.
- (7) Ballistic nylon — A nylon fabric of high tensile properties designed to provide protection from lacerations.
- (8) Base of tree — That portion of a tree that is not more than 12 inches above highest ground level.
- (9) Bight of the line — A hazardous zone created by one or more lines under tension, or a point on a line where a rigging chain is attached.
- (10) Binder — A hinged lever assembly for connecting the ends of a wrapper to tighten the load restraining devices (log trucks, flatbeds, low-boys, etc.).
- (11) Brow log — A log placed parallel to any roadway at a landing or dump to protect carriers while loading or unloading.
- (12) Buck — To cut a fallen tree into logs.
- (13) Butt — The bottom cut or the first log of a fallen tree.
- (14) Cable yarding — The movement of trees or logs from the area where they have been fallen to a landing by attaching them to a cable system that is supported by a metal tower (wood spar) and/or intermediate support or tail trees.
- (15) Chock — A block, often wedge-shaped, which is used to prevent movement; for example, a log from rolling, a wheel from turning.
- (16) Choker — Length of wire rope, chain or synthetic material with attachments for encircling a log to be yarded.

(17) Competent person — A qualified person who has been authorized by the employer or employer representative to:

- (a) Identify existing and predictable hazards in the surroundings or working conditions which are hazardous or dangerous to employees, and
- (b) Eliminate the hazard or take corrective action.

(18) Cut-up-tree/snag — A tree/snag, left standing, with the falling cuts started or completed.

(19) Cutter — One whose primary job is to manually fall, buck or limb trees.

(20) Danger tree — A standing tree, alive or dead, that presents a hazard to personnel due to deterioration or physical damage to the root system, trunk (stem), or limbs, and the degree and direction of lean.

(21) DBH — Diameter at breast height.

(22) Deadman — Buried log or other object used as an anchor.

(23) Deck — A stack of trees or logs.

(24) Designated person — An individual who has been assigned by the employer or the employer representative to perform a specific duty or duties.

(25) Domino falling — The partial cutting of several trees which are left standing and then pushed over with a pusher (driver) tree. This definition of domino falling does not include the falling of:

(a) A single danger tree by falling another single tree into it.

(b) Two or more trees at the same time because their limbs are interlocked.

(26) Double tree intermediate support system — A system for supporting a loaded skyline in a support jack suspended on a single piece of wire rope that is supported by two trees in a manner that provides for sharing the load between the two trees. (See Figure 7-15.)

(27) Dutchman (as used in falling) — A method used to pull a tree against its lean by leaving a section of the undercut on one corner of the face.

(28) Dutchman (as used in yarding) — A block used to change direction of line lead (sideblocking).

(29) Emergency care — Care provided by a person who is first aid and CPR trained.

(30) Emergency medical service — Care provided by a medically trained person such as in a hospital, clinic, ambulance or rescue vehicle.

(31) Emergency scene — The site where the suppression or control of a fire or an emergency exists.

(32) Equipment — See "Vehicle and Machine."

(33) Equipment protection designations — The listing of specific guarding requirements for specific logging machines.

(34) Experienced person — A person who has sufficient training, experience and skill in a given process to be knowledgeable of all aspects of that process.

(35) Extreme weather conditions — Includes, but not limited to:

(a) Strong winds (applies to timbered areas only) — Wind velocity that reaches sufficient force to blow limbs from standing trees, cause wind-falls, or prevent cutters from falling trees in the desired direction;

(b) Impaired vision — Conditions such as falling snow, sleet, mist, fog, rain, dust, or darkness which substantially impairs visibility to the extent that employees cannot clearly see signals, moving vehicles, equipment and lines, falling trees or other hazards;

(c) Hazardous snow or ice conditions — Snow or ice conditions which prevent escape from hazards such as falling trees, moving logs, vehicles, or similar hazards; or

(d) Lightning.

(36) Fairlead — Sheaves, rolls or a combination thereof arranged for receiving a line coming from any direction to minimize the line from burning and aid proper line spooling onto a drum.

(37) Fall — To cut down trees.

(38) Faller — A person who falls (cuts down) trees.

(39) Fire fighting equipment — All portable and fixed fire suppression and control equipment.

(40) Firefighter — Any employee whose primary duty is fire suppression and control of fires on or around wildland areas.

(41) Flame resistance — The property of material, or combinations of component materials, to retard ignition and restrict the spread of flame.

(42) FOPS (Falling Object Protective Structure) — Structural members arranged in such a way to reasonably protect operators from falling objects such as trees, rocks, etc.

(43) Grounded (Cutting) — Placement of a tree on the ground.

(44) Grounded (Electrical) — A method to dissipate static or electrical charges.

## ADMINISTRATIVE RULES

(45) Grounded (Machines) — The placement of a machine component on the ground or device where it is firmly supported.

(46) Guarded — Covered, shielded, fenced, enclosed, or otherwise protected by means of suitable enclosures, covers, casings, shields, troughs, railings, screens, mats, or platforms, or by location to prevent injury.

(47) Guyline — A standing line used to support or stabilize a spar, tail tree, intermediate support tree, machinery or equipment.

(48) Health care provider — A health care practitioner operating within the scope of their license, certificate, registration, or legally authorized practice.

(49) High lead — A system of logging where the mainline is threaded through the mainline block which is located near the top of the spar or metal tower to obtain a lift of the logs being yarded and is returned to the vicinity of the logs by a haulback line.

(50) High visibility colors — Bright or fluorescent white, lime green, orange, yellow, red, or aqua colors that stand out from the surrounding background color so as to make them easily seen.

(51) In the clear — A position within the work area where the probability of hazardous contact with vehicles, machines, falling trees, moving logs, rootwads, chunks, material, rigging, and equipment is minimized by distance from the hazards and/or use of physical barriers, such as stumps, trees, terrain, or other objects providing protection.

(52) Kicker (as used in cutting) — A piece of the face, or an equivalent object, placed in one side of a face cut to pull the tree from its lean as it falls.

(53) Landing — Any designated place where logs are laid after being yarded and are awaiting subsequent handling, loading and hauling.

(54) Landing chute — The head of the skid trail or yarding road where the logs are temporarily placed and are awaiting subsequent handling, loading, and hauling.

(55) Lay (cutting) — The desired direction of fall for a tree.

(56) Lay (wire rope) — A unit of measure to describe the straight-line distance in which a strand of wire rope makes one complete spiral around the core of a rope. The way wires have been laid to form strands and the way strands have been laid around the core (i.e., regular, lang lay, etc.).

(57) Limbing — To cut branches off trees.

(58) Lodged tree (hung tree) — A tree leaning against another tree or object which prevents it from falling to the ground.

(59) Log — A segment sawed or split from a fallen tree, such as, but not limited to, a section, bolt, or tree length.

(60) Log dump — An area in which logs are removed from a truck or rail car. May be either dry land or water, parbuckled over a brow log or removed by machine.

(61) Logging — All operations relating to the falling of trees, cutting the fallen trees into suitable lengths, yarding, limbing, debarking, grading, loading, hauling, unloading, storing in decks or ponds until processed from timber to wood products.

(62) Logging machine — A specialized machine used or intended for use to build or maintain roads, fall trees, process trees or fiber, yard, move or handle logs, trees, chunks, and related material. (See also Tractor and Skidder.)

(63) Mainline (yarding) — The line that moves the turn of logs toward the yarder in any given system.

(64) Mechanized falling — Falling of standing timber by a self-propelled mobile-wheeled or tracked machine equipped with a shear or other powered cutting device.

(65) Metal tower — A vertical or leaning metal tube or boom used for yarding logs by various methods of cable logging.

(66) NRTL (Nationally Recognized Testing Laboratory) — An organization which is recognized by OSHA in accordance with OAR 437, division 2/A, §1910.7, Appendix A, OSHA Recognition Process for Nationally Recognized Testing Laboratories.

(67) OPS (Operator Protective Structure) — Structures or enclosures whose primary purpose is to minimize the possibility of operator injury from hazards, such as whipping saplings, branches, jill-poking and snapping winch lines with the least adverse effect on operator visibility, comfort, and protection from other hazards. Specific standards and tests exist and are referenced in many national and state codes.

(68) Pass line — A small line threaded through a block at or near the top of a wood tree or metal tower to assist the high climber.

(69) Personal protective equipment — Clothing or equipment worn to protect the head, body, feet and extremities from chemical or physical hazards.

(70) Potential failure zone — An area that could be impacted by the failure of any part of a standing tree anchor, tail or intermediate support tree

as the result of forces or loads imposed on the tree by guylines, running lines or skylines. The boundaries of the zone encompass the area into which the tree, or parts of the tree, could fall, slide or roll and all trees, logs, lines and material impacted by the tree failure.

(71) Qualified first aid person — Has evidence to show valid first aid and CPR training within the last 2 years.

(72) Qualified person — A person who has:

(a) A recognized degree, certification, professional standing, knowledge, training or experience.

(b) Successfully demonstrated the ability to perform the work, solve or resolve problems relating to the work, subject matter, or project.

(73) Rated capacity — The load identified by the manufacturer that a system, vehicle, machine or piece of equipment can lift or move.

(74) Reach — Usually a rectangular steel tube which slides in the trailer tunnel and is used as a connection between a log truck and the trailer.

(75) Reforestation — All forest management operations relating to the planting and nurturing of trees. The nurturing of trees includes: fertilization, pre-commercial thinning, mulching, pruning, animal control measures, application of chemicals, and stand inventories.

(76) ROPS (Roll-Over Protective Structure) — Framing and support for machinery that reduces the possibility of a seat belted operator from being crushed should the machine roll over. Specific standards and tests exist and are referenced in many national and state codes.

(77) Root wad — The root ball and dirt that is pulled from the ground when a tree or stump is uprooted.

(78) Rub rails — Guarding on the exposed sides of elevated bridges, ramps or runways to prevent wheeled equipment from going over the edge.

(79) Rub tree — A tree used to guide a turn around a certain area.

(80) Running line — Any moving line in a cable yarding system.

(81) Safety factor — The ratio of breaking strength to safe working strength or load.

(82) Safety pin (shackle) — A threaded shackle pin secured by a nut that is secured with a cotter key, latchpin or molly.

(83) Safety swede — A device that is designed for the specific purpose of making a positive connection to binders that are being closed (tightened) or opened.

(84) Serviceable condition — That quality of a tool, machine, vehicle, equipment, or other device to operate as it was intended to operate by the manufacturer.

(85) Short log (chunks) — Any log or fiber less than 27 feet long.

(86) Single jack — One cutter, in an area or portion of standing timber, who falls and bucks.

(87) Single tree intermediate support system — A system for supporting a loaded skyline in a support jack suspended from a single tree. The tree may be an upright single-rooted tree or a leaning tree severed or partially severed from the stump.

(88) Siwash (intentional) — The use of a natural physical object, such as a tree or stump, that changes the direction of a line rather than with a block.

(89) Siwash (unintentional) — When a line is incorrectly routed through standing timber or other objects or, as often occurs in side-hill yarding, the turn of logs pulls the bight of the line downhill and it hangs up on a stump, root wad or other object, changing the lead and creating a hazardous area.

(90) Skidder — A self-propelled machine, of the wheel or crawler design, or an animal used to move logs or trees to a landing.

(91) Skidding — The movement of logs or fiber on the surface of the ground toward the place where they can be further processed or loaded.

(92) Skyline — The line which is hung between two or more supports on which a carriage or block travels.

(93) Slackline — A system of logging where a carriage travels on a skyline that can be raised or lowered. The carriage is pulled to the landing by the mainline (skidding line) and is returned to the vicinity of the logs by the haulback line or gravity.

(94) Slash burning — The use of prescribed fire as a method of forest management.

(95) Slope (grade) — The increase or decrease in altitude over a horizontal distance expressed as a percentage. For example, change of altitude of 20 feet (6 m) over a horizontal distance of 100 feet (30 m) is expressed as a 20 percent slope.

(96) Snag — Any standing dead tree or portion thereof.

(97) Snubbing — Retarding or controlling the movement of logs or machines by attachment to another vehicle or stationary object.

# ADMINISTRATIVE RULES

(98) Spring pole — A tree, segment of a tree, limb, or sapling which is under stress or tension due to the pressure or weight of another object.

(99) Square lead — A horizontal angle of up to 90 degrees formed by the projected lines of the mainline from the drum of the logging machine through the block or fairlead and the yarding road.

(100) Strip — A stand of timber or area of fallen and bucked timber in a predetermined location on which employees work in a planned pattern.

(101) Supervisory personnel — Agent of the employer (such as a manager, superintendent, foreperson, hooktender, rigging slinger, or person in charge of all or part of the place of employment) who directs the work activities of one or more employees.

(102) Swede connection — A line configuration consisting of wrapping two choker lines in the same direction around a tree or log and connecting the line nubbins to opposite line bells.

(103) Swing cut — A back cut in which the holding wood on one side is cut through.

(104) Swing radius (machines) — Is that distance equal to actual working radius of machines capable of upper structure rotation plus the length of the attachments, logs, and materials being handled.

(105) Tail hold — An anchor used for making fast any line or block other than a guyline.

(106) Tail tree — The tree at the opposite end from the landing area on which rigging is hung.

(107) Tight line — When a force is exerted on both main line and haulback at the same time.

(108) Timber cutting — The falling and/or bucking of trees by hand or mechanical means.

(109) Topping — Cutting off the top section of a standing tree prior to rigging the tree for a spar or tail tree.

(110) TOPS (Tip-Over Protective Structure) — Framing and support for machinery that reduces the possibility of a seat belted operator from being injured should the machine tip over on its side. Specific standards and tests exist and are referenced in many national and state codes.

(111) Tractor — A self-propelled machine of wheel or crawler design used to exert a push or pull force through mounted equipment to move objects or material.

(112) Tree jack (shoe) (other than for directional falling use) — A grooved saddle of wood, soft metal or rollers contained within two steel side plates attached to a tree with a strap as a guide for a skyline, sail guy or similar static line.

(113) Tree plates — Steel bars sometimes shaped as elongated “J”s which are fastened to a tree to hold the guylines and prevent the rigging from cutting into the tree when tightened. The hook of the “J” is also used to prevent the mainline block strap from sliding.

(114) Turn — Any log or group of logs or other material usually attached by chokers, grapples or other means and moved from a point of rest to the landing or landing chute area.

(115) Undercut (face) — A notch cut in a tree to guide the direction of the tree fall and help prevent splitting or kickback.

(116) V-lead — A horizontal angle of less than 90 degrees formed by the projected lines of the mainline from the drum of the logging machine through the block or fairlead and the yarding road.

(117) Vehicle — A car, bus, truck, trailer or semi-trailer owned, leased or rented by the employer that is used for transportation of employees or movement of material. Any carrier that is not manually propelled.

(118) Wildlands fire fighting — All activities, operations, and equipment of employers and employees involved in the suppression or control of fires on wildlands. Does not include interior structural fire suppression or control.

(119) Wildlife tree — A live, partially dead, or snag tree in the forest riparian zone, or in a cutting unit that is left for wildlife habitat. May also be a danger tree.

(120) Winching — The winding of cable or rope onto a spool or drum.

(121) Within the stakes — When the log center is below the top of the stakes.

(122) Work area — Any area frequented by employees in the performance of assigned or related duties.

(123) Wrapper (tie down) — A chain, cable, steel banding, synthetic rope or fiber webbing assembly used to contain a load of logs.

(124) Yarder — A machine with a series of drums used to yard logs.

(125) Yarding — Movement of logs or trees from the place they were felled to an area where they can be further processed.

[ED. NOTE: Figures and Appendices referenced are available from the agency.]

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

Stats. Implemented: ORS 654.001 - ORS 654.295

Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-0100

### Safety and Health Program

Every employer must implement a written safety and health program that establishes management commitment, supervisory responsibilities, accident investigation, employee involvement, hazard identification, training, and annual evaluation of the program.

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

Stats. Implemented: ORS 654.001 - ORS 654.295

Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-0105

### Management Commitment

The employer must:

(1) State the purpose of the safety and health program.  
(2) Identify the safety and health personnel and resources that will be used to implement the program.

(3) Establish a labor and management policy that provides for ongoing evaluation of employees' safety performance.

(4) Establish a disciplinary policy to address unsafe work practices.

(5) Assign the responsibility, authority and accountability for worker safety and health to all employees who supervise or direct work activity.

(6) Authorize a competent person(s) for each jobsite who has the authority to:

(a) Supervise all personnel at the site.

(b) Enforce the company's safety and health program.

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

Stats. Implemented: ORS 654.001 - ORS 654.295

Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-0110

### Supervisory Responsibilities

The employer or their authorized representative must:

(1) Supervise all employees at the site and enforce the company's safety and health program.

(2) Verify that all current and new employees:

(a) Can safely perform assigned work tasks.

(b) Have received adequate job safety instruction and training.

(3) Periodically review the safety performance of each employee.

(4) Provide job safety and health instruction, training or disciplinary action to an employee when the employee is working in an unsafe manner.

NOTE: This training can be limited to the specific information needed to correct the unsafe work practice(s).

(5) Closely supervise each employee who is receiving job safety and health instruction and training.

(6) Require all employees to demonstrate the ability to safely perform their work task before permitting them to work independently.

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

Stats. Implemented: ORS 654.001 - ORS 654.295

Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

NOTE: This rule (OAR 437-001-0700(21), Reporting Fatalities and Hospitalization to Oregon OSHA) is printed here from Division 1, General Administrative Rules.

NOTE: This rule (OAR 437-001-0053, Preserving Physical Evidence at the Scene of an Accident) is printed here from Division 1, General Administrative Rules.

## 437-007-0125

### Accident Investigation

The employer or their authorized representative must:

(1) Investigate every employee fatal and recordable injury/illness to determine the cause(s).

(2) Discuss “near misses” with employees.

(3) Identify the measures to prevent recurrence of the “near misses,” fatal and recordable injury/illness.

(4) Inform all employees of the preventive measures resulting from investigations.

(5) Take steps to prevent recurrence of similar “near misses,” fatal and recordable injury/illness.

(6) Keep written results of the fatal and recordable injury/illness investigations and corrective measures for 3 years.

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

Stats. Implemented: ORS 654.001 - ORS 654.295

Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-0130

### Employee Involvement

The employer or their authorized representative must:

(1) Encourage employees to participate in site planning and the pre-work safety meeting to discuss site conditions and known hazards.

(2) Require employees to report safety and health hazards.

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(3) Require qualified employees to take corrective action and eliminate hazards.

(4) Conduct monthly safety meetings with all employees.

(a) Keep written minutes and attendance records for 3 years.

(b) Make written minutes and attendance records available to all employees.

**NOTE:** Meetings may be with individuals, separate crews, or larger groups.

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

Stats. Implemented: ORS 654.001 - ORS 654.295

Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-0135

### Hazard Identification and Control

The employer or their authorized representative must:

(1) Implement a procedure for monthly safety inspections of all work-sites, vehicles, machines, equipment, and work practices.

(2) Identify who will complete monthly safety inspections.

(3) Implement procedures that will be used to report and correct hazardous conditions.

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

Stats. Implemented: ORS 654.001 - ORS 654.295

Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-0140

### Training

The employer or their authorized representative must:

(1) Provide job safety and health instruction and training to current and new employees, including supervisors, that is adequate for the work task. They must receive training before:

(a) Starting their initial work assignment, or

(b) Being assigned new work tasks, tools, equipment, machines, or vehicles.

(2) Evaluate each employee who has previously received job safety and health instruction and training.

**NOTE:** An employee does not need to be retrained if their prior instruction and training are adequate.

(3) Provide job safety and health instruction and training that includes the:

(a) Safe performance of assigned work tasks.

(b) Procedures, practices and requirements of the employer's work site.

(c) Recognition of safety and health hazards associated with each employee's specific work tasks, including measures and work practices to prevent or control those hazards.

(d) Safe use, operation and maintenance of tools, equipment, machines and vehicles each employee uses or operates, including following the manufacturer's operating and maintenance instructions, warnings and precautions.

(e) Requirements of this standard and hazards of the industry.

(4) Require each employee receiving job safety and health instruction and training to:

(a) Work under the close supervision of a qualified person.

(b) Demonstrate to the employer or his authorized representative the ability to safely perform the work assignment before they are permitted to work independently.

(5) Assure that a qualified person(s) presents the job safety and health instruction and training.

(6) Assure that job safety and health instruction and training is:

(a) Presented in a language and manner that the employee(s) is able to understand.

(b) Appropriate in content for the skill level of the employee(s) being trained.

(7) Keep a current written record of job safety and health instruction and training for each employee that contains the following:

(a) Who was instructed or trained.

(b) The date(s) of the instruction or training.

(c) A description of the training.

(d) The name of the trainer.

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

Stats. Implemented: ORS 654.001 - ORS 654.295

Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-0145

### Annual Program Evaluation

(1) Each employer must review and evaluate their safety and health program annually.

(2) The program evaluation must include the methods and procedures used to identify and revise program deficiencies.

(3) Written findings of the annual evaluation must be maintained for 3 years from the date of issue.

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

Stats. Implemented: ORS 654.001 - ORS 654.295

Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-0200

### Site Planning and Implementation

(1) Before the start of any forest activities of more than one day duration, the employer must:

(a) Conduct an onsite safety survey.

(b) Hold a pre-work safety meeting with employees to discuss:

(A) The emergency medical evacuation plan.

(B) Site conditions and known hazards.

(c) Document the pre-work safety meeting.

**NOTE:** The pre-work safety meeting can be used to meet the monthly safety meeting requirement 437-007-0130(d).

(2) Before work starts, a competent person must evaluate any danger tree(s) or snag(s) within reach of a work area to determine if it poses a hazard to personnel. If the tree(s) or snag(s) poses a hazard, it must be felled or the work arranged to minimize danger to workers.

(3) Workers must be placed and their activities arranged so they are in the clear and the actions of one worker will not create a hazard for any other worker(s).

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

Stats. Implemented: ORS 654.001 - ORS 654.295

Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-0205

### Hazard Identification

(1) The employer must ensure that identified hazards are marked with hazard identification ribbon. The hazard identification ribbon must be bright orange, at least 1 1/2 inches wide, and marked in black with "skull and crossbones" and/or the word "Danger."

(2) The employer must notify employees of existing marked hazards in their work area.

(3) The employer must instruct all employees in the recognition and use of hazard identification ribbon.

(4) Hazard Identification ribbon must be available for employee use and carried by all cutters.

(5) Hazard identification ribbon must not be used for any other purpose than identifying hazards and must be removed when the hazard is abated.

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

Stats. Implemented: ORS 654.001 - ORS 654.295

Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-0210

### Checking System

(1) The employer must implement a checking system to account for all employees at the end of each work shift. Employees must be knowledgeable about the checking system.

(2) The employer must implement a system to check the well-being of those workers whose jobs may be single employee assignments, as provided for in OAR 437-007-0215(3). The system must include:

(a) The time interval between checks and the procedures to be followed if the employee cannot be contacted, including provisions for emergency medical care and treatment.

(b) A specific person must be assigned for:

(A) Contacting the lone employee.

(B) Verifying when contacts were made.

(c) The time intervals for checking the single employee's well-being must be understood and agreed to by all parties. Intervals should reflect the hazardous nature of the work and the methods available for checking.

(d) The system for checking an employee's well-being must be reviewed at least annually, or more frequently if there is a change in work arrangements/assignments which could adversely affect an employee's well-being, or a report that the system is not working effectively.

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

Stats. Implemented: ORS 654.001 - ORS 654.295

Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-0215

### Working Alone

(1) The employer must not assign workers to a task or location so isolated as to be without visual, audible, or radio contact with another person who can summon or provide aid in an emergency.

(2) In any operation where power chain saw operation, yarding, loading or a combination of these duties is carried on, there must be a minimum

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crew of two employees who must work as a team and must be in visual or natural unassisted voice communication with one another.

(3) Workers are not prohibited from working alone when performing certain jobs which by their nature may be single employee assignments, such as: mechanics, watchers, the operation of motor vehicles, self-loading log trucks, mechanized logging machines, feller bunchers, forwarders, processors, harvesters or excavator-based machines, provided the employer complies with the requirements of 437-007-0210(2), Checking System; 437-007-0775, Protective Structures for Operators; and 437-007-0220, Medical Services and First Aid.

(4) Mechanics or other employees must not be assigned to work on machines by themselves when there is a probability of a fall from elevated work locations or machines. When the work is of such nature that heavy parts require moving, or there is a probability that anything heavy could fall on the person, there must be another person in the area who can render immediate assistance or emergency care.

Stat. Auth.: ORS 654.025(2) & ORS 656.726(4)  
Stats. Implemented: ORS 654.001 - ORS 654.295  
Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-0220

### Medical Services and First Aid

(1) The employer must develop and implement an emergency medical plan to ensure emergency medical service to employees with major illnesses and injuries.

(2) All employees must be knowledgeable concerning the emergency care and emergency medical treatment plan.

(3) All personnel employed in forest activities must be trained in first aid and CPR as follows:

(a) In a language they understand.

(b) At least every 2 years.

(c) All supervisors and all cutters must be first aid and CPR trained prior to their initial assignment.

(d) All new employees, other than supervisors and cutters, that are not first aid and CPR trained prior to their initial assignment must receive a first aid and CPR briefing.

(e) All new employees must receive first aid and CPR training within 6 months of being hired.

(f) For the initial start-up of a side or operation where new employees are assigned, at least one out of every five crew members must be first aid and CPR trained before work starts.

**NOTE 1:** Log truck drivers and watchers are not required to receive first aid and CPR training if they are not involved with falling, yarding or processing logs.

**NOTE 2:** See the Oregon OSHA Division 2, Subdivision 2/Z, Toxic and Hazardous Substances, §1910.1030, Bloodborne Pathogens, if an employee comes into contact with blood or other potentially infectious material as the result of providing first aid.

(4) Each worksite must have at least one serviceable and operable two-way radio, phone or radio/phone combination available to reach ambulance service. Citizens' band radios are permitted only as a secondary means of communication.

**NOTE:** This rule does not apply to road graders, log and dump trucks, crew buses and similar mobile equipment that service locations where a communication unit is already available (e.g., yarders, loaders).

(5) Each operating site or crew in a communication "dead" area must have a mobile communication unit or advance plans to relay emergency calls through another site operating in the vicinity.

(6) At worksites of more than one day duration, the employer must have available near the worksite communication device(s):

(a) Written land directions to the worksite.

(b) The worksite location by Township, Range and Section.

(7) When air evacuation is available to any worksite of more than one day duration, the employer must have available, near the worksite communication device(s), the:

(a) Name and phone number of the air evacuation service.

(b) Worksite location by latitude and longitude or township, range and section as required by the air service.

(8) The employer must assure that transportation is always available to:

(a) A point where an ambulance can be met, or

(b) The nearest suitable medical facility.

(9) Vehicles used for the transportation of personnel must carry a first aid kit:

(a) Suitable for the number of passengers customarily transported.

(b) Suitable for the types of injuries that could occur.

(c) Located where they are readily available to the driver or crew.

(10) First aid kits must be provided at each worksite.

(11) Worksite first aid kits must contain the following minimum supplies at all times:

(a) Eight gauze pads individually wrapped (at least 4 inches by 4 inches in size);

(b) Two large gauze pads that are or can be folded to an approximate size of 8 inches by 10 inches or the equivalent;

(c) One box adhesive bandages;

(d) One package gauze roller bandage at least 2 inches wide or the equivalent;

(e) Two triangular bandages;

(f) Wound-cleaning agent, such as sealed, moistened towelettes, or soap and water;

(g) Scissors;

(h) One stretcher or equivalent weatherproof litter at any three or more person worksite, and at all logging sites;

(i) Two blankets, one of which must provide the strength and insulation equivalent to a wool blanket;

(j) Latex gloves;

(k) Mouth barrier;

(l) Tweezers;

(m) Adhesive tape;

(n) Two elastic wraps; and

(o) Splint material.

**NOTE:** The quantities of each item are minimum amounts. Bulk pack or unit pack supplies are acceptable. First aid supplies from other states may be acceptable if such supplies are the reasonable equivalent of those required by this rule.

(12) The employer also may have the number and content of first aid kits reviewed and approved annually by a health care provider.

(13) First aid supplies must be regularly inspected and replenished as needed.

(14) First aid supplies must be stored in containers adequate to protect the contents from damage, deterioration or contamination.

(a) The containers must be clearly marked "First Aid."

(b) The container must not be locked, but may be sealed.

(c) Soap and water, stretcher, or basket and blankets may be stored separately, but must be near or with the first aid supplies.

(15) All employees must be informed of the location of first aid supplies.

Stat. Auth.: ORS 654.025(2) & ORS 656.726(4)  
Stats. Implemented: ORS 654.001 - ORS 654.295  
Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-0225

### Working Near Unstable Objects and Danger Trees

(1) Each day in the course of forest activities, a general inspection must be conducted of the areas to be worked that day to identify trees, logs, rootwads, rocks, chunks or other objects that may roll, slide or fall towards personnel. If any object is likely to move during work activity, it must be removed, stabilized, or the work activities modified so that the unstable objects are no longer a hazard.

**NOTE:** Consideration must be given to rain, snow, other weather conditions, or working below felled and bucked timber that may increase the likelihood that objects may roll, slide or fall.

(2) On a daily basis, a competent person must evaluate any danger tree(s) or snag(s) within reach of a work area to determine if it poses a hazard to personnel. If the tree(s) or snag(s) poses a hazard it must be fell or the work arranged to minimize danger to workers.

(3) Personnel must be alert at all time for logs, trees, rootwads, rocks or other objects that could roll or slide towards them or others as a result of any work activity.

(4) Trees must not be fell or bucked within a unit of standing timber prior to any cutting operation if such falling or bucking creates a hazardous condition for subsequent cutters or cutting operations.

(5) During road building and maintenance operations, right-of-way log decks, rootwads, slash and rocks must be placed on stable locations so that personnel are not exposed to the hazards of working near unstable objects.

Stat. Auth.: ORS 654.025(2) & ORS 656.726(4)  
Stats. Implemented: ORS 654.001 - ORS 654.295  
Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-0230

### Power Line Safeguards

(1) Logging operations near overhead electric lines must be done in accordance with the requirements of OAR 437, Division 2/S, Electrical, §1910.333(c)(3), Selection and Use of Work Practices.

(2) When any machinery is being moved or operated in the vicinity of an overhead power line, a minimum clearance of 15 feet must be maintained between the overhead power lines and all elements of the machine, including logs, trees, or other material being handled by the machine.

**NOTE:** Any overhead power line must be considered to be an energized line until the



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person owning the line or the electrical utility authorities indicate that it is not energized.

(3) While falling trees, the minimum distance required by this section applies when a tree could fall within 15 feet of an overhead power line.

(4) The minimum distance required when cable yarding must not be reduced by line whip or breakage.

(5) A person must be designated to observe clearance and give timely warning for all operations where it is difficult for the operator to maintain the required distance by visual means.

(6) If work activities could encroach upon the minimum clearance required by this section, the employer or person responsible for the work to be done must promptly notify the power company in accordance with ORS 757.805, Oregon's Overhead Line Safety Act. The responsible party and the power company must complete mutually satisfactory safety measures as required before proceeding with any work which would impair the aforesaid clearance.

(7) If contact is made with a power line by a tree, rigging, machinery, or the structure supporting the overhead powerline is damaged by forest activities, the power company must be notified immediately and all employees must remain clear of the area until power company personnel advise that conditions are safe.

Stat. Auth.: ORS 654.025(2) & ORS 656.726(4)  
Stats. Implemented: ORS 654.001 - ORS 654.295  
Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-0235

### Weather Conditions

If the logging operation cannot be made safe because of inclement weather conditions or darkness, work must be discontinued until these conditions change to allow safe operation.

Stat. Auth.: ORS 654.025(2) & ORS 656.726(4)  
Stats. Implemented: ORS 654.001 - ORS 654.295  
Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-0240

### Night Logging

(1) Where work is conducted during the hours of darkness, the work area must be provided with illumination which will allow employees to safely perform their duties. The sources of illumination must be located and directed so as to create a minimum of shadows and glare.

(2) Where it is not practical to provide illumination for the work area, other means, such as local sources of illumination or headlamps, must be used by all personnel.

(3) If using a portable tailhold, lights must be directed on the equipment to permit the employee to visually ascertain that the tailhold equipment remains stabilized.

(4) Personnel working at night must wear reflective stripes at least 1-inch wide visible from all directions on upper body cover or hard hats.

Stat. Auth.: ORS 654.025(2) & ORS 656.726(4)  
Stats. Implemented: ORS 654.001 - ORS 654.295  
Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-0245

### Field Sanitation For Reforestation Activities

(1) Toilet and hand washing facilities must be provided by the employer when it is feasible for employees to use them.

(2) Where it is not feasible to use toilet and hand washing facilities, the employer must provide, at no cost to employees, suitable substitutes such as sanitary kits.

**NOTE:** Sanitary kits would include moist towelettes and hand towels for hand washing.

(3) The employer must provide, at no cost to employees, potable water and the means to carry it.

Stat. Auth.: ORS 654.025(2) & ORS 656.726(4)  
Stats. Implemented: ORS 654.001 - ORS 654.295  
Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-0300

### General Requirements

(1) Personal protective equipment, including any personal protective equipment provided by an employee, must be maintained in a safe and effective condition, or removed from service or use.

(2) Personal protective equipment must be inspected before initial use during each workshift.

(3) Defective or damaged personal protective equipment must be repaired or replaced before it is put into service.

(4) When the employer is required to provide personal protective equipment, it must be at no cost to the employee, unless a specific exception is noted.

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

Stats. Implemented: ORS 654.001 - ORS 654.295  
Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-0305

### Head Protection

(1) Where there is potential for head injury from falling or flying objects, the employer must provide and require the use of head protection (hard hats) that complies with American National Standard, ANSI Z89.1-1997, Protective Headwear for Industrial Workers — Requirements.

**EXCEPTION:** Employees working in or under a vehicle cab or canopy are excluded from wearing a hard hat while in, or under, a vehicle.

(2) The employer must replace, at no cost to the employee, head protection (hard hat) that is no longer serviceable because of reasonable wear and tear.

Stat. Auth.: ORS 654.025(2) & ORS 656.726(4)  
Stats. Implemented: ORS 654.001 - ORS 654.295  
Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-0310

### High-Visibility Color

All employees exposed to the potential hazard of moving lines, falling timber, logs, vehicles, machines and other moving equipment or materials must wear upper body cover and/or hard hats of a high-visibility color, that contrasts with the background color(s).

Stat. Auth.: ORS 654.025(2) & ORS 656.726(4)  
Stats. Implemented: ORS 654.001 - ORS 654.295  
Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-0315

### Eye and Face Protection

Where chips, sawdust or flying particles present a hazard, the employer must provide and require personnel to wear eye and face protection meeting the requirement of Division 2/I.

**NOTE:** Logger-type mesh screen may be used for chain saw operators.

Stat. Auth.: ORS 654.025(2) & ORS 656.726(4)  
Stats. Implemented: ORS 654.001 - ORS 654.295  
Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-0320

### Hand Protection

The employer must provide and require employees to use hand protection:

(1) Such as cotton gloves or other suitable hand protection whenever employees handle lines, rough material or when the nature of the work requires protection for the hands.

(2) When the employees' hands are exposed to hazards such as those from skin absorption of harmful substances, chemical and thermal burns.

Stat. Auth.: ORS 654.025(2) & ORS 656.726(4)  
Stats. Implemented: ORS 654.001 - ORS 654.295  
Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-0325

### Leg Protection

The employer must provide and require each employee who operates a chain saw to wear flexible ballistic nylon pads, chaps or other equivalent protection in a manner that protects their legs from the top of the thigh to the top of the boot from contact with the moving saw chain.

**EXCEPTION:** This does not apply to an employee working aloft in trees when supported by climbing spurs and climbing belt.

Stat. Auth.: ORS 654.025(2) & ORS 656.726(4)  
Stats. Implemented: ORS 654.001 - ORS 654.295  
Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-0330

### Foot Protection

(1) All personnel must wear foot protection, such as heavy-duty boots, that:

- (a) Are waterproof or water-repellant where wet conditions exist.
- (b) Cover and support the ankle.

**NOTE:** The employer is not required to provide logging boots for employees. The cost of logging boots may be borne by employees. The employer must assure, however, that logging boots, as well as all PPE provided by the employer, are worn by employees and are in serviceable condition and meet the requirements of Subdivision 7/D.

(2) Personnel who operate chain saws must wear cut resistant foot protection that will protect against contact with running saw chains.

(3) Personnel whose duties require them to walk on trees, logs or boomsticks, must wear sharp caulked boots, or the equivalent.

(4) When conditions such as ice, snow, mud, rocky terrain, etc., render caulks ineffective, heavy duty slip-resistant type work boots that provide ankle support must be worn.

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(5) When nonslip-type shoes or boots afford a greater degree of employee protection than caulk shoes, such as at scaling stations, log sorting yards, etc., then this type footwear may be worn in lieu of caulk shoes providing firm ankle support and secure footing are maintained.

Stat. Auth.: ORS 654.025(2) & ORS 656.726(4)  
Stats. Implemented: ORS 654.001 - ORS 654.295  
Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-0335

### Hearing Protection

(1) Personnel must be protected from the effects of noise exposures in accordance with OAR chapter 437, division 2/G, Occupational Health and Environmental Control.

(2) Personnel must wear hearing protection unless monitored under typical work conditions and found to be exposed to a noise level of less than an 8-hour time-weighted average (TWA) of 85 db when:

(a) Operating chain saws, other noise producing equipment, or machines.

(b) Working on landings.

Stat. Auth.: ORS 654.025(2) & ORS 656.726(4)  
Stats. Implemented: ORS 654.001 - ORS 654.295  
Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-0340

### Personal Floatation Devices

When working on or over water, personnel must be provided with and must wear approved buoyant protective equipment as required by Division 2/I, OAR 437-002-0139.

Stat. Auth.: ORS 654.025(2) & ORS 656.726(4)  
Stats. Implemented: ORS 654.001 - ORS 654.295  
Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-0345

### Respiratory Protection

(1) When employees are exposed to air contaminants that exceed applicable permissible exposure limits (PEL) as required by Division 2/Z, OAR 437-002-0382, Oregon Rules for Air Contaminants, the employer must provide and enforce the use of respiratory protective equipment as required in Division 2/I, §1910.134.

(2) Employees must be provided protection from dust when exposed to total dust levels of 10 milligrams per cubic meter of air per 8-hour time-weighted average (TWA).

(3) If respirators are used for protection from dust, created by the operation of machines, the employer must follow the requirements of Division 2/I, §1910.134, or the requirements of 437-007-0350.

Stat. Auth.: ORS 654.025(2) & ORS 656.726(4)  
Stats. Implemented: ORS 654.001 - ORS 654.295  
Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-0350

### Respiratory Protection When Machines Are Operated

(1) When the operation of machines expose any employee to dusty conditions and an air-purifying respirator or filtering facepiece is used for personal protection, the respirator must have a N-95 filter rating unless employees are monitored under typical work conditions and found to be exposed to total dust levels less than 10 milligrams per cubic meter of air per 8-hour time-weighted average (TWA).

(2) When the use of a respirator is required by the standard, the employer must provide respirators, medical evaluations and training, at no cost to the employee.

(3) Before any employee is permitted to use an air-purifying respirator, they must complete a medical evaluation performed by a physician or other licensed health care professional.

**NOTE 1:** This evaluation can be performed by using:

- A medical questionnaire, or
- An initial medical examination that obtains the same information as the medical questionnaire.
- A medical evaluation is not required if the employee is voluntarily using an approved respirator.

**NOTE 2:** Use Appendix 7-G, Respiratory Medical Evaluation Questionnaire (Mandatory).

(4) The employer must train employees:

(a) About the respiratory hazards to which they are potentially exposed during routine work.

(b) In the proper use of respirators, including putting on and removing them, any limitations on their use, maintenance and storage.

(5) Respirators must be clean and maintained in good working order.

(6) Respirators must be stored in a dry and sanitary place.

(7) Respiratory protection must be:

(a) NIOSH-certified.

(b) Used in compliance with the conditions of its certification.

(8) When wearing air purifying respirators for personal protection:

(a) Facial hair must not come between the sealing surface on the facepiece and the face.

(b) Facial hair must not interfere with valve function.

(c) Conditions must not interfere with the face-to-facepiece seal or valve function (facial characteristic, glasses, etc.).

(9) A qualitative fit test (QLFT) must be performed before employees use a tight fitting air purifying respirator.

**NOTE:** This is a pass/fail fit test to assess the adequacy of respirator fit that relies on the individual's response to the test agent.

(10) Employees using a tight fitting air-purifying respirator must perform a user seal check to ensure that an adequate seal is achieved each time the respirator is put on.

(11) Employees must use either the positive and negative pressure check method, or follow the respirator manufacturer's recommended user seal check method.

(12) Positive pressure checks must be performed by closing off the exhalation valve and exhale gently into the facepiece.

**NOTE 1:** The face fit is considered to be satisfactory if a slight positive pressure can be built up inside the facepiece without any evidence of outward leakage of air at the seal.

**NOTE 2:** For most respirators this method of leak testing requires the wearer to first remove the exhalation valve cover before closing off the exhalation valve and then carefully replacing it after the test.

(13) Negative pressure checks must be performed by closing off the inlet opening of the canister or cartridge(s) by covering with the palm of the hand(s) or by replacing the filter seal(s), and then inhaling gently so that the facepiece collapses slightly.

**NOTE 1:** If the facepiece remains in its slightly collapsed condition and no inward leakage of air is detected, the tightness of the respirator is considered satisfactory.

**NOTE 2:** The design of the inlet opening of some cartridges cannot be effectively covered with the palm of the hand. The test can be performed by covering the inlet opening of the cartridge with a thin latex or nitrile glove.

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

Stats. Implemented: ORS 654.001 - ORS 654.295

Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-0400

### Hand and Portable Power-Driven Tools

(1) The employer is responsible for the safe condition of hand and portable power tools used in forest activities regardless of tool ownership.

(2) All safety devices and controls must be in place and function properly.

(3) The employer must require personnel to:

(a) Inspect each tool before use to assure its safe condition.

(b) Report any unsafe tool condition to the employer.

(c) Remove or repair tools if the condition affects the safe operation.

(4) If a slick or slippery axe or hammer handle cannot be firmly gripped, the tool must not be used.

(5) Tools must be:

(a) Appropriate for their use.

(b) Used in a safe manner.

(c) Wooden handles must be sound, straight-grained and tight-fitting.

(6) Heads of shock or impact-driven and driving tools must be dressed or ground to remove any mushrooming.

(8) When the heads of shock or impact-driven tools show a tendency to chip, they must be removed from service.

(9) Cutting edges of tools must be sharp and properly shaped.

(10) When tools are not being used, they must be stored in a location where they will not create a hazard.

(11) Racks, boxes, holsters, barriers or equivalent means must be provided and used so the passengers and/or driver will not be endangered by tools, equipment or materials being transported, loaded or removed.

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

Stats. Implemented: ORS 654.001 - ORS 654.295

Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-0405

### Chain Saws

(1) Chain saws must be inspected before use.

(2) Chain saws must not be used if they have cracked or loose handle bars or defective vital parts.

(3) Chain saws must be operated and adjusted in accordance with the manufacturer's instructions.

(4) Chain saws must not be fueled with the engine running.

(5) Chain saws must be fueled at least 10 feet (3 m) from open flames or other source of ignition.

(6) Chain saws must not be started within 10 feet (3 m) of the fueling area.

# ADMINISTRATIVE RULES

(7) Chain saws must have an operable chain brake, if originally designed and equipped with a chain brake.

(8) Chain brakes and other manufacturer's safety features must be operational at all times.

(9) Chain saws must be equipped with an automatic throttle control which will return the engine to idling speed upon release of the throttle.

**NOTE:** "Idling" is when the chain is not moving while the engine is running.

(10) Each chain saw must meet all applicable requirements of American National Standard, ANSI B175.1-1991, Safety Requirements for Gasoline-Powered Chain Saws, except where exempt by these rules.

(11) Chain saws must be started on the ground if they are not otherwise firmly supported.

**NOTE:** This does not apply to personnel working aloft in trees when supported by climbing spurs and climbing belt.

(12) Chain brakes must be engaged when feasible, while chain saws are being started, unless the manufacturer recommends otherwise.

(13) Chain saw operators must be certain of footing before starting to cut.

(14) Chain saws must be held with the thumbs and fingers of both hands encircling the handles during operation unless the employer demonstrates that a greater hazard is posed by keeping both hands on the chain saw in that particular situation.

(15) Personnel must not use a chain saw:

(a) To cut directly overhead in a manner that would cause limbs, chunks of bark or pieces of wood to fall on the operator.

(b) At a distance that would require them to relinquish a safe grip on the saw.

(c) In a position or at a distance that could cause them to:

(A) Become off balance, or

(B) Have insecure footing.

(16) Chain saws must be carried in a manner that will not create a hazard for the operator.

(17) Where terrain or brush creates a hazardous condition, the chain saw engine must be shut off while the operator is walking.

(18) The chain saw must be shut down or the chain brake must be engaged whenever a saw is carried farther than 50 feet.

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

Stats. Implemented: ORS 654.001 - ORS 654.295

Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-0410

### Fire Extinguishers

(1) Portable fire extinguisher use, training and maintenance must be in accordance with OAR chapter 437, division 2, subdivision L, Fire Protection.

(2) Fire extinguishers or protection systems must be of a type approved by a nationally recognized testing laboratory (NRTL) (see OAR 437, Division 2/A, §1910.7, for definition of NRTL).

(3) There must be an approved fire extinguisher with a minimum rating of 1A:10BC (or equivalent) on each vehicle and machine, or the area where the vehicles and machines are operated.

(4) After July 1, 2007, fire extinguishers provided on each vehicle and machine must be 2A:10BC or provide equivalent protection.

(5) Fire extinguishers must be fully charged and maintained in operable condition.

(6) Portable extinguishers must be visually inspected monthly.

(7) Portable extinguishers must have an annual maintenance check.

**NOTE:** Stored pressure extinguishers do not require an internal examination.

(8) The annual maintenance check date must be recorded and this record must be retained for one year.

(9) Each motor vehicle used for transporting explosive materials must be equipped with fire extinguishers as follows:

(a) Vehicle less than 14,000 pounds must have at least two extinguishers having a combined capacity of 4A:20BC.

(b) Vehicle 14,000 pounds or greater and tractor/semi-trailer units must have at least two extinguishers having a combined capacity of 4A:70BC.

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

Stats. Implemented: ORS 654.001 - ORS 654.295

Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-0415

### Explosives and Blasting Agents

(1) The storage, transportation, handling, and use of explosives and blasting agents must be in accordance with OAR chapter 437, division 3, subdivision U, Blasting and The Use of Explosives.

(2) Explosives and blasting agents must be handled only by qualified, designated personnel.

(3) Explosives and blasting agents must not be transported in:

(a) The driver's compartment.

(b) Any passenger-occupied area of a machine or vehicle.

(4) Explosives must not be hauled on any vehicle while it is engaged in transporting workers.

**EXCEPTION:** This rule does not prohibit the driver and one qualified person from riding in a vehicle in which explosives are being hauled.

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

Stats. Implemented: ORS 654.001 - ORS 654.295

Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-0500

### Roads

(1) Haul roads must be of sufficient width and evenness for safe operation of vehicles and machines.

(2) Haul roads and bridges must be constructed and maintained to accommodate the safe movement of vehicles and machines.

(3) Vehicles and machines must not be moved on any access roadway or grade that will not accommodate the safe movement of vehicles and machines.

(4) When haul road grades exceed 20 percent slope:

(a) The vehicle or machine must be approved by the manufacturer for operation on the steeper grades.

(b) Additional precautions must be taken, such as assisting or snubbing the vehicle or machine down the slope.

(5) Deep holes, large rocks, logs, or other dangerous surface defects on roads must be corrected before starting logging operations.

(6) On those portions of roads under the direct control of the employer:

(a) All danger trees that can fall or slide onto roadways must be felled.

(b) Loose rocks, stumps and other materials which present a hazard must be secured or cleared from banks.

(7) Root wads, logs, and other unstable debris must not be placed against standing timber in a manner that creates a hazard for timber falling, logging operations or other forest activities.

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

Stats. Implemented: ORS 654.001 - ORS 654.295

Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-0505

### Bridges

(1) All bridge structures and surfaces must be:

(a) Adequate to support the maximum imposed loads.

(b) Maintained in good repair.

(2) All bridges must have rub rails constructed of wood, concrete or equivalent materials that:

(a) Have a minimum height of 9 inches (6-inch by 6-inch timbers set on 4-inch by 6-inch blocks).

(b) Are secured to the bridge deck.

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

Stats. Implemented: ORS 654.001 - ORS 654.295

Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-0510

### Flagging

(1) Warning signs and a flagger(s) must be placed in advance of active operations, or other equivalent protection must be used on roads to control traffic where hazardous conditions are created from forest activities, such as, but not limited to:

(a) Skylines and running lines or rigging across road grades, excluding tightened guylines.

(b) The movement of logs, chunks or debris across or suspended over road grades.

(c) Timber cutting operations.

(d) Helicopter logging operations.

**NOTE:** Where there is no through traffic, such as on a dead end road or where the property owner's permission or proper authority is granted to close a section of road, warning signs and barricades may be used instead of flagger(s).

(2) Flaggers must wear vests of a high-visibility color and use a minimum 18-inch x 18-inch "STOP/SLOW" paddle to control traffic.

(3) Warning signs and flagging activities along state and county roads must comply with the requirements of the Millennium Edition of the (FHWA) Manual of Uniform Traffic Control Devices (MUTCD), December 2000.

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

Stats. Implemented: ORS 654.001 - ORS 654.295

Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

# ADMINISTRATIVE RULES

## 437-007-0515

### Signs

(1) Warning signs must be prominently displayed a minimum of 300 feet in advance of forest activities which create hazardous conditions for road traffic.

(2) Warning signs must be removed or covered when forest activity operations are interrupted for an extended period.

(3) Warning signs must be worded to describe the hazard, type of operation or action to be taken.

**NOTE:** Samples of operation specific sign wording:

Lines Across Road  
Contact Operator On Channel  
Stop Do Not Proceed Without Contacting  
Timber Falling Ahead  
Blasting  
Logging Operations Ahead  
Heavy Truck Traffic  
CB Channel

(4) Warning signs must:

(a) Be a minimum dimension of 24-inch x 24-inch diamond.

(b) Have an orange background.

(c) Have 4-inch black letters.

(5) When stop signs are used they must:

(a) Be eight sided.

(b) Have a minimum height and width of 24 inches.

(c) Have a red background with 6-inch white letters for the "STOP" side.

(6) The "STOP/SLOW" paddle must:

(a) Be eight sided.

(b) Have a minimum height and width of 18 inches.

(c) Have a red background with 6-inch white letters for the "STOP" side.

(d) Have an orange background with 6-inch black letters for the "SLOW" side.

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

Stats. Implemented: ORS 654.001 - ORS 654.295

Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-0520

### Vehicle General Requirements

(1) A positive engine shut-off must be provided within reach of the operator when in normal operating position.

(2) Vehicles must be equipped with adequate steps, ladders, handholds, or grab bars to provide safe access and egress.

(3) Steps must be constructed or treated with slip-resistant materials.

(4) Vehicle seats must be securely fastened.

(5) Doors must open easily.

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

Stats. Implemented: ORS 654.001 - ORS 654.295

Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-0525

### Vehicle Warning Devices

All vehicles must be equipped with a horn or audible warning device which can be clearly heard above the surrounding noise in the vicinity of the vehicle.

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

Stats. Implemented: ORS 654.001 - ORS 654.295

Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-0530

### Vehicle Windshields, Windows and Mirrors

(1) Vehicle windshields must be equipped with powered wipers.

(2) Vehicles must be equipped with operable windshield defogging or defrosting equipment.

(3) Defective or broken glass in a vehicle which impairs the vision of the operator or could cause injury to occupants of a vehicle must be replaced.

(4) Deposits on glass which impair the vision of the operator must be removed.

(5) Windshield and windows installed on vehicles must be safety glass which meets the requirements for safety glazing material used in motor vehicles, as defined in the American National Standards Institute, Safety Glazing Materials for Glazing Motor Vehicles Operating on Land Highways, Z26.1-1996, or a material which will furnish equivalent safety.

(6) Vehicles must be equipped with an adjustable sun visor.

(7) Vehicles must be equipped with outside-mounted rear view mirrors on each side when the load or passengers obstruct the use of the rear view mirror located in the cab.

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

Stats. Implemented: ORS 654.001 - ORS 654.295

Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-0535

### Vehicle Passenger Compartments

(1) Floors and decks must be suitable for safe footing.

(2) All openings between enclosed passenger compartments and engine or exhaust from which fumes or gases may enter must be effectively sealed.

(3) Enclosed passenger compartments must be reasonably dust-proof and watertight.

(4) Floors and interior surfaces of passenger compartments must be free of protruding nails, screws, splinters or other objects which might cause injury.

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

Stats. Implemented: ORS 654.001 - ORS 654.295

Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-0540

### Vehicle Brakes

(1) All vehicles must have brakes which are capable of stopping the vehicle while fully loaded on any grade over which they are to be operated.

(2) All vehicles must have a parking brake that will hold the loaded vehicle on any grade which it is operated.

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

Stats. Implemented: ORS 654.001 - ORS 654.295

Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-0545

### Vehicle Exhaust Systems

(1) Vehicles must have an exhaust system that is maintained in good repair.

(2) Vehicles must be equipped with a muffler of the type recommended by the vehicle manufacturer.

(3) Exhaust pipes must be located to direct the exhaust gases away from the operator and any passengers.

(4) Any exhaust pipe which is exposed to contact must be insulated or isolated to protect workers from contact burns.

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

Stats. Implemented: ORS 654.001 - ORS 654.295

Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-0550

### Vehicle Guards and Controls

(1) Vehicles with dump bodies must be equipped with a permanently attached, positive means of support that is capable of being secured in position to prevent the accidental lowering of the dump body.

(2) Devices for supporting dump bodies must be used when:

(a) The dump body is raised and left unattended.

(b) Maintenance or inspection work is being done.

(3) Operating levers controlling hoisting or dumping devices on haulage bodies must be equipped with a latch or other device which will prevent accidental starting or tripping of the mechanism.

(4) Trip handles for tailgates and belly dump trailers must be located so personnel are in the clear when dumping.

(5) All vehicles whose payload is loaded by means of cranes, power shovels, loaders or similar equipment must have a cab shield or canopy adequate to protect the operator from shifting or falling materials.

(6) The backs of vehicle cabs which are exposed to shifting loads must be provided with a substantial bulkhead or similar device.

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

Stats. Implemented: ORS 654.001 - ORS 654.295

Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-0555

### Vehicle Safety Chains

Safety chains or cables must:

(1) Have a tensile strength equivalent to the gross weight of the towed vehicle.

(2) Prevent the tow bar from dropping to the ground in the event the tow bar or coupling device fails.

(3) Be attached in a manner that provides sufficient strength to control the towed vehicle in event the tow bar or coupling device fails.

(4) Have no more slack than necessary to permit proper turning.

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

Stats. Implemented: ORS 654.001 - ORS 654.295

Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

# ADMINISTRATIVE RULES

## 437-007-0560

### Vehicle Seat Belts

(1) All vehicles (except those that were not originally equipped with seat belts) designed or used primarily to transport personnel or material over private or public roads must have seat belts.

(2) For each vehicle equipped with a seat belt(s), the employer must:

(a) Require all personnel to use seat belts when the vehicle is being operated.

(b) Require all personnel to tightly fasten seat belts when the vehicle is being operated.

(c) Maintain each seat belt in a serviceable condition.

(d) Replace each seat belt which has been removed from any vehicle that was equipped with seat belts at the time of manufacture.

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

Stats. Implemented: ORS 654.001 - ORS 654.295

Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-0565

### Vehicle Inspection, Maintenance and Repair

(1) Vehicles must be checked at the beginning of each shift to assure that they are in safe operating condition.

**NOTE:** Pay particular attention to components such as tires, steering apparatus, lights and reflectors, brakes, boosters, brake hoses and connections, reaches, bunks, stakes, bunk blocks and couplings.

(2) Any defects found during inspection, which affect the safe operation of the vehicle, must be corrected before the vehicle is placed in service.

(3) Any vehicle which develops defects in parts vital to safe operation during a work shift must be removed from service until necessary repairs are made.

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

Stats. Implemented: ORS 654.001 - ORS 654.295

Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-0570

### Vehicle Operation

(1) Vehicle operators must be knowledgeable of the manufacturer's recommendations for operation, maintenance, safe work practices, and operating procedures.

(2) Vehicles must be started and operated only by trained and authorized personnel.

(3) Vehicles must not be moved until all personnel, other vehicles and machines are in the clear.

(4) Vehicles must not be driven or backed up to anyone standing in between the vehicle and a stationary object.

(5) When vehicle operators do not have a clear view of the surface being traveled, they must be guided by a signal person.

(6) Any operator who has an obstructed view to the rear of a vehicle must sound an audible warning, that can be heard over the surrounding noise, before backing up unless the:

(a) Vehicle is backed up only when an observer signals the driver that it is safe to do so; or

(b) Operator verifies that nobody is behind the vehicle.

(7) When vehicles are parked, the parking brakes must be set before the operator leaves the operator's station.

**NOTE:** When it is not feasible to apply or release parking brakes because of freezing conditions, chocking or blocking of the wheels or using other precautions is permissible.

(8) Vehicles must not be loaded beyond the designed capacity.

(9) Vehicle loads must be stable, well-balanced and secured.

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

Stats. Implemented: ORS 654.001 - ORS 654.295

Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-0575

### Transportation of Personnel

(1) Workers riding in motor vehicles must not stand while the vehicle is in motion.

(2) Flatbed and dump trucks must not be used to transport workers.

(3) Passengers must wait for the vehicle to come to a complete stop before boarding or leaving.

(4) When materials, equipment and tools of any type are transported in the same compartment with workers, the workers and driver must be protected from the hazards of materials, equipment or tools by substantial partitions or the securing of the load.

(5) Transported materials must not prevent doors of vehicle cabs from being opened.

(6) Compartments for workers must be kept in a clean and sanitary condition. Workers should assist in maintaining such conditions.

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

Stats. Implemented: ORS 654.001 - ORS 654.295

Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-0580

### Flammable and Combustible Liquids

(1) Flammable and combustible liquids must be stored in accordance with OAR 437, 2/H, Hazardous Materials, §1910.106, Flammable and Combustible Liquids.

(2) Containers of flammable and combustible liquids must be marked in accordance with OAR 437, 2/Z, §1910.1200, Hazard Communication.

(3) Smoking within 35 feet of vehicles being fueled is prohibited.

(4) Fueling of vehicles within 35 feet of any open fires, flame or other sources of ignition is prohibited.

(5) Vehicle engines, except diesel engines, must be shut off while being fueled.

(6) Refilling tanks using liquefied petroleum gases must:

(a) Only be done out-of-doors.

(b) Not exceed the maximum quantity of fuel recommended by the manufacturer.

(7) Tanks, barrels or containers of gasoline, aviation fuels or diesel must not be hauled on vehicles transporting workers except when:

(a) Carried in a suitable location outside the driver and passenger compartment or placed in a well-ventilated vapor-proof compartment.

(b) Secured to prevent shifting.

(8) When fuels are hauled in containers of 5-gallon capacity or less, the container must be approved by a nationally-recognized testing lab, such as Underwriters Laboratory (UL), or Factory Mutual (FM).

(9) Vehicles must be kept free of accumulated fuel and combustible liquids which may create a fire or other hazard.

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

Stats. Implemented: ORS 654.001 - ORS 654.295

Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-0600

### Inspection and General Requirements for Rigging

(1) A competent person must thoroughly inspect all:

(a) Blocks, butt rigging, shackles and other rigging for damaged, cracked or worn parts, loose nuts and bolts, and the need for lubrication before they are used.

(b) Wire rope (running lines), straps and guylines before they are used.

(2) Repairs or replacements must be made before the blocks, butt rigging, shackles, other rigging, guylines, or straps are used.

(3) Rigging and loads must not foul or saw against lines, straps, blocks, or other equipment when in use.

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

Stats. Implemented: ORS 654.001 - ORS 654.295

Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-0605

### Out-of-Service Requirements for Wire Rope

(1) Wire rope must be repaired (spliced), re-socketed, or taken out of service when there is:

(a) Evidence of chafing, sawing, crushing, kinking, crystallization, bird-caging, corrosion, heat damage, or other damage that has weakened the rope structure; or

(b) One or more broken wire(s) at the base of a poured nubbin or end fitting; or

(c) Corroded, damaged, or improperly applied end connections, or

(d) 12 1/2 percent of the wires are broken within a distance of one lay.

**EXCEPTION:** Out-of-service requirements do not apply to chokers, grapple opening lines, tag lines, cat and skidder winch lines, and droplines that are not used to move the carriage.

Figure 7-1 — Wire Rope Out-of-Service [Figure not included. See ED. NOTE.]

**EXAMPLE 1:** A 6 x 19 Independent Wire Rope Core (IWRC) wire rope must be removed from service when 14 broken wires are found within the distance of one wire rope lay. (6 strands with 19 wires =  $114 \times 0.125$  (12 1/2%) = 14.25)

**EXAMPLE 2:** A 6 x 25 IWRC wire rope must be removed from service when 19 broken wires are found within the distance of one wire rope lay. (6 strands with 25 wires =  $150 \times 0.125$  (12 1/2%) = 18.75)

(2) Oversized trailer lift straps must be removed from service when the strap no longer has a breaking strength equal to five times the load to be lifted.

[ED. NOTE: Figures referenced in this rule are available from the agency.]

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

Stats. Implemented: ORS 654.001 - ORS 654.295

Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

# ADMINISTRATIVE RULES

## 437-007-0610

### Line Cutting and Splicing

(1) Hard hammers must not be used when splicing or cutting wire rope with a wire axe.

(2) Eye protection must be used when cutting lines.

(3) Marlin spikes (needles) must be used when splicing.

(4) Short splices, eye-to-eye splices, cat's paws, and knots are prohibited except when used to move nonload-bearing lines.

(5) Knots may be used on single drum tractor winch lines, grapple pickup lines and carriage droplines when the knot is tied on the end of the dropline/pickup line. The knot must be pulled as tight as possible and the ends trimmed in accordance with Table 7-2.

(6) Eye splices in wire rope 1/2-inch or less in diameter must be tucked at least two times when used as haywire (strawline).

(7) Eye splices in all regular lay lines and straps must be tucked at least three times.

(8) Eye splices in lang lay lines must be tucked at least four times.

(9) When flemish (rolled) eye splices are used on load bearing lines, the strand ends must be secured by:

(a) Hand tucking each strand three times; or

(b) Applying a compression fitting (pressed eye fittings).

(10) Log splices must be used for permanently joining regular lay running line.

**EXCEPTION:** When using mechanical slack pulling carriages, jump splices may be used to connect the main and slack pulling lines, and tucked splices may be used to attach drop lines to main lines only if the:

1. Crew members are notified of the splices being used.

2. Yarder boom sheaves are of the Tommy Moore type.

3. Splices are on the yarder side of the carriage.

4. Lines are arranged so splices do not go through the carriage.

5. Spliced strands are trimmed at 6 inches.

6. Splices are inspected at least once daily for signs of excessive wear or failure.

7. Defective splices are immediately repaired (spliced) or removed from service.

8. Jump splices connecting main and slack pulling lines are between 30 inches and 48 inches long and tucked at least three times.

9. Splices attaching drop lines to main lines are tucked at least three times.

(11) Follow Table 7-1 for the length of line strand to unravel to make a long splice in wire rope. The full length of the splice must be twice the length of the unraveled rope.

Table 7-1 — Length of Wire Rope to Unravel When Long Splicing [Table not included. See ED. NOTE.]

(12) Wire strand ends must be trimmed to the length shown in Table 7-2.

Table 7-2 — Trimmed Length For Wire Rope Strand Ends [Table not included. See ED. NOTE.]

[ED. NOTE: Tables referenced in this rule are available from the agency.]

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

Stats. Implemented: ORS 654.001 - ORS 654.295

Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-0615

### Pressed Eyes and End Fittings

(1) Pressed eyes must not be used for skyline eyes that will be crossed with loaded carriages.

(2) Quick nubbins must not be used as guyline and skyline end fittings.

(3) Standard sized ferrules must be used when nubbins are poured on wire rope that exceeds the rated breaking strength of 1 1/8-inch diameter extra improved plow steel.

(4) Poured nubbin ferrules must be stamped with the date they were poured.

(5) The recommendations of the manufacturer must be followed in attaching sockets and similar end fastenings.

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

Stats. Implemented: ORS 654.001 - ORS 654.295

Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-0620

### Cable Clamps

(1) The use of cable clips or clamps for joining lines is prohibited, except where used for transferring slack lines from one place to another.

Figure 7-2 — Wire Rope U-Bolt Clip

Figure 7-3 — Wire Rope Fist Grip Clip [Figures not included. See ED. NOTE.]

(2) When U-bolt wire rope clips are used, the following requirements apply:

(a) When used for eye splices, the U-bolt wire rope clip must be attached so that the "U" section is in contact with the dead or short end of the rope;

Figure 7-4 — U-Bolt Clip Installation [Figure not included. See ED. NOTE.]

(b) U-bolt wire rope clips must be spaced at least six rope diameters apart to obtain the maximum holding power. Nuts must be tightened evenly and tightened again after application of the first sustained load. After the

rope has been used and is under tension, the clips must be tightened again to take up any looseness caused by the tension reducing the rope diameter;

(c) When high strength wire rope is used, one more U-bolt wire rope clip must be added for each grade above improved plow steel; and

(d) U-bolt wire rope clips must not be used to form eyes on running lines, skylines, or straps.

(3) When U-bolt wire rope clips are used to form eyes, Table 7-3 must be used to determine the number and spacing of clips.

Table 7-3 — Number and Spacing of U-Bolt Wire Rope Clips [Table not included. See ED. NOTE.]

[ED. NOTE: Figures and Tables referenced are available from the agency.]

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

Stats. Implemented: ORS 654.001 - ORS 654.295

Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-0625

### Mollies

(1) Mollies must not be used to connect eyes of load-bearing lines.

(2) Mollies or cold shuts must not be used in butt rigging as a load-bearing connection.

(3) The use of mollies for attaching guylines is prohibited.

(4) Mollies must be rolled in with the lay of the line.

(5) Mollies, latchpins, or cotterkeys must be large enough to retain the shackle pin.

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

Stats. Implemented: ORS 654.001 - ORS 654.295

Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-0630

### Connectors

(1) Guyline extensions must be connected by:

(a) A shackle using a safety pin connecting spliced and/or pressed eyes; or

(b) Poured nubbins and a double-end hook.

Figure 7-5 — Guyline Connectors — Spliced Eyes

Figure 7-6 — Guyline Connectors — Poured Nubbins [Figures not included. See ED. NOTE.]

(2) Guyline extension connectors must have at least 1 1/2 times the strength of the guyline.

[ED. NOTE: Figures referenced in this rule are available from the agency.]

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

Stats. Implemented: ORS 654.001 - ORS 654.295

Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-0635

### Shackles

(1) Shackle pin diameter must be:

(a) 1/8-inch larger than the indicated shackle size for shackles up to 1 3/4 inches.

(b) 1/4-inch larger than the indicated shackle size for shackles 1 3/4-inch up through 3 inches.

(2) Replacement shackle pins must meet the manufacturer's original specifications for strength and design for the size of shackle being used.

(3) Shackle pins and nuts must be replaced when the threads are worn or stripped.

(4) Worn shackle pins must be replaced when the original diameter is reduced by 15 percent.

(5) The opening size between the jaws of shackles used to hang blocks, jacks, rigging, and join or attach lines, cannot be more than 1-inch greater than the size of the line, swivel, shackle, or similar device to which it is attached.

(6) Safety pins must secure shackles used to hang blocks, jacks, or rigging on trees, anchor guylines and join guyline or deadman strap eyes.

Figure 7-7 — Shackle — Safety Pin [Figure not included. See ED. NOTE.]

(7) When skylines are attached with a shackle using a knockout pin, the pin must be one size larger than the skyline and secured with a molly, latchpin, or cotterkey. (See Figures 7-8 and 7-9.)

(8) Sleeve shackles or choker bells must be used where choked lines are permitted.

Figure 7-8 — Shackle — Sleeve with Knockout Pin

Figure 7-9 — Shackle — Bell with Knockout Pin

Figure 7-10 — Skyline Attachments with Knockout Pins

Figure 7-11 — Shackle — Sleeve with Safety Pin [Figures not included. See ED. NOTE.]

(9) When a line is passed around an anchor without the use of a strap, the shackle pin must be inserted through the line eye and the "U" part of the shackle placed around the bight of the line.

(10) Sleeve shackles must not be used to join two or more eyes together.

(11) A flush pin, straight-sided shackle must be used to connect the eyes of lines if:

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- (a) The shackle will be crossed by a sheave; or
- (b) A sheave will be crossed by the shackle.

Figure 7-12 — Shackle — Flush Pin, Straight Side [Figure not included. See ED. NOTE.]

(12) When shackles are crossed by carriages, the pin must be facing the landing.

- (13) Shackles used to join three or more lines must be hung with the:
  - (a) Pin through the single eye.
  - (b) “U” part through two or more line eyes.

(14) When attaching a guyline, mainline, or skyline eye to two or more strap eyes, the:

(a) Shackle pin must be placed through the guyline, mainline, or skyline eye.

- (b) “U” part of the shackle must be placed through the strap eyes.

(15) After a strap is passed around an anchor and the two eyes are contained in the “U” part of the shackle, the angle created by the strap eyes must not be greater than 90 degrees.

Figure 7-13 — Shackle — Straps within 90 Degrees [Figure not included. See ED. NOTE.]

**NOTE:** If the angle created by the strap eyes is greater than 90 degrees, the strap is too short. The shackle containing the strap eyes should be hung at least half the diameter of the anchor away from the anchor.

(16) Shackles used to connect tipping plate anchor lines to the eye of a guyline, mainline, or skyline must be:

- (a) 1/8-inch larger than the largest line.
- (b) Rated for a load equal to or greater than the expected working load.
- (c) Large enough to accommodate all line eyes.

(17) Shackles attached to tipping plate anchors must have the shackle pins inserted through the anchor pad-eyes.

(18) A shackle must have a rated breaking strength greater than the rated breaking strength of the line that they are used with.

(19) The manufacturer’s rated breaking strength of shackles must be used in determining oversize requirements when the make, size and steel classification of the shackle can be identified.

(20) Shackles listed in Tables 7-4, 7-5 and 7-6 must be made of alloy steel which develops 120,000 PSI ultimate tensile strength or better.

**NOTE:** Shackle sizes are listed for extra improved plow steel wire rope.

(21) The minimum size of shackles required to hang or attach single sheave blocks or jacks are shown in Table 7-4.

Table 7-4 — Bell Shaped and Sleeve Shackles Used to Hang or Attach Single Sheave Blocks or Jacks [Table not included. See ED. NOTE.]

(22) The minimum size of shackles required for joining or attaching lines are shown in Table 7-5.

Table 7-5 — Bell Shaped and Sleeve Shackles Used to Join or Attach Lines [Table not included. See ED. NOTE.]

(23) The minimum size of flush pin straight-sided shackles for joining or attaching skyline extensions are shown in Table 7-6.

Table 7-6 — Flush Pin Straight-Sided Shackles Used for Attaching Skyline Extensions [Table not included. See ED. NOTE.]

[ED. NOTE: Figures and Tables referenced are available from the agency.]

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

Stats. Implemented: ORS 654.001 - ORS 654.295

Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-0640

### Metal Spar Guyline Safety Straps

(1) A guyline safety strap or equivalent device must be installed at the top of metal spars to prevent guylines from falling vertically more than 5 feet in case of structural or mechanical failure of the guyline attachment.

(2) Metal spar guyline safety straps or equivalent devices must be equal to the individual strength of any guyline being used.

(3) The ends of metal spar guyline safety straps must be connected to each other.

**NOTE:** Two eyes secured with a shackle or two poured nubbins secured in a connector are acceptable for the connections.

(4) The use of cable clips or clamps for joining the ends of metal spar guyline safety straps is prohibited.

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

Stats. Implemented: ORS 654.001 - ORS 654.295

Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-0645

### Chokers and Straps

(1) In highlead logging, chokers must be at least one size smaller than the mainline.

(2) Straps must be equivalently sized for the line they support, e.g., Extra Improved Plow Steel (EIPS) line requires EIPS straps or equivalent strength material.

Figure 7-14 — Straps — Line Tension [Figure not included. See ED. NOTE.]

(3) Straps or chokers used at or near the ground to hang or support blocks, jacks, tree shoes, or rigging must be sized in accordance with Table 7-7.

Table 7-7 — Strap Sizes For Rigging At Or Near The Ground [Table not included. See ED. NOTE.]

(4) Straps or chokers used to hang or support blocks, jacks, tree shoes, or rigging in tail and intermediate trees must be sized in accordance with Table 7-8.

Table 7-8 — Strap Sizes For Rigging Hung In Tail and Intermediate Support Trees [Table not included. See ED. NOTE.]

(5) When a two part strap or two chokers are used to hang a block, jack, tree shoe, or rigging both eyes or ends must be under approximately equal tension.

Figure 7-15 — Straps — Line Tension Bridal [Figure not included. See ED. NOTE.]

(6) When two equal length chokers are used to hang a block, jack, tree shoe, or rigging in lieu of one choker to gain extra breaking strength, they must be:

- (a) Arranged as a swede-type connection.
- (b) Considered as a block hung in two eyes for Table 7-8.

(7) For straps hung in trees where the interior angle or angles create excessive loading on the strap as shown in Figure 7-14 additional precautions must be taken, such as using a larger strap, lightening loads, moving the carriage ahead on the line, and so forth to reduce the load on the strap.

(8) Straps made of synthetic materials must be arranged so the straps cannot ride up or down from their intended position.

(9) Straps made of synthetic materials must be used and replaced in accordance with the manufacturer’s recommendations.

[ED. NOTE: Figures and Tables referenced are available from the agency.]

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

Stats. Implemented: ORS 654.001 - ORS 654.295

Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-0650

### Guylines — General Requirements.

(1) Splicing of guylines is prohibited except to make an eye.

(2) Guylines used to stabilize logging machines must be of the size, strength and number recommended by the machine manufacturer.

(3) Load-bearing guyline angles must not be greater than 50 degrees measured horizontally or that recommended by the machine manufacturer. If suitable anchors are not available or the terrain is so steep that the guyline angle exceeds 50 degrees or the machine manufacturer’s recommendation, additional precautions must be taken, such as rearranging guylines to oppose the load, adding an additional guyline to oppose the load, or narrowing yarding roads.

(4) Tail and intermediate support tree guylines must be:

(a) Arranged and adjusted so they share the load when lines are tensioned.

(b) Kept securely tightened during the yarding process.

(c) Made of the same strength material as the line hung in the tree or larger size guylines must be used to provide the same relative strength.

**EXAMPLE:** In 437-007-0650(4)(c), a 1-inch swaged skyline requires guylines equivalent in strength to 5/8-inch swaged guylines.

(5) When using tail or intermediate support trees and the line hung in the tree is:

(a) 5/8- inch or less, guylines must be at least 3/8-inch.

(b) Greater than 5/8-inch and less than 1-inch, guylines must be at least 1/2-inch.

(c) 1-inch and larger, guylines must be at least 5/8-inch.

(6) A skyline must not be considered a guyline.

(7) Machines and equipment used for yarding that are specifically designed to be self-stabilizing during operation may be used without guyline(s).

**NOTE:** Hydraulic excavator-based log loading machines may yard logs without using guylines.

(8) Guylines made of synthetic materials, including the end connectors, must have the equivalent strength capacities of wire rope.

(9) The manufacturer’s recommendations for out-of-service requirements of synthetic materials must be followed.

(10) When guylines are required for towers they must be positioned according to Appendix 7-I, Table 7-9 or the manufacturer’s specifications.

(11) Tail or intermediate support tree guylines must not be pretensioned beyond the point of tree stability before the load is applied. (See Figure 7-18.)

(12) Trees and unintentional siwashes must not interfere with the proper alignment, placement, or tightening of guylines.

(13) Guylines must be hung in a manner to prevent a bight or fouling when they are tightened.

[ED. NOTE: Figures and Appendices are available from the agency.]

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

# ADMINISTRATIVE RULES

Stats. Implemented: ORS 654.001 - ORS 654.295  
Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-0655

### Guylines — Tail Tree Guying.

(1) Except as provided for in rule (2) and (5) of this section, a minimum of two guylines must be used on tail trees and located within guying zones to oppose the forces as shown in Figure 7-16 (azimuths 130-150 and 210-230 degrees).

Figure 7-16 — Guylines — Tail Trees [Figure not included. See ED. NOTE.]

(2) When the angle of the lines between the tail tree and a tail hold produces an offset of more than 8 degrees between the lines as they enter and leave the tail tree, then at least three guylines are required.

(3) If a suitable anchor is not available within a specified guying zone, two guylines may be used in lieu of one guyline for that zone, provided a guyline is placed on both sides of, and as near as possible, to the affected guying zone.

(4) When additional guylines are needed in a tree, they must be placed to oppose the yarding forces.

(5) Guylines are not required when a tail tree is stable according to Figure 7-18 and the:

(a) Tail tree is not within reach of workers.

(b) Resulting line movement would not pose a hazard to workers if the tail tree failed.

**NOTE:** At the point of rigging attachment, the tree must not move more than its diameter in the direction of load.

[ED. NOTE: Figures referenced in this rule are available from the agency.]

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

Stats. Implemented: ORS 654.001 - ORS 654.295

Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-0660

### Intermediate Support Trees

(1) Intermediate support trees must be rigged so:

(a) Horizontal carriage clearance at the base of the intermediate support tree(s) is sufficient for the turn of logs to pass the support tree(s).

(b) The jackline is a single piece of line that provides strength equal to a line 1/8-inch larger than the tong or skidding line. (Figures 7-17, 7-19 and 7-20.)

Figure 7-17 — Intermediate Support Tree — Vertical [Figure not included. See ED. NOTE.]

(2) Vertical support trees must be firmly rooted.

(3) The base of all leaning tree supports must be prevented from moving by:

(a) Retaining 20 percent of the stump diameter in holding wood; or

(b) Other suitable rigging arrangements.

(4) Single tree intermediate supports must be guyed as follows:

(a) For skylines 1-inch and smaller use the rigging configuration in

Figure 7-17:

(A) No guylines are needed if the tree is stable according to Figure 7-18.

(B) If the tree moves more than one diameter at the point of rigging attachment, then a guyline of the size called for in 437-007-0650(4) must be rigged according to oppose the yarding forces.

Figure 7-18 — Guyline — Tail Tree Stability [Figure not included. See ED. NOTE.]

(b) For all skylines larger than 1-inch and for skylines rigged as in Figure 7-17.

(A) Two guylines are needed of the sizes called for in 437-007-0650(4)(c).

(B) The guylines must be rigged according to 437-007-0655(4) if the tree is not stable according to Figure 7-18.

(c) For all leaning tree intermediate supports using the rigging configuration of Figure 7-19, a minimum of three guylines must be used.

(A) Two guylines of the sizes called for in 437-007-0650(4)(c) must be rigged according to Appendix 7-I, Figure 7-42.

(B) A snap guyline of at least 3/8-inch diameter must be placed opposite the two load-bearing guylines.

Figure 7-19 — Intermediate Support Tree — Leaning [Figure not included. See ED. NOTE.]

(5) Double tree supports must be rigged (see Figure 7-20) so the:

(a) Angle of the block to the center of the support line:

(A) Is 10 degrees in any direction when skylines 1 1/8-inch and smaller are used; or

(B) Has deflection in the direction of the jack which does not exceed 10 degrees when skylines larger than 1 1/8-inch are used.

(b) Loaded support trees do not displace more than 2 feet at the point of rigging attachment.

(c) Minimum and maximum heights of the jack relative to the height of the block is as shown below for double tree intermediate support systems.

Figure 7-20 — Intermediate Support — Double Tree [Figure not included. See ED. NOTE.]

(6) Double tree supports must be guyed as follows:

(a) For skyline sizes equivalent to 1 1/8-inch improved plow steel (IPS) and less, no guys are required;

(b) For skyline sizes equivalent to those larger than 1 1/8-inch IPS as shown in Appendix 7-I, Figure 7-39.

[ED. NOTE: Figures and Appendices referenced are available from the agency.]

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

Stats. Implemented: ORS 654.001 - ORS 654.295

Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-0665

### Anchoring

(1) A competent person must carefully choose skyline, guyline and running line anchors for position and strength.

Figure 7-21 — Stump Tie Back Anchor [Figure not included. See ED. NOTE.]

(2) A competent person must inspect anchors while the operation is in progress. When necessary, anchors must be tied back or changed.

Figure 7-22 — Stump Twister Anchor [Figure not included. See ED. NOTE.]

(3) Unstable yarder guyline anchors must be immediately corrected.

(4) Stump anchors must be notched to a depth not greater than is necessary to safely secure the line to the stump.

(5) Deadman anchors must have:

(a) Straps or lines equal in strength to the guyline, skyline, or mainline to attach the line to a deadman.

(b) Deadman anchor strap or line connectors visible for inspection.

Figure 7-23 — Deadman Anchor [Figure not included. See ED. NOTE.]

(6) When a standing tree is used as an anchor:

(a) The line or strap must be attached to the base of the tree.

Figure 7-24 — Tree Tie Back Anchor [Figure not included. See ED. NOTE.]

(b) The tree must be tied back if it is within reach of any worker, the landing area, or haul road.

**NOTE:** In some cases, the base of a standing tree(s) that is used as an anchor may also need to be tied-back.

(c) Affected personnel must be notified of the standing tree anchor and the potential failure zone.

**NOTE:** See the potential failure zone requirements listed in 437-007-0927(1) through (7).

(7) The use of machines for anchoring guylines, skylines, or corner blocks must be done only under the supervision of a competent person.

Figure 7-25 — Log Loader Anchor [Figure not included. See ED. NOTE.]

(a) When determining if the machine is a suitable anchor, the competent person must consider:

(A) The size and weight of the machine.

(B) The size of the line to be attached.

(C) The type of logging system to be used.

(D) The condition of the soil and slope of the ground.

(E) The availability of holding aids, such as road embankments or stumps.

(F) The skyline, guyline, or running line angle from the horizontal and vertical.

(G) Any other factors which would affect the stability of the machine anchor.

(b) Line attachment points on the machine must be determined by a qualified person.

(c) Machines that are used as mobile tail anchors and are stabilized with a guyline(s) must be guyed in accordance with OAR 437-007-0650(1), (2) and (3).

Figure 7-26 — Tailhold Cat Anchor [Figure not included. See ED. NOTE.]

(8) Rock bolt anchors must be installed, grouted, tested and maintained in accordance with the manufacturer's recommendations.

(9) Artificial earth anchors must be installed and used in accordance with their design specifications and manufacturer's recommendations.

(10) When using tipping plate anchors:

(a) Guylines, skylines, or mainlines must not be directly attached to the anchors.

(b) The combined strength of straps or lines attached to multiple anchors must be equal in strength to the guyline, skyline, or mainline.

Figure 7-27 — Tipping Plate Anchor [Figure not included. See ED. NOTE.]

(c) Shackles used to connect straps to the anchors must be secured with a safety pin.

**NOTE:** This connection will not be visible for inspection.

[ED. NOTE: Figures referenced in this rule are available from the agency.]

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

Stats. Implemented: ORS 654.001 - ORS 654.295

Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03



# ADMINISTRATIVE RULES

## 437-007-0670

### Spiking and Releasing Spiked Guylines or Skylines

(1) Spiked guylines or skylines must be anchored with at least two and one-half wraps around the stump. The first wrap must be secured with at least eight spikes or six staples. The second wrap must be secured with at least three spikes. The last, or top wrap, must be secured with eight spikes or six staples. (See Figure 7-28.)

Figure 7-28 — Spiked Guylines and Skylines Anchor [Figure not included. See ED. NOTE.]

(2) All the bark must be removed from the stump where the line is wrapped and spiked.

(3) Employees must not stand close to the stump or tree or in the bight of the lines as the guyline or skyline wraps are being tightened.

(4) When removing spiked guylines or spiked skylines from stumps or trees, a reverse safety wrap (Figure 7-29) must be put on and secured before loosening the last wrap, or the skyline or guyline must be held while the spikes are removed from the last wrap, and snubbed until the tension is relieved.

Figure 7-29 — Spiked Guyline Safety Wrap Anchor [Figure not included. See ED. NOTE.]

(5) A competent person must be in charge of loosening spiked guylines or skylines, using all precautions and giving warning before lines are released. Safety holdbacks must be used when necessary.

[ED. NOTE: Figures referenced in this rule are available from the agency.]  
Stat. Auth.: ORS 654.025(2) & ORS 656.726(4)  
Stats. Implemented: ORS 654.001 - ORS 654.295  
Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-0675

### Selecting, Preparing and Rigging Trees

(1) Tail and intermediate support trees must be carefully chosen by a competent person based on position and strength necessary to support the imposed loads.

(2) Raised trees must be identified and marked as such.

(3) Trees must not be topped during windy weather.

(4) At no time must topping, rigging up, or stripping work be done when visibility is impaired.

Figure 7-30 — Topping Trees [Figure not included. See ED. NOTE.]

(5) Loose equipment, rigging, or material must either be removed from the tree or securely fastened.

(6) Skylines with breaking strengths greater than 1-inch IPS (or equivalent) must not be hung in trees where the tree diameter at the point of attachment is less than 12 inches unless precautions are taken to prevent the tree from pinching off.

(7) A skyline must not make an angle greater than 50 degrees measured from the horizontal as it leaves the tail tree unless additional precautions are taken to prevent the tree from failing.

[ED. NOTE: Figures referenced in this rule are available from the agency.]  
Stat. Auth.: ORS 654.025(2) & ORS 656.726(4)  
Stats. Implemented: ORS 654.001 - ORS 654.295  
Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-0680

### Blocks and Hanging Blocks.

(1) Load-bearing blocks must:

(a) Not be used for lines other than those for which they are constructed.

(b) Be fitted with line guards and be designed and used in a manner that prevents fouling.

(c) Be kept in proper alignment when in use.

(d) Have bearing and yoke pins of a material that will safely withstand the strains imposed and be securely fastened.

(e) Have sheaves of a size designed for the size of the wire rope used.  
**EXCEPTION:** 437-007-0680(b) and (e) do not apply to small rig-up (Tommy Moore) blocks.

(2) Block bearings must be kept well-lubricated.

(3) Sufficient corner or tail blocks to distribute the stress on anchors and attachments must be used on all logging systems.

(4) Tail, side, or corner blocks used in yarding must be hung in both eyes of straps or in the single eye of a strap or choker that meets the requirements OAR 437-007-0645, Tables 7-7 and 7-8.

(5) The yoke pin of haulback blocks must be inserted with the head facing the direction from which the rigging approaches, when the rigging can reach the block.

[ED. NOTE: Tables referenced in this rule are available from the agency.]  
Stat. Auth.: ORS 654.025(2) & ORS 656.726(4)  
Stats. Implemented: ORS 654.001 - ORS 654.295  
Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-0685

### Climbing Equipment and Climbing

(1) Defective climbing equipment must be immediately removed from service.

(2) The climber must be equipped with a climbing equipment assembly having a breaking strength of not less than 5,000 pounds. The equipment must include:

(a) A safety belt with double "D" rings;

(b) Steel spurs long and sharp enough to hold in any tree in which they are used; and

(c) A high-quality steel safety chain of 3/16-inch size or larger whenever a chain saw or axe is used.

(3) A wire rope core climbing rope or chain must be attached to both of the "D" rings at the side of the belt or passed through the "D" rings and around the body. A secondary safety device must be used when snap hooks are used.

(4) All climbers must be trained in safe rigging procedures for each applicable climbing duty.

(5) Personnel with climbing experience and an extra set of climbing equipment must be available at the worksite to render assistance to the climber in an emergency.

(6) Climbers must select the place for hanging rigging before topping a tree, with no more than 16 feet nor less than 6 feet of the topped tree above the top guylines.

(7) Yarding of any type must not be conducted within reach of the tree or guylines of a tree in which a climber is working.

(8) When machines are used to hoist rigging:

(a) A person must be assigned to transmit the climber's signals.

(b) The signal person and machine operator must not perform other duties when the climber is in the tree.

(9) Noisy equipment, such as power saws, tractors and other logging machines, must not be operated around the area where a climber is working when such noise will interfere with the climber's signals.

(10) Lines attached to a tree in which a climber is working must not be moved except on a signal from the climber.

(11) A climber's rope (chain) must encircle the tree before the climber leaves the ground.

(12) While the climber is working in the tree, employees must keep a sufficient distance from the tree to be clear of falling objects.

(13) The climber must give warning when any equipment or material is in danger of dropping, or is dropped deliberately.

(14) Loose equipment, rigging, or material must either be removed from the tree or securely fastened.

Stat. Auth.: ORS 654.025(2) & ORS 656.726(4)  
Stats. Implemented: ORS 654.001 - ORS 654.295  
Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-0690

### Metal Towers

(1) A competent person must direct the raising and lowering of each metal tower.

(2) All employees not engaged in the actual raising or lowering of metal towers must stay in the clear during these operations.

(3) Metal towers must be level to provide proper line spooling and avoid excessive stress on component parts.

(4) Each metal tower must have an identification plate permanently attached to its base or on the yarder in a position that can be easily read by a person standing on the ground or on the base platform.

(5) All plates must contain the following information:

(a) Name and address of manufacturer and model number; and

(b) The maximum and minimum inclination at which the metal tower is designed to operate.

(6) In addition, all identification plates on metal towers manufactured after July 1, 1980, must contain the following information:

(a) The maximum breaking strength and size of mainline for which the metal tower is designed;

(b) The maximum breaking strength and size of haulback line for which the metal tower is designed;

(c) The number, breaking strength and size of guylines or any other lines required; and

(d) If the metal tower is designed for a skyline, slackline, or modified slackline system, the maximum breaking strength and size of skyline, mainline and haulback line that can be used.

(7) All metal towers must be operated within the manufacturer's capacity:

(a) As specified on the identification plate; or

# ADMINISTRATIVE RULES

(b) As modified by the manufacturer; or

(c) As designed and specified by a registered professional engineer.

(8) If wire rope dimensionally larger in size or of a greater breaking strength than that specified by the yarder machine manufacturer is used for skyline, mainline, skidding line and/or haulback line, one of the following methods for limiting the load on the spar must be used:

(a) A tamper-proof tension limiting device that automatically slacks the line loads (pull) on the metal tower to below its maximum identification plate rating.

(b) A line fuse system installed in the skyline or mainline; or

(c) Established operation procedures that limit line loads (pull) on the metal tower to below the maximum identification plate rating for the metal tower.

(9) When a line fuse system is used to limit line loads (pull) on the metal tower:

(a) The line fuse must have a designed breaking strength equal to or less than the maximum line rating of the metal tower as listed on its identification plate.

(b) The line fuse must be certified and stamped as to the breaking strength.

(c) The skyline or mainline must be hung in a single eye of the fuse link.

(d) Notice must be given to crew personnel that line fuses are in use.

(10) When operating procedures are used to limit line loads (pull) on the metal tower:

(a) They must be observable or verifiable.

(b) Any locking or dogging device on the brake or elsewhere must be removed or deactivated.

(c) Personnel must be knowledgeable about the operating procedures that are in use to limit line loads.

(11) Metal towers and their appurtenances must be inspected by a competent person each time the tower is lowered and at any time its safe condition is in doubt.

(12) When damage from overstress or any other source is noted or suspected, the part in question must be inspected by a suitable method and found to be safe or the part repaired by a qualified person or replaced before the tower is again used.

(13) Structural modifications or additions which affect the capacity or safe operation of metal towers must be made only under the direction of the manufacturer or a registered professional engineer. If such modifications or additions are made, the identification plate required in OAR 437-007-0690(4), (5) and (6) must reflect such changes.

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

Stats. Implemented: ORS 654.001 - ORS 654.295

Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-0700

### General Work Practices

(1) Machines must be operated a sufficient distance from personnel and other machines to not create a hazard for any person.

(2) An unimpaired horizontal clearance of not less than 3 feet must be maintained between the rotating superstructure of any machine and any adjacent object or surface. If this clearance cannot be maintained, personnel must be warned of the pinch point area. Measures taken to warn personnel of the pinch point area may consist of a warning line constructed of rope or ribbon supported on stanchions, barriers, cones, flags, etc.

(3) Items of personal property, tools or other miscellaneous materials must not be stored on or within 3 feet of any machine if such items would expose personnel to hazards caused by the rotation of the machine's superstructure.

**EXCEPTION:** These items may be stored within 3 feet when in a locked box or otherwise secured and under the exclusive control of the equipment operator.

(4) Personnel must not approach to within 3 feet of a machine when a hazardous area is created by the rotation of the machine's superstructure without:

(a) Informing the operator of their intent.

(b) Receiving acknowledgment from the operator that the operator understands their intention.

(c) Stopping the machine while personnel are in the hazardous area.

(5) No person, other than the operator, may ride on a machine unless seating, seat belts and other protection equivalent to that provided for the operator are provided.

(6) Operators must not permit workers to ride on arches, reaches or turns of logs.

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

Stats. Implemented: ORS 654.001 - ORS 654.295

Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-0705

### General Machine Operator Requirements

(1) Machines must be started and operated only by authorized personnel.

(2) Operators must be instructed about and comply with the manufacturer's recommendations for machine operation, maintenance, safe work practices, and site operating procedures.

(3) Before starting or moving any machine, the operator must determine that personnel are in the clear.

(4) Operators must inspect their machines each day before starting work.

(5) All machine engines must be off during inspection or repair except where necessary for adjustment or checking fluids.

(6) Machines must not be operated with defective steering, braking, other parts or components that are necessary for safe operation.

(7) Defective hydraulic hoses, lines and fittings that affect the safe operation of the machine must be immediately replaced.

(8) All repairs and adjustments necessary for safe operation must be made before any strain or load is placed upon any machine.

(9) Machines must not be operated until all guards are reinstalled, safety devices reactivated, and maintenance equipment removed after adjustments or repairs are made.

(10) Operators must start and operate machines only from the operator's station or from a safe area recommended by the manufacturer.

(11) At the start of each shift, machine operators must test all drum brakes before taking a load.

(12) Machines must be operated within their stability limits.

(13) Loads on forklift-type log handling machines must be transported:

(a) As low as safely possible.

(b) In a manner that minimizes obstructing the operator's view.

(14) The machine operator must apply the parking brake, brake locks or other equivalent means to hold the machine stationary before dismounting.

(15) Blades must be lowered to the ground or other stable surfaces while the operator is out of the normal operating work station.

(16) Grapples, delimeter masts, feller buncher attachments, forks and other similar devices must be stable and pose no hazard to others while the operator is out of the normal operating work station.

(17) If a hydraulic or pneumatic storage device can move machine elements, such as, but not limited to, blades, buckets, saws and shears, after the machine is shut down, the pressure or stored energy from the element must be discharged as specified by the manufacturer.

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

Stats. Implemented: ORS 654.001 - ORS 654.295

Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-0710

### General Machine Requirements

(1) Machine seats must be securely attached.

(2) Operating foot controls must be constructed of or covered with a non-slip material suitable for the footwear worn.

(3) Machine decks, drums and other surfaces where workers walk or stand must be constructed of or covered with a non-slip material suitable for the footwear worn.

(4) Catwalks or platforms must be provided on machines where personnel perform routine operation, maintenance or rigging work.

(5) A safe and adequate means of access and egress such as, steps, ladders, handholds and railings must be provided and maintained to all parts of vehicles and machines where employees must go. Machine access must comply with the Society of Automotive Engineers' (SAE)-J185-1988 or ISO 2867:1994, Access Systems for Off-Road Machines.

**NOTE:** See the mandatory requirements in Appendix 7-D for accessing metal towers.

(6) Guards must be provided on machines to protect employees from flying chunks, logs, chips, bark, limbs and other material.

(7) Guards must be in place at all times when machines are in use.

(8) All exposed moving parts, such as shafts, pulleys, belts, conveyers and gears on machinery and equipment must be guarded in accordance with OAR 437, division 2, subdivision O, Machinery and Machine Guarding.

(9) Hydraulic hose, tubing or fittings must be arranged to eliminate abrasive contacts.

(10) Machines must be free of excess flammable and combustible material that may create a fire.

(11) Machine sleds, bases or frames must be strong enough to withstand any imposed stresses.

# ADMINISTRATIVE RULES

(12) Machines and their components must be securely anchored or otherwise stabilized to prevent unintended movement during operation.

**EXCEPTION:** This does not apply to tractors or skidders.

(13) A limit switch must be installed on electric-powered log loaders to limit lift arms travel in the event the control switch is not released in time.

(14) When forklift type machines are used to load, unload or handle trailers, a positive means of holding the lifting attachment on the fork must be installed and used.

(15) Guyline drum controls and outrigger controls must be separated and clearly identified to prevent engaging the wrong control.

(16) Boom-type machines must have a boom stop to prevent over-topping of the boom.

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

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

Stats. Implemented: ORS 654.001 - ORS 654.295

Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-0715

### Attaching and Spooling Line (Wire or Synthetic Rope)

(1) Ends of lines attached to drums on machines must be secured by end attachments that develop the ultimate strength of the line unless three wraps of line are maintained on the drum at all times.

**NOTE:** This does not apply to tractors or skidders.

(2) Winch lines on tractors or skidders must be attached to the drums with a breakaway device.

(3) Wire rope must be wound on drum spools in a manner to prevent excessive wear, kinking, chafing, or fouling.

(4) A guide pulley, tool, stick, iron bar, or other manual or mechanical means must be used when guiding lines onto drums.

Figure 7-31 — Spooling Lines — Least Risky [Figure not included. See ED. NOTE.]

(5) Personnel must never allow line to slide through their gloved hands or place any part of their body in direct contact with the line.

Figure 7-32 — Spooling Lines — Risky [Figure not included. See ED. NOTE.]

(6) When it is necessary for personnel to stand on a drum to spool line or perform machine maintenance, precautions must be taken to prevent unintentional activation of the drum.

(7) Personnel must not stand on a bare drum or lines spooled on a drum when wearing caulk boots unless a non-slip material covers the standing surface.

[ED. NOTE: Figures referenced in this rule are available from the agency.]

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

Stats. Implemented: ORS 654.001 - ORS 654.295

Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-0720

### Fairleads

(1) Properly align fairleads at all times.

(2) Fairleads must be of a design that will prevent line damage.

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

Stats. Implemented: ORS 654.001 - ORS 654.295

Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-0725

### Securing Machines.

(1) Before the operator leaves the operator's work station, procedures must be implemented to prevent the release of stored energy, accidental start up, or movement of the machine.

(2) The employer must instruct all authorized employees how to use shut down procedures.

(3) Authorized employees must demonstrate a working knowledge of the specific shut down procedures they are required to use.

(4) Locks, tags and other devices used to control hazardous energy must be durable.

(5) The words "DO NOT START," "DO NOT OPERATE," or other appropriate warning must be displayed on tags used to control energy.

(6) Tags used to control hazardous energy must be placed so they are obvious to anyone attempting to operate the machinery.

(7) Blades must be lowered to the ground or other stable surfaces to secure the blade and machine from movement while maintenance or repair activities are performed.

(8) Grapples, delimeter masts, feller buncher attachments, forks and other similar devices must be stable and not pose a hazard to personnel while maintenance or repair activities are performed.

(9) If a hydraulic or pneumatic storage device can move machine elements, such as blades, buckets, saws, shears, etc., after the machine is shut down for maintenance or repair, the pressure or stored energy that can activate the movable elements must be discharged.

(10) Before locks, tags and other devices that are used to control hazardous energy are removed and machinery or equipment is started, the work area must be inspected to ensure that:

(a) All tools have been removed.

(b) Personnel are in the clear.

(11) Guards must be replaced after necessary adjustments are made.

(12) Machines or equipment that are not mounted on sleds, wheels, or tracks must comply with the requirements of Division 2/J, §1910.147, for controlling hazardous energy.

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

Stats. Implemented: ORS 654.001 - ORS 654.295

Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-0730

### Loading Machines

(1) Grapple arms or other positive means of keeping logs on the forks must be used on forklift type log handling and loading machines.

(2) Log loading machines must be equipped with an audible signaling device of a different tone than other signaling devices in the area.

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

Stats. Implemented: ORS 654.001 - ORS 654.295

Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-0735

### Chippers

(1) Access covers and doors to chippers must remain closed until the drum or disk is at a complete stop.

(2) Infeed and discharge ports on chippers must prevent contact with discs, knives, or blower blades.

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

Stats. Implemented: ORS 654.001 - ORS 654.295

Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-0740

### Machine Exhaust Systems

(1) Machines must have an exhaust system maintained in good working order.

(2) Machines must be equipped with a muffler of the type recommended by the machine manufacturer.

(3) Exhaust pipes must direct the exhaust gases away from the operator.

(4) Exhaust pipes must be insulated or located to protect employees from accidental contact with the pipes and must permit spark arrester clean out.

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

Stats. Implemented: ORS 654.001 - ORS 654.295

Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-0745

### Windows and Windshields on Machines

(1) Windows and windshields must:

(a) Be free of deposits or defects that could endanger the operator or other personnel.

(b) Be safety glass or a type of material that provides equal protection.

(c) Not impair the vision of the operator.

(d) Have an additional metal screen or guard where windows and windshields do not provide adequate operator protection.

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

Stats. Implemented: ORS 654.001 - ORS 654.295

Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-0750

### Drum Brakes

(1) Brakes or dogs must be installed on all machine drums and maintained in effective working condition.

(2) Machine drum brakes must have an independent locking device that will hold the drum when the operator leaves the machine and the machine is not operating.

(3) Machine drum brakes must be protected from direct exposure to the elements or must be of a design or construction which will render them impervious to such exposure.

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

Stats. Implemented: ORS 654.001 - ORS 654.295

Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-0755

### Machine Travel Brakes

(1) Self-propelled machines built on or after July 1, 1985, must have braking systems as follows:

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(a) A service braking system that is the primary means of stopping and holding the equipment.

(b) An emergency stopping system that is a secondary means of stopping the equipment in the event of any single failure of the service system.

(c) A parking brake system that will continuously hold a stopped machine stationary within the limits of traction so the operator may leave the vehicle without the vehicle moving, and to prevent movement of the vehicle while unattended.

(2) The braking systems in this section (OAR 437-007-0755) must comply with Society of Automotive Engineers' (SAE) or International Organization for Standards (ISO) Recommended Practices:

(a) ISO 11512 MAR95 — Braking Performance — In-Service Crawler Tractors and Crawler Loaders.

(b) J/ISO 3450 JAN98 — Earthmoving Machinery — Braking Systems of Rubber-Tired Machines — Systems and Performance Requirements and Test Procedures.

(c) J/ISO 11169 FEB99 — Machinery for Forestry — Wheeled Special Machines — Vocabulary, Performance Test Methods, and Criteria for Brake Systems.

(3) Self-propelled logging machines manufactured prior to July 1, 1985, must have braking systems installed, tested and maintained in as effective a condition as originally installed by the manufacturer.

Stat. Auth.: ORS 654.025(2) & ORS 656.726(4)  
Stats. Implemented: ORS 654.001 - ORS 654.295  
Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-0760

### Outriggers

(1) All outriggers must be placed on a stable base or cribbing.

(2) Hydraulic outriggers must have a positive holding device (velocity fuse, load check valve, manually operated valve, or equivalent) to prevent movement of the piston in the event of a hose, hose fitting or other failure in the hydraulic system.

Stat. Auth.: ORS 654.025(2) & ORS 656.726(4)  
Stats. Implemented: ORS 654.001 - ORS 654.295  
Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-0765

### Hauling or Moving Machines

(1) The weight of any machine being hauled must not exceed the designed capacity of the transporting vehicle.

(2) Machines must be loaded, secured and unloaded so they do not create a hazard for personnel.

(3) Machines must not be moved or operated until all personnel are in the clear.

(4) A signal person must guide operators who do not have a clear and unobstructed view of the direction of travel and the surface being traveled.

(5) When an operator does not have a clear and unobstructed view of the direction of travel, an audible alarm or horn must be sounded before the machine, equipment or vehicle is moved.

(6) Track-mounted machines with manual transmissions must be equipped with a ratchet or other device which will prevent unintended disengagement or reversing of the machine, and the operator must be informed of the proper technique.

(7) When moving machines equipped with metal towers, the tower must be lowered. When needed for mobility, the tower may be raised provided that it is adequately supported so that the stability of the machine is not impaired during movement.

Stat. Auth.: ORS 654.025(2) & ORS 656.726(4)  
Stats. Implemented: ORS 654.001 - ORS 654.295  
Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-0770

### Protective Structure for Operators, General Requirements

(1) Cabs and protective structures for machine operators must be:

(a) Provided when machine use exposes an operator to hazardous conditions.

(b) Sufficient in strength and dimension to withstand the impact of materials handled.

(2) Operator controlled skidding machines manufactured after April 1, 1992, must have adequate operator protection of 1/4-inch woven wire mesh with openings no greater than 2 inches in size or other materials providing equivalent or greater protection.

(3) Every tractor, skidder, front-end loader (other than high mast forklifts), scraper, grader and dozer manufactured on or after July 1, 1969, must be equipped with Roll-Over Protective Structures (ROPS) installed, tested and maintained in accordance with Division 2/N, OAR 437-002-0223, as amended through January 30, 2003.

**EXCEPTION:** This rule does not apply to log stackers used exclusively to lift, transport or stack logs in sorting yards or transfer stations.

(4) Every tractor, skidder, front-end loader (other than high mast forklifts), scraper, grader and dozer manufactured on or after July 1, 1980, must be equipped with ROPS meeting the Society of Automotive Engineers' SAE 1040 April 1980, Performance Criteria for Roll-Over Protective Structures (ROPS) for Construction, Earthmoving, Forestry and Mining Machines.

**EXCEPTION:** This rule does not apply to log stackers used exclusively to lift, transport or stack logs in sorting yards or transfer stations.

(5) Every tractor, skidder, front-end loader, scraper, grader and dozer manufactured on or after July 1, 1980, must be equipped with a falling object protective structure (FOPS) for overhead protection installed, tested and maintained in accordance with the Society of Automotive Engineers' SAE J231-1981, Minimum Performance Criteria for Falling Object Protective Structures (FOPS).

(6) Machines equipped with ROPS or FOPS as required in OAR 437-007-0770(3), (4) and (5) must comply with the Society of Automotive Engineers' SAE J397 April-1988, Deflection Limiting Volume (DLV) for Laboratory Evaluation of Roll-Over Protective Structures (ROPS), and Falling Object Protective Structures (FOPS) for Construction and Industrial Vehicles.

(7) The ROPS structure must have a shear or deflecting guard extending from the leading edge of the forward arch to the front part of the tractor frame. If longitudinal arches are used, they must extend from the rear of the tractor to the front frame of the tractor with each arch having an intermediate support located approximately at the dash so that operator access or egress is not impeded.

**EXCEPTION:** This rule does not apply to rubber-tired loaders, scrapers and graders.

(8) The opening in the rear of the ROPS structure must be covered with 1/4-inch woven wire having not less than 1 1/2-inch or more than 2-inch openings, or other material providing equivalent or greater protection. Affix this covering to the structural members so that ample clearance is provided between the screen and the back of the operator.

(9) ROPS structures must have side screens of the same strength as the back screen or vertical barrier bars spaced at intervals not greater than 6 inches on center and constructed of not less than 1-inch double strength pipe installed on all logging machines equipped with ROPS in addition to the back screen.

(10) Side barriers must extend forward to the front edge of the operator's seat or as far forward as possible from the rear corners of the canopy sides to a structural member behind the front edge of the seat.

(11) Protective structures must be of sufficient height and width so they:

(a) Do not impair the movement of the operator or prevent immediate escape from the machine in emergencies.

(b) Allow the operator as much visibility as possible.

(12) Clearance between the deck and the protective structures of the machines at points of egress must not be less than 52 inches.

(13) There must be a second means of egress from all logging machines.

(14) Structural members of the ROPS must have smooth, rounded edges and coverings free from projections which could puncture or tear flesh or clothing.

(15) Rollover protective systems must be maintained in a manner that will preserve their original strength. Welding may only be performed by qualified welders.

(16) Certified roll-over protective structures must be identified by a metal tag:

(a) Permanently attached to the ROPS in a position where it can be easily read.

(b) Permanently and clearly stamped, etched or embossed with the:

(A) Name and address of the certifying manufacturer or registered professional engineer.

(B) ROPS model number (if any).

(C) Vehicle make, model or series number that the ROPS is designed to fit.

(D) Maximum weight of the machine for which the structure is certified.

(E) SAE tag criteria number.

(17) Tractors and skidders manufactured prior to 1969 that cannot be fitted with complete ROPS may be used for cleaning debris off landings, snubbing vehicles and machines or as an anchor, provided no clearing, road construction or yarding is performed off a road or landing surface.

(18) Seat belts must be provided and used on all machines with ROPS/FOPS and have quick release buckles designed to minimize the possibility of accidental release.

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(19) Seat belts must be maintained in an effective condition and comply with SAE Standard J386-1985.

Stat. Auth.: ORS 654.025(2) & ORS 656.726(4)  
Stats. Implemented: ORS 654.001 - ORS 654.295  
Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-0775

### Protective Structure For Operators, Machines Manufactured On Or After July 1, 2004

**NOTE:** The scope of coverage in the SAE and ISO standards referenced in OAR 437-007-0775(11) and (14) are not intended to exclude any machines included in the scope of this Division.

(1) Machines manufactured on or after July 1, 2004, that permit the operator to stand on the ground adjacent to the machine while operating the machine:

- (a) Are not required to have a fully enclosed cab.
- (b) Must have overhead and landing chute side protection meeting the requirements of SAE J1084 April 80.

(2) Cabs and protective structures on forest activities machines manufactured on or after July 1, 2004, must have smooth, rounded edges and coverings free from projections which could puncture or tear flesh and clothing.

(3) Any machine operator cab, protective structure or attached guarding manufactured on or after July 1, 2004, that is damaged or weakened, to a strength less than that required by certified performance criteria must be replaced or immediately repaired.

(4) Repairs or modifications to major structural members of any operator cab, protective structure or attached guarding on machines manufactured on or after July 1, 2004, certified to performance criteria, must comply with the specific instructions of the original equipment manufacturer or be certified by a professional engineer.

(5) An operator restraint system must be provided and used on all machines manufactured on or after July 1, 2004, and equipped with ROPS, FOPS, reinforced cabs or overhead guards. The operator restraint system must:

- (a) Comply with SAE J386 NOV97 or ISO 6683 Amended 1:1990.
- (b) Be maintained in an effective condition.

**EXCEPTION:** Use of the operator restraint system is not required when operating yarders that are stationary.

(6) The level of protection provided by any machine operator cab, protective structure or attached guarding manufactured on or after July 1, 2004, must be identified by a label. The label must:

- (a) Comply with the labeling requirements of ISO 3471:1994 or ISO 12117:1997 as applicable.
- (b) Not claim that exclusion from a standard is equivalent to compliance with that standard.

**NOTE:** Machines capable of 360-degree upper structure rotation are excluded from the SAE J1040 MAY94 and ISO 8082:1994 standards for ROPS. In this case, the exclusion from these standards does not allow the label on a machine capable of 360-degree upper structure rotation to state compliance with SAE J1040 MAY94 or ISO 8082:1994.

(7) Each machine used in forest activities that is manufactured on or after July 1, 2004, must have a fully enclosed cab for the operator which prevents objects from entering the cab. The fully enclosed cab must have:

(a) The upper portion enclosed with materials that allow for maximum visibility and meets the Operator Protective Structure (OPS) requirements of SAE J1084 APR80 or ISO 8084:1993.

(b) Transparent material must not have defects, such as, but not limited to, scratches, cracks, or broken safety glass which could create a hazard for the operator.

(c) The lower portion enclosed with solid material meeting the requirements of SAE J1084: APR80 or ISO 8084:1993.

(d) The overhead covering enclosed with solid material meeting the FOPS requirements of ISO 8083:1989 (11,600 Joules).

**EXCEPTION 1:** 437-007-0775(7)(a) is not required for the front window in machines operating in sort yards, on landings and similar prepared surfaces which are equipped with front guards meeting the SAE J1356 FEB88 requirements.

**EXCEPTION 2:** 437-007-0775(7)(a) and (7)(c) are not required on machines operating in mill yards.

(8) The machine operator space in cabs and protective structures manufactured on or after July 1, 2004, must comply with ISO 3411:1995.

(9) Access to machine operator cabs and protective structures manufactured on or after July 1, 2004, must comply with SAE J185-1988 or ISO 2867:1994.

(10) Each fully enclosed cab installed on machines manufactured on or after July 1, 2004, must have a second means of egress which can be opened from both the inside and outside without tools.

(11) Machines capable of handling material in front of or above the deflection limiting volume (DLV), as defined by SAE J397 APR98, including yarders with cabs mounted next to the tower (boom), manufactured on

or after July 1, 2004, must have a front and top guard meeting the requirements of SAE J1356:FEB88.

**EXCEPTION:** The rule does not apply to rubber-tired or tracked front-end loaders when equipped with buckets or forks with hold down grapple arm(s).

(12) Machines used for forest activities and those identified by SAE J1116 MAR99 that are manufactured on or after July 1, 2004, must:

- (a) Be equipped with ROPS which meet the criteria in SAE J1040-1994 or ISO 8082:1994.
- (b) Comply with the requirements of OAR 437-007-0775(2) through (11).

**EXCEPTION 1:** This rule does not apply to high mast log stackers used exclusively to lift, transport or stack logs in sorting yards or transfer stations.

**EXCEPTION 2:** This rule does not apply to machines capable of 360-degree upper structure rotation that are excluded from SAE J1040:May 94 and ISO 8082:1994 standards for ROPS.

(13) Shear or deflector guarding must be:

(a) Installed in front of each cab to deflect whipping saplings and branches.

(b) Located so they do not impede visibility and access to the cab.

**EXCEPTION:** This rule does not apply to rubber-tired loaders, scrapers and graders.

(14) Machines used for forest activities manufactured on or after July 1, 2004, that are excluded from the ROPS, SAE J1040:1994 or ISO 8082:1994 requirements because they are capable of 360 degree upper structure rotation must be equipped with fully enclosed cabs that meet the requirements of 437-007-0775(2) through (11). These machines must be limited to use on surfaces that are prepared, excavated or constructed of solid material with a slope of less than 20 percent unless the operator's cab is equipped with the following additional protection:

(a) A Tip Over Protective Structure (TOPS) that meets the requirements of ISO 12117 1997:(E) with the exception of the "Formulae for the determination of energy required" in section 6.1.4 Table 1. The "Formulae for the determination of energy required" in Table 1 is changed as follows:

(A) The lateral energy equation is replaced with  $7300(M/10,000)0.9$  or 20,000 Joules, whichever is greater where M is the machine mass in kilograms.

(B) The longitudinal energy equation is replaced with  $4300(M/10,000)0.9$  or 12,000 Joules, whichever is greater where M is the machine mass in kilograms.

(b) An "Off-Boom Side Cab Guard" that complies with the "Front Guard" requirements of SAE J1356: FEB88.

(c) An "Off-Boom Side Cab Guard" that complies with 437-007-0775(14)(b) when the following modifications are made to SAE J1356:FEB88:

(A) Section 3.2. Each occurrence of the term "Front Guard" in this section is replaced with "Off Boom Side Cab Guard."

(B) Section 3.2.4.1. The term "front of the DLV" on line 3 is replaced with "off boom side of the DLV."

(C) Section 5.2. Each occurrence of the term "Front Guard" in this section is replaced with "Off Boom Side Cab Guard."

(D) Section 5.2.3. The term "front of the DLV" on line 2 is replaced with "off boom side of the DLV."

(E) Section 6.2. The term "Front Guard" on line 1 is replaced with "Off Boom Side Cab Guard."

[ED. NOTE: Tables referenced in this rule are available from the agency.]

Stat. Auth.: ORS 654.025(2) & ORS 656.726(4)  
Stats. Implemented: ORS 654.001 - ORS 654.295  
Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-0780

### Protective Structures for Operators, Machines Used On Or After July 1, 2009

Each machine used in forest activities on or after July 1, 2009, that is excluded from the ROPS, SAE J1040 MAY94 or ISO 8084:1994 requirements, because it is capable of 360 degree upper structure rotation, must:

(1) Meet the same requirements as those machines manufactured on or after July 1, 2004; or

(2) Be limited to use on surfaces that are prepared, excavated or constructed of solid materials with a slope of less than 20 percent when handling logs or other materials, or

(3) Have a clear path of travel and be limited to slopes of 40 percent or less when used only as anchors for cable yarding systems.

Stat. Auth.: ORS 654.025(2) & ORS 656.726(4)  
Stats. Implemented: ORS 654.001 - ORS 654.295  
Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-0800

### General Requirements

(1) Any worker falling a tree or bucking a log must be located so their work will not endanger others.

# ADMINISTRATIVE RULES

Figure 7-33 — Falling — Too Close [Figure not included. See ED. NOTE.]

(2) Personnel must not approach within two tree lengths of a tree being felled without receiving a signal from the person falling the tree that it is safe to approach.

(3) The minimum distance between any worker(s) manually falling trees and any other personnel must be twice the height of the trees being felled.

**EXCEPTION:** This does not apply to a team of two or more working on the same tree.

Figure 7-34 — Falling — Two Tree Lengths [Figure not included. See ED. NOTE.]

(4) Workers who are single jacking must be positioned so they are close enough to render assistance to each other in case of an emergency. They must be:

- (a) Within sight of each other; or
- (b) Able to talk to each other by natural unassisted voice communication.

(5) Workers who are single jacking must work in compliance with 437-007-0215, Working Alone, and 437-007-0220, Medical Service and First Aid requirements.

(6) Workers whose primary job is to manually operate a chain saw for activities such as, falling and bucking trees, pre-commercial thinning, brush clearing and slashing must carry a shrill sounding whistle, such as a police whistle. The whistle must be used only to summon help in case of an emergency.

**NOTE:** This does not include chasers on active landings.

(7) Workers must not fall or buck trees within a unit of standing timber prior to any cutting operation if such falling or bucking creates a hazardous condition for subsequent cutters or operations.

(8) When hazardous conditions are created from tree cutting operation(s) next to roads, the requirements of OAR 437-007-0510 and 0515 apply.

(9) OAR 437-007-0230 applies when a tree could fall within 15 feet of a power line.

(10) An inexperienced worker must not fall trees or buck logs unless they are working under the direct supervision of a qualified person.

(11) When a worker is not sure how to safely fall or buck a tree, the tree must not be cut until the:

- (a) Worker confers with a supervisor or qualified person.
- (b) Safest possible work method or procedure is identified to complete the job.

(12) Workers must check for overhead hazards while falling, bucking or limbing trees.

(13) Workers must not fall and buck trees when their vision is impaired by weather or darkness.

(14) Spring poles and limbs under stress must be cut in a way that releases the tension and other personnel must be in the clear as the cut is being completed.

(15) Workers must not operate a chain saw:

(a) To cut directly overhead in a manner that would cause limbs, chunks of bark, or pieces of wood to fall on the operator.

(b) At a distance that would require them to lose a safe grip on the saw.

[ED. NOTE: Figures referenced in this rule are available from the agency.]

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

Stats. Implemented: ORS 654.001 - ORS 654.295

Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-0805

### Mechanical Falling

(1) The minimum distance between mechanical falling machines or personnel must be twice the height of the trees being felled.

**NOTE:** Increase this distance where the operation of mechanical falling machines creates the possibility of thrown or flying objects.

(2) Mobile tree falling machines must be designed or have attachments installed to cause the tree to fall in the intended direction.

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

Stats. Implemented: ORS 654.001 - ORS 654.295

Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-0810

### Manual Falling

(1) Falling cuts must not be made in a standing tree while anybody is in the area where the tree could fall.

(2) Trees must not be felled if the wind is strong enough to prevent the tree from falling in the desired direction.

(3) Domino falling is prohibited.

**EXCEPTION:** A lodged tree can be dislodged by falling another tree into it.

(4) A worker must not:

- (a) Work under a lodged tree.

(b) Cut a tree that another tree is lodged in.

(5) When any lodged or standing tree with undercuts or back cuts is left unattended, the hazardous area must be distinctly marked by hazard identification ribbon as specified in OAR 437-007-0205.

(6) Only qualified workers may fall danger trees.

(7) When falling danger trees:

(a) Use extra caution.

(b) Remove loose bark within reach from the ground before starting to fall the tree.

(c) Use a deep undercut with a wide face opening, and fall the danger tree in the direction of lean whenever possible to avoid vibration caused by wedging.

(8) One worker must not fall a tree or danger tree when the assistance of another worker is necessary to minimize the risk of injury caused by overhead hazards, loose bark, loose or interlocked limbs, conditions of the tree, terrain or cutting conditions.

(9) An escape route must be determined and arranged before a tree is fallen so the worker(s) falling the tree can move at least 25 feet away from and to the side of the base of the tree.

(10) The escape route must be clear of brush, snow, tools and other material that would impede a quick escape.

(11) Workers must not remain at the stump as the tree falls unless it is necessary to complete the backcut. Once the backcut is completed, the worker must immediately release the throttle and move a safe distance away from the tree.

(12) Trees must be felled into the open whenever practical.

(13) When manual falling or tree jacking, trees must not be felled directly uphill when the probability of the tree sliding back past the stump is likely.

(14) When manual falling or tree jacking, trees felled uphill must be quartered to the slope, to minimize exposure to sliding or rolling trees.

(15) When trees or snags are over 6 inches DBH:

(a) Undercuts must not be less than 1/4 the diameter of the tree.

(b) Face openings must not be less than 1/5 the diameter of the tree.

**EXAMPLE:** Acceptable undercuts:

A. Conventional undercut. Can be made with parallel saw cut and axe diagonal cut or both cuts with the saw. Generally used on trees of small diameter.

Figure 7-35 — Falling — Conventional Face

B. Humbolt cut. Both cuts made with the saw. Same as "A" except that waste is put on the stump.

Figure 7-36 — Falling — Humbolt Face

C. Open face cut. Both cuts made with the saw. The top and bottom face cuts generally form a 90 degree angle when completed. Works best on small diameter trees.

Figure 7-37 — Falling — Open Face [Figures not included. See ED. NOTE.]

(16) Undercuts must be completely removed and cleaned out unless it is necessary to use a Dutchman on either side of the cut.

(17) Undercuts and back cuts must be made at a sufficient height above the highest ground level to enable the person falling the tree to:

(a) Safely make the cut.

(b) Control the tree.

(c) Have freedom of movement for a quick escape.

(18) Back cuts must be made above and on a horizontal plane with the face cut.

(19) Holding wood must not be completely cut through.

**NOTE:** When completing a swing cut, sufficient holding wood must be maintained to guide the tree during most of its fall.

[ED. NOTE: Figures referenced in this rule are available from the agency.]

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

Stats. Implemented: ORS 654.001 - ORS 654.295

Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-0815

### Wedges

(1) Wedges must be driven with a hammer or other suitable tool.

(2) Two wedges must be immediately available when falling trees over 15 inches DBH.

(3) Wedges must be used when falling trees that:

(a) Are over 15 inches DBH.

(b) Do not have a predictable lean.

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

Stats. Implemented: ORS 654.001 - ORS 654.295

Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-0820

### Bucking Trees/Logs

(1) Fallers and buckers working as a team must keep each other informed of their location.

(2) When a worker is bucking, they must give a timely warning to others within range of any log that may move after being cut off.

(3) Only qualified workers must buck windfalls.

# ADMINISTRATIVE RULES

(4) Before workers start bucking, they must carefully examine the tree or log to determine which way logs will roll, drop or swing.

(5) A worker must not buck a tree or log on the downhill side unless they:

- (a) Are in a safe location.
- (b) Block or secure the tree to prevent rolling.
- (6) Before a worker starts to buck a tree or log they must:
  - (a) Clear away brush and other material which might interfere with a quick escape.
  - (b) Establish firm footing.
  - (7) Logs that are not completely bucked through must be conspicuously marked with hazard identification ribbon as required by 437-007-0205(1) through (5).

(8) Two or more persons must not buck the same tree or log at the same time.

Stat. Auth.: ORS 654.025(2) & ORS 656.726(4)  
Stats. Implemented: ORS 654.001 - ORS 654.295  
Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-0825

### Tree Jacking

(1) Hydraulic tree jacks must have:

(a) An internal operable load check valve, velocity fuse or equivalent device. When using hoses with a jack, the device must be installed between the ram and the first piece of hose out from the jack.

(b) An operable pressure gauge.

(2) If two or more tree jacks are used and operated with one pump, a one-way flow valve must be used to isolate the hydraulic fluid from one jack to another jack should a failure in the system occur.

(3) A qualified person must determine if it is safe to jack a tree.

(4) Hydraulic tree jacks must have enough lift power for the trees to be jacked and felled.

(5) Two workers, one of whom must be qualified in the use of jacks, must be present at the tree when using hydraulic tree jacks.

(6) The jack seat of hydraulic tree jacks must be level.

(7) A metal plate or pad must be placed between the ram and the saw cuts when using a hydraulic tree jack. The metal plate or pad must be of sufficient area and have a surface design to prevent the plate or pad from sinking into the wood or from slipping.

(8) The hydraulic tree jack seat must be on solid wood inside the bark ring.

Stat. Auth.: ORS 654.025(2) & ORS 656.726(4)  
Stats. Implemented: ORS 654.001 - ORS 654.295  
Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-0830

### Tree Pulling

(1) A qualified person must determine if it is safe to pull a tree.

(2) Positive communications must be maintained at all times between the tree-pulling machine operator and the person falling the tree. Citizens' band radios are not considered positive communications.

(3) An audible signal must be sounded when the initial pull is made on the tree and the line is tightened.

(4) A choker, choker bell or a line with a sleeve shackle must be used as the means of attachment around the tree when tree-pulling. The bight on the line must be only that necessary to hold the choker or line around the tree.

(5) The tree-pulling machine must be equipped with a torque converter, fluid coupler or an equivalent device to ensure a steady, even pull on the line attached around the tree.

(6) The tree-pulling line must have as straight and direct a path from the machine to the tree as possible. Physical obstructions which prevent a steady, even pull on the tree-pulling line must be removed or the line must be rerouted.

(7) The use of a siwash, in lieu of using a block and strap for the purpose of changing the tree-pulling lead, is prohibited.

(8) In tree pulling operations, the back cut may be below and on a horizontal plane with the face cut.

Stat. Auth.: ORS 654.025(2) & ORS 656.726(4)  
Stats. Implemented: ORS 654.001 - ORS 654.295  
Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-0900

### General Landing Work Practices

(1) Before starting or moving any machine, the operator must determine that personnel are in the clear.

(2) When vehicles or machines are moved within the landing area all personnel must:

(a) Stay in the clear of the vehicle(s) or machine(s).

(b) Inform the operator of the intent to approach or be near the vehicle(s) or machine(s).

(c) Wait for the operator's permission to approach or be near the vehicle(s) or machine(s).

(3) Personnel must not approach the hazardous pinch point area created by the rotation of the machine's superstructure without:

(a) Informing the operator of that intent.

(b) Receiving acknowledgment from the operator that the person's intention is understood.

(c) The machine being stopped while personnel are within the hazardous area.

NOTE: OAR 437-007-0700 General Work Practices, paragraphs (1) through (3) from Division 7/H, are reprinted here.

(4) Any tool or rigging that is not being used must be stored in a location where it will not create a hazard.

(5) Materials must not be pushed, thrown or dumped off the landing in a manner or at a time that will endanger personnel.

(6) Personnel must not brand, mark, buck, limb or trim logs in a location that will expose them to contact with moving lines, logs, rigging, machines, equipment or vehicles.

(7) Logs must not be placed in, moved about, or removed from the bucking area of the landing unless all personnel are in the clear.

(8) Tongs must not be carried over both shoulders with the tong points around the neck.

Stat. Auth.: ORS 654.025(2) & ORS 656.726(4)  
Stats. Implemented: ORS 654.001 - ORS 654.295  
Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-0905

### Landings

(1) Landing areas must be:

(a) Large and level enough to land, heel, tail/swing or process logs without striking standing timber, rigging, trucks, vehicles, equipment, other machines or objects.

NOTE: This is not intended to restrict the yarding or loading of logs for thinning, pole piling, a tree with a long break, or tree length.

(b) Large enough for safe movement of all machinery.

(c) Kept chunked out and have an even surface.

(2) Outrigger pads, tracks or wheels must be on firm, stable ground, cribbing or prepared surface.

(3) During road side thinning, logs stacked on the road side must be placed in a stable position.

(4) Roadside or continuous landings must be wide enough to safely operate the yarding and loading equipment.

Stat. Auth.: ORS 654.025(2) & ORS 656.726(4)  
Stats. Implemented: ORS 654.001 - ORS 654.295  
Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-0910

### Landing Logs

(1) Logs must not be landed until all personnel, trucks, machines, or vehicles are in the clear.

(2) After a turn is landed, all rigging must be completely stopped and logs must be stable before:

(a) Being approached by personnel.

(b) Chokers are unhooked.

(3) When chokers are manually unhooked, the yarder operator must receive a signal from the chaser before any lines are moved.

(4) Logs must not be permitted to accumulate in the landing chute to the point where they become a hazard.

(5) When yarding uphill, the landing chute must be cleared of logs before the next turn of logs is landed unless:

(a) The logs are fully contained in the landing chute; or

(b) There is no possibility that personnel working below the landing may be struck by sliding or rolling logs or materials coming off the landing.

(6) Logs must not be disturbed or moved from the chute when personnel working below could be struck by logs, chunks or other material sliding or rolling off the landing.

(7) The following apply when logs are landed. When the landing slope is:

(a) Twenty percent or less, logs may be landed and decked in the chute provided the logs can be left in a stable position.

(b) More than 20 percent, decking is not permitted in the chute if:

(A) A chaser is required to unhook the rigging from the logs.

(B) Personnel are working below the landing chute.

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

# ADMINISTRATIVE RULES

Stats. Implemented: ORS 654.001 - ORS 654.295  
Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-0915

### Log Decks

- (1) Logs must be placed in and removed from decks in an orderly manner to minimize rolling or shifting.
- (2) Logs must not be decked in a location where they will slide or roll in the direction of personnel, vehicles, equipment or machines.
- (3) Logs must be rearranged or decked at a different location if the landing process or weather conditions (rain, snow, ice, mud) prevent log stability and personnel are exposed to the hazard of rolling or sliding logs.  
Stat. Auth.: ORS 654.025(2) & ORS 656.726(4)  
Stats. Implemented: ORS 654.001 - ORS 654.295  
Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-0920

### General Cable Yarding and Ground Skidding Work Practice

- (1) The requirements of OAR 437-007-0225(1) and (2) (working near unstable objects and danger trees) apply to all cable yarding and ground skidding operations, especially when yarding downhill.
- (2) Choker holes must be dug from the uphill side of the log when there is danger of the log rolling or moving.
- (3) Chokers must be placed near the end of logs.  
**NOTE:** Chokers may be placed in the middle of the log ("gut shot") if it will provide greater control when the turn is yarded or landed.
- (4) Personnel must not stand on or near logs, root wads, or other objects which may be moved by the turn of logs.
- (5) Before the go-ahead signal is given personnel must:
  - (a) Move to the side and behind all logs in the turn and be in the clear.
  - (b) Remain on their feet and face the turn.
  - (c) Stay in the clear until it is safe to return to the area where chokers are being set.
- (6) When approaching or working around hang-ups, personnel must:
  - (a) Approach from above the hang-up.
  - (b) Be alert to the danger of logs rolling or sliding, siwashes, widow makers and danger trees.
  - (c) Workers must not ride on arches, reaches and turns of logs.  
Stat. Auth.: ORS 654.025(2) & ORS 656.726(4)  
Stats. Implemented: ORS 654.001 - ORS 654.295  
Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-0925

### Cable Yarding Work Practices

- (1) Personnel must not ride hooks, lines, rigging, logs suspended in the air or being moved.
- (2) Personnel must not hold onto haywire, running lines, drop lines or chokers as an assist when walking uphill.
- (3) Personnel must not work in the bight of lines under tension.  
**EXCEPTIONS:** Personnel may be in the bight of lines when:
  - (a) Minor positioning of the rigging is needed to set chokers.
  - (b) They are protected by standing timber, terrain, or other objects of sufficient size to assure their safety.  
**NOTE:** "Lines under tension" means when:
    - (a) Logs are being moved or suspended.
    - (b) The rigging or carriage is moving to the landing or returning to the brush.
    - (c) Lines are tight-lined to clear up the road.
    - (d) Any movement or tightening of the line(s) other than that needed for minor positioning of the rigging or carriage to set chokers.
- (4) Personnel must be in the clear of all lines, rigging and chokers until movement has stopped. Swinging chokers, hooks and rigging must be lowered to the ground.
- (5) Personnel must be in the clear of trees, logs, root wads, chunks, rolling material, all lines and rigging before any lines are moved.
- (6) Personnel must not stand next to skyline or running line anchor straps under tension.
- (7) A minimum of one choker setter in each crew must be a qualified choker setter.
- (8) Only one employee in any crew can give signals or voice communication at the point where chokers are being set.  
**NOTE:** Any person is authorized to give a stop signal when an employee is in danger or any other emergency condition is apparent.
- (9) At least two members of the rigging crew must carry transmitters for each signal and control system being operated where chokers are being set.
- (10) When only one person is setting chokers on any cable yarding system, they must:
  - (a) Carry transmitters for each signal and control system being operated where chokers are being set.

- (b) Be in clear view of the yarder operator or another person with transmitters for each signal and control system being operated where chokers are being set.  
Stat. Auth.: ORS 654.025(2) & ORS 656.726(4)  
Stats. Implemented: ORS 654.001 - ORS 654.295  
Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-0927

### Working Near Standing Tree Anchors, and Tail/Intermediate Support Trees

- (1) Affected personnel must be notified of the potential failure zone of any tail tree, intermediate support tree and standing tree anchor.  
**NOTE:** The potential failure zone is that area which could be impacted by the failure of any part of a tail tree, intermediate support tree or standing tree anchor as the result of forces or loads imposed on the tree by guylines, running lines or skylines.
- (2) The boundaries of the potential failure zone must be determined by a competent person.
- (3) The boundaries of the potential failure zone must encompass the area into which the tree or parts of the tree could fall, slide or roll and all trees, logs, lines and material that could be impacted by the tree failure.
- (4) Personnel must be in the clear of the turn and out of the potential failure zone of a standing tree skyline or running line anchor before lines are tensioned.

**NOTE:** Personnel may be in the potential failure zone when minor positioning of the rigging is needed or to set chokers.

**NOTE:** "Before lines are tensioned" means before:

- (a) Logs are moved or suspended.
- (b) The rigging or carriage is moved to the landing or returned to the brush.
- (c) Lines are tight-lined to clear up the road.
- (d) Any movement or tightening of the line(s) other than that needed for minor positioning of the rigging or carriage to set chokers.
- (5) Personnel working around tail and intermediate support trees must be in the clear of the turn and out of the potential failure zone before lines are tensioned.

**NOTE:** Personnel may be in the potential failure zone when minor positioning of the rigging is needed or to set chokers.

- (6) If the potential failure zone cannot be determined, personnel must move at least 1 1/2 tree lengths from the base of tail and intermediate support trees, and in the clear before lines are tensioned.
- (7) A competent person must instruct affected personnel in the safe work practices required for work activity in any potential failure zone. This instruction must identify the:

- (a) Boundaries of the potential failure zone
- (b) Potential for the boundaries of the failure zone to change when line pull and line angles change.
- (c) Limitations or restrictions for entering or working in the potential failure zone.  
Stat. Auth.: ORS 654.025(2) & ORS 656.726(4)  
Stats. Implemented: ORS 654.001 - ORS 654.295  
Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-0930

### Grapple Yarding

- (1) An audible signal does not need to be sounded before lines are moved while grapple yarding if employees are not exposed to logs or rigging movement.
- (2) Chokers must not be set when using a grapple yarding system during:
  - (a) Hours of darkness.
  - (b) Periods when visibility is reduced to such an extent that the yarder operator cannot clearly see the person setting the choker.
  - (3) One person carrying a whistle signaling device may use voice communications to transmit instructions and directions to the yarder operator when picking up an occasional log with a choker on a grapple yarding system only:
    - (a) During daylight hours.
    - (b) When the choker setter is in clear view of the yarder operator at all times.
    - (c) When all lines are slacked to the ground prior to the choker setter approaching the rigging.
    - (d) When all lines remain stable until the choker setter returns to a safe location away from any running lines.
  - (4) Standard yarding system whistle signals must be used when the choker setter is not in clear view of the yarder operator when chokers are set on grapple yarding systems. (See Appendix 7-A.)  
[ED. NOTE: Appendices referenced are available from the agency.]  
Stat. Auth.: ORS 654.025(2) & ORS 656.726(4)  
Stats. Implemented: ORS 654.001 - ORS 654.295  
Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03



# ADMINISTRATIVE RULES

## 437-007-0935

### Operation of Ground Skidding Machines and Vehicles

(1) Machines must not be operated on slopes in excess of the following limits unless specified by the manufacturer of the equipment.

- (a) Rubber-tired skidders — 30 percent.
- (b) Crawler tractors, tracked feller bunchers, tracked excavators and loaders — 40 percent.

(c) Other forestry equipment designed for steep slopes — 50 percent.

(2) Operation in excess of the above limits may be permitted for specific limited application or identified small areas provided the operator and supervisor plan how to safely operate on the steep slopes considering the:

- (a) Experience of the operator.
- (b) Limitations of the machine, the soil conditions.
- (c) Direction of travel (straight up and down the slope).
- (d) Requirements for turning the vehicle on the slope.
- (e) Weather.
- (f) Load sizes.
- (g) Any other adverse conditions.

(3) Turnarounds must be provided on all skidding roads so operators do not have to backup more than 250 feet.

(4) Towed equipment, such as skid pans, pallets, arches, and trailers, must be attached in a manner which will prevent overrunning of the towing vehicle, equipment or machine.

(5) Tractors, skidders, arches, or logs being yarded must not run over or rub against anchored lines, tailhold stumps, or other rigging.

(6) The yarding machine or vehicle, including its load, must be operated with safe clearance from trees, snags, logs, or other objects that may create a hazard for an employee.

(7) Each machine must be positioned during winching so the machine and winch are operated within their design limits.

(8) No load can exceed the rated capacity of the pallet, trailer, or other carrier.

(9) Arches must be equipped with line guards.

Stat. Auth.: ORS 654.025(2) & ORS 656.726(4)  
Stats. Implemented: ORS 654.001 - ORS 654.295  
Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-0940

### Signaling and Communications

(1) Hand signals or audible contact, such as, but not limited to, whistles, horns, or radios, must be used whenever noise, distance, restricted visibility, or other factors prevent clear understanding of natural unassisted voice communications between employees.

(2) A whistle or horn, clearly audible and distinguishable to all personnel in the affected area, must be installed and used on all machines operating as yarders, loaders or tree pullers.

(3) All radio-controlled carriages and motorized skycars must have a warning horn which is sounded when any carriage function is activated.

(4) Standard yarding system whistle signals identified in Appendix 7-A must be used at cable logging operations.

(5) A new yarding system whistle signal may be adopted for an unusual or new situation not covered in the standard whistle signals provided:

- (a) The new signal is used only for that specific situation.
- (b) All employees are informed of the new signal.

(6) A list of the standard yarding whistles, any new yarding system whistle(s) and control system signals used to activate cable logging systems, machinery and equipment functions must be available at the work site.

(7) Affected personnel must understand the control system signals, hand signals and whistles used to activate equipment and machines.

(8) All audible signal systems, equipment and machinery activation signals must be tested and be fully functional prior to beginning the operation.

(9) Spare transmitters must be guarded against accidental activation.

(10) All personnel must be in the clear before any signal is given to move any log, load, rigging, or turn.

(11) Machine operators must not move any lines, logs, loads or rigging unless the signal received is clear and distinct. If in doubt, the operator must repeat the signal as understood and wait for confirmation.

(12) An audible signal must always be sounded before any line is moved.

(13) Voice communication, except as required by 437-007-0950(1), may be used to transmit instruction and direction to the yarder operator to move rigging and control the movement of logs provided that an audible signal is sounded before any line is moved.

(14) An audible signal does not need to be sounded when yarding logs with grapples if personnel are not exposed to line, log or rigging movement.

(15) When hand signals are used, an audible signal does not need to be sounded when personnel are aware of and not exposed to line, log or rigging movement.

(16) Hand signals may only be used:

- (a) In plain sight of the machine operator.
- (b) Within 300 feet of the machine operator.

NOTE: Hand signals may be used at any time as an emergency stop signal.

(17) Throwing of any type of material as a signal is prohibited.

(18) Citizens' band (CB) radios cannot be used to activate any signal, machine or process either automatically or by voice.

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

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

Stats. Implemented: ORS 654.001 - ORS 654.295

Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-0945

### Electrical Signal Systems

(1) All electrical signal system wires and attachments must be weatherproof.

(2) Electrical signal systems must be:

- (a) Installed and adjusted to protect against accidental signaling.
- (b) Maintained in good operating condition.

(3) Electrical signal system bugs (transmitter) must be designed so they cannot be accidentally tripped.

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

Stats. Implemented: ORS 654.001 - ORS 654.295

Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-0950

### Voice Communication on Combined Signal/Voice Transmitters

(1) Voice communication on the same radio frequencies used to transmit skyline, high-lead, slackline or skidder whistle signals (154.57 and 154.60 MHz channels), is limited to the reporting of injuries, or fire and emergency situations where special tools or precautions are needed to prevent or alleviate a hazardous situation. In addition:

(2) Voice transmissions must not be used to move the rigging and only used when the rigging is standing still.

(3) The rigging crew must call the yarder engineer by name to ensure that proper contact is established.

(4) The yarder engineer must acknowledge the call with a whistle "STOP" signal before the caller starts transmitting the voice message.

(5) Voice transmission must be kept as brief and to the point as possible.

(6) After receiving the voice message, the yarder engineer must again acknowledge with a whistle "STOP" signal that the message has been received and is clearly understood.

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

Stats. Implemented: ORS 654.001 - ORS 654.295

Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-1000

### General Requirements

(1) Trucks or rail cars must not be moved unless all personnel are in the clear.

(2) When the operator's vision is impaired, trucks or rail cars must not be moved without a signal from a spotter who has a clear view of the direction of travel.

(3) Trucks must not approach a landing while there is danger from incoming logs, logging machines, lines, or rigging.

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

Stats. Implemented: ORS 654.001 - ORS 654.295

Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-1005

### Loading

(1) It is the responsibility of the employer who has control of the actual loading operation to ensure compliance with OAR 437-007-1005(2) through (18) and 437-007-1010(1) through (13) which are applicable to log loading, securing loads and to the requirement for hard hats.

(2) The truck driver and personnel loading logs must use positive means of communication to control the movement of the truck being loaded.

(3) Citizens' band (CB) radios may be used for communication between the loader operator and the log truck driver during the loading process.

(4) Standing underneath a suspended trailer or its reach is prohibited.

# ADMINISTRATIVE RULES

(5) Only the driver and driver-trainee are permitted to be in the truck cab while logs are being loaded.

(6) Logs being moved or loaded must not pass over any personnel, occupied vehicles, machines, or truck cab.

(7) Personnel must not enter any hazardous area near a log truck being loaded without:

(a) Determining that it is safe to enter the area.

(b) Receiving permission from the loading machine operator and truck driver.

(c) The centers of all logs are below the top of the stakes or secured by the log loader.

**NOTE:** Hazardous areas include the areas:

(A) Between the deck or decks from which the logs are being removed.

(B) Over which the logs are carried to place them on the log truck.

(C) Along both sides of the log truck behind the cab guard.

(D) Underneath the load.

(8) Logs must not be lowered to the bunk while bunk or block adjustments are being made.

(9) Standing between a truck cab and a log being loaded or unloaded is prohibited.

(10) Bunk and wing logs must extend at least 6 inches beyond the front and rear bunk or stake.

(11) Loads must be built up or loaded so they are stable without the use of wrappers.

**NOTE:** Wrappers are considered to be a precautionary measure to ensure stability of the load during transit.

(12) Logs must be loaded in a manner to prevent excessive strain on wrappers, binders, bunk stakes, bunk chains, or straps.

(13) When there is danger of a log slipping out of the grapples, a strap of sufficient size and length must be used to hold the log.

(14) The closing line must be securely attached to the grapple in accordance with the manufacturer's recommendations.

(15) Double-ended logs must not be loaded above the stakes on the side of the load from which the binders or wrappers are intended to be applied or released.

(16) Logs must be loaded so no more than 1/3 of the length of the logs extends beyond the:

(a) Trailer bunks.

(b) Ends of supporting logs.

(17) Log loads must not impair full and free movement of the truck.

(18) Loads or logs must not be moved or shifted while binders are being applied or adjusted.

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

Stats. Implemented: ORS 654.001 - ORS 654.295

Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-1010

### Securing Loads for Transport

(1) Wrappers must not be thrown until personnel are in the clear.

(2) When logs are loaded at different locations or decks, log trucks must not be moved until the requirements for securing loads are met unless:

(a) The centers of all logs are below the top of the stakes, or

(b) Ground personnel and machines are not exposed to the hazard of falling logs or wood fiber.

(3) A fully loaded truck must not be moved more than 1 1/2 truck and trailer lengths in front of the loading area unless:

(a) The centers of all logs are below the top of the stakes; or

(b) The load is secured with at least two wrappers.

(4) All wrappers that are required to transport the load must be put on the load within sight of the loading area.

(5) Required wrappers and binders must be in place and hooked prior to tightening any of the binders.

(6) When drivers cannot safely throw wrappers over loads, alternate methods must be used, such as, pulling the wrappers over the load with the loading grapples. If the loaded truck is moved, the movement must comply with the requirements of OAR 437-007-1010(3).

(7) Loads must be secured as follows:

(a) Any long logs (27 feet or more in length) must be secured with not less than four evenly spaced wrappers.

**EXCEPTION:** Loads consisting of only four long logs or less may be secured with one wrapper at or near each bunk.

(b) All short logs (less than 27 feet in length) must be secured with at least two evenly spaced wrappers.

(8) Wrappers must be evenly spaced over the length of the logs.

(9) A wrapper must be placed near each bunk stake.

(10) Trucks and trailers used for off highway hauling on private haul roads where traffic controls are enforced:

(a) Must meet the requirements of 437-007-1010(7), or

(b) All perimeter logs must be contained by no less than two wrappers.

(c) Wrappers must be placed near each end of the logs.

(d) The two binders, chains, cables, fasteners, wrappers or other wrapper attachments must each have a minimum breaking strength of 20,000 pounds.

(11) Logs loaded crosswise on a truck or trailer without solid ends or stakes high enough to restrain the logs must be secured with at least two wrapper cables which are firmly attached to the ends of the truck or trailer.

(12) All wrappers, except for gut wrappers or a one-log load wrapper, must surround the entire load.

(13) Unless otherwise required, arrange binders so that they can only be released from the side of the vehicle away from the brow log or dumping side.

(14) Grab hooks must not be directly attached to the wrapper wire rope.

(15) All required wrappers must be kept tight during transit.

(16) Loose ends of wrappers must be secured to prevent the wrapper end from swinging and creating a hazard.

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

Stats. Implemented: ORS 654.001 - ORS 654.295

Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-1015

### Binders and Wrappers

(1) Each log truck must carry at least five binders and five wrappers.

(2) Binders, chains, cables, synthetic materials, fasteners, wrappers, or other wrapper attachments must each have a minimum breaking strength of not less than 15,000 pounds. The following components meet the 15,000-pound requirement:

(a) Chain of welded link construction:

(A) 5/16-inch alloy steel chain; or

(B) 3/8-inch high-test steel chain; or

(b) 7/16-inch IPS wire rope of 6 x 19 or 6 x 37 construction.

(3) Binders must have the manufacturer's name and minimum breaking strength stamped on the binder.

(4) Wrappers used to secure loads must not be used for any other purpose.

(5) Wrappers must be removed from service when:

(a) Wear has reduced the original chain link diameter by 15 percent.

(b) Chain links are deformed, stretched or cracked.

(c) Wire rope is frayed, stranded, knotted or otherwise defective.

(d) Wire rope has 12 1/2 percent of the wires broken within the distance of one lay.

(6) Binders must be removed from service when:

(a) Wear has reduced the original pin diameter by 15 percent.

(b) The yoke is spread.

(c) Handles are bent or broken.

(d) Hooks are bent or broken.

(e) Chain links are deformed, stretched or cracked.

(f) Swivels are defective.

(7) Defective binders, tighteners or other securing devices on binder chain or cable must be removed from service.

(8) Tighteners and other means of securing or attaching binder chain or cable must be used only in the manner for which they were intended.

(9) Welding on binders is prohibited.

(10) Knots must not be tied in wrappers.

(11) Binders for securing wrapper chain must have hooks of the correct size and design for the chain.

(12) Extension handles (swedes) for tightening or securing binders must not be longer than 36 inches.

(13) Extension handles (swedes) used to tighten binders must be of the safety swede type.

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

Stats. Implemented: ORS 654.001 - ORS 654.295

Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-1020

### Log Truck General Requirements

(1) Manufacturers' handholds and steps provided on trucks must be maintained.

(2) The area between the truck frame rails, from the cab rearward as far as necessary to provide a safe work area, must have a walking surface of suitable non-slip material.

(3) Log trucks, with loads that are scaled at ramps, must have a personnel platform that:

(a) Extends outward from the side of each frame rail 18 inches.

# ADMINISTRATIVE RULES

(b) Is 18 inches long or as near 18 inches as the design of the truck will permit.

(c) Is capable of safely supporting a 500-pound load.

(d) Have a nonslip surface.

(4) There must be a step or other safe access for the driver to reach the space behind the cab.

(5) Log trucks must have a bulkhead meeting PUC requirements located between the load and cab. This bulkhead must extend to the top of the cab.

(6) All riders must be in the cab and use a seat and seat belt.

(7) Tire chain hooks must not present a hazard to workers. The arrangement and location of the tire chain hooks may include, but are not limited to:

(a) Under the scaler platform with the hook tips toward the center of the truck; or

(b) Inside an enclosure, such as a bottomless box attached to the truck frame, or

(c) Shielded with guards (such as hinged metal covers).

(8) Empty spare tire racks must be removed from bulkheads when there is no tire in them unless the lower part of the rack folds back against the upper part.

(9) Additional vehicle requirements that apply to log trucks are contained in Subdivision F, Roads and Vehicles, OAR 437-007-0520 through 437-007-0570.

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

Stats. Implemented: ORS 654.001 - ORS 654.295

Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-1025

### Log Truck Safety Chains or Cables

(1) Each log truck and trailer combination, and each independent trailer (mule train) hooked to a log truck and trailer combination must have one or more safety chains or cables with a rated breaking strength of not less than the gross weight of the towed trailer(s).

(2) The means of attachment for safety chains or cables must:

(a) Be securely attached to the truck frame or to the truck frame extension.

(b) Form a separate continuous connection between the truck frame or truck frame extension and the reach.

(c) Be attached within 12 inches of the reach eye.

(d) Provide strength equivalent to the chain or cable.

(3) Safety chains or cables must:

(a) Prevent the trailer reach from contacting the ground in the event of disengagement from the truck.

(b) Provide a positive connection that cannot become inoperative by any condition of use or exposure.

(4) Safety chains must be replaced when they have cuts, cracks or wear has reduced the chain diameter by 15 percent.

(5) Safety cables must be replaced when the wire rope is frayed, stranded, 12 1/2 percent of the wires are broken within the distance of one lay or is otherwise defective.

(6) Safety chain links must not be welded except to close cold-shut links.

(7) Use cold-shut links only if they are:

(a) Welded.

(b) One size larger than the chain being used.

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

Stats. Implemented: ORS 654.001 - ORS 654.295

Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-1030

### Log Truck and Trailer Hitches (Couplings)

(1) All log truck and trailer combinations must be equipped with couplings (hitches) that:

(a) Will withstand, in any direction, the potential stresses imposed.

(b) Have two independent locking devices that will continue working despite dirt and debris.

(c) Remain securely locked.

(d) Are attached to the truck frame or extension with at least four machine bolts (120,000 PSI or stronger), 3/4-inch or larger in diameter and secured with lock nuts.

(2) Hitches (couplings) having parts that are broken, cracked, worn, deformed more than 1/4-inch or are otherwise defective must be removed from service until repaired to comply with the manufacturer's specifications.

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

Stats. Implemented: ORS 654.001 - ORS 654.295

Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-1035

### Log Truck and Trailer Brakes

(1) Truck and trailer brakes must be tested before moving any load.

(2) Brake slack adjusters must be adjusted to meet DOT specifications.

(3) Vehicles with defective brakes must not be operated.

(4) Brake drums must not be welded.

(5) Engine-type brakes must be considered auxiliary controls, not a substitute for the primary braking systems.

(6) Air or vacuum brake lines and fittings must be approved for brake line systems and not be interchangeable with water or other lines.

(7) Splices in air brake lines must:

(a) Be made with fittings approved for air brake line service.

(b) Not restrict air flow below the minimum required for the line size.

(8) If disconnected trailers are not equipped with effective brakes, wheels must be chocked, blocked or the trailer must be otherwise secured.

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

Stats. Implemented: ORS 654.001 - ORS 654.295

Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-1040

### Log Truck Trailer Reaches and Drawbars

(1) The reaches of unloaded trailers being towed must have and use a 1-inch pin near the end or an equally effective means to prevent pulling or stripping through the tunnel.

(2) Reach locks or tighteners must be the type that securely locks the reach in the tunnel.

(3) A reach smaller than the largest size usable in the tunnel must not be used.

(4) Trailer reach tunnels must not be altered to accommodate a smaller reach.

(5) A grab iron or an adequate handhold must be on both sides near the coupling end of trailer reaches and be in good repair.

(6) Inspect the entire length of extendable reaches monthly, including the portion that is normally in the tunnel.

(7) Bent, defective, cracked or excessively worn reaches must be removed from service.

(8) Reaches must not be welded without approval from the manufacturer.

(9) Pup trailer drawbar eyes must not be build up or rings inserted.

(10) Eyes in compensating reaches must have insert rings secured to the eyes by welding.

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

Stats. Implemented: ORS 654.001 - ORS 654.295

Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-1045

### Log Truck Trailers

(1) Trailer hoisting straps must:

(a) Be fastened securely to the trailer frame.

(b) Be used when hoisting the trailer.

(c) Be maintained in good condition.

(d) Enable the unloading machine to engage the strap without placing personnel in danger.

(e) Comply with the out-of-service requirements for wire rope in OAR 437-007-0605(5).

(2) At least one binder or an equivalent method must be used to secure a trailer loaded on a truck for transport.

(3) When unloading a trailer from a truck:

(a) Hoist it clear.

(b) Drive the truck forward until clear.

(c) Lower the trailer to within 1-foot of the ground before approaching it.

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

Stats. Implemented: ORS 654.001 - ORS 654.295

Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-1050

### Log Truck and Trailer Bunks and Stakes

(1) Every truck or trailer transporting logs loaded lengthwise must have bunks and bunk blocks, or stakes.

(2) All stakes, stake extensions and bunks and their securing hardware must be designed and constructed to withstand their anticipated loads.

(3) Defective stakes, stake extensions, bunks or means provided for securing or locking the stakes in hauling position must be removed from service.

(4) Stakes or blocks that release must have the releasing mechanism at the opposite side of the bunk.

# ADMINISTRATIVE RULES

(5) All swivel-type bunks must have locks or another method for keeping bunks perpendicular to the reach until the first full bunk tier of logs is loaded.

(6) Bunk locks must be disengaged before starting to haul the load.

(7) Bunk blocks must extend at least 8 inches above the top edge of the bunk.

(8) Bunk blocks and stakes must not extend beyond the end of the bunk.

(9) Stake extensions must be secured to the stake.

(10) Bunks or bolsters must be either straight or curve upward. Bunks with ends lower than their center must not be used.

(11) Log bunks on trucks and trailers must keep the logs from slipping endways.

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

Stats. Implemented: ORS 654.001 - ORS 654.295

Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-1055

### Log Truck and Trailer Bunk Chains and Cables

(1) Chains or cables used to secure bunk blocks or stakes must have a manufacturer's rating for a safe working load of not less than 6,600 pounds. The following chain and wire rope meet the 6,600 pound requirement:

(a) Chain of welded link construction:

(A) 3/8-inch alloy steel chain, or

(B) 7/16-inch high-test steel chain, and

(b) 5/8-inch IPS wire rope in 6 x 19 or 6 x 37 construction.

(2) Bunk chains must be immediately removed from service when they contain cuts, cracks, other defects or when wear has reduced the original chain diameter by 15 percent.

(3) Wire rope used for stake straps must meet the requirements of OAR 437-007-0605(4).

(4) Only repair links with strength equivalent to the chain are permissible for repairs or attachments for chains.

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

Stats. Implemented: ORS 654.001 - ORS 654.295

Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-1060

### Additional Requirements for Log Trucks Equipped With Self-Loaders

(1) Self-loaders built for log trucks after July 1, 1980, must have a:

(a) Load check valve (velocity fuse) or similar device on the jib boom.

(b) Seat offset from the point of attachment of the boom.

(c) Seat and boom structure that rotate concurrently.

(2) The operators of self-loading log trucks must:

(a) Not heel logs over their heads.

(b) Avoid heeling logs on the operator side of the boom.

(3) There must be a safe and adequate means of access to and exit from the loading work station on self-loading log trucks.

(4) A self-loading log truck must not load itself or another truck when the loading process is:

(a) Under or within an active spar guyline circle or similar overhead hazard.

(b) Out of a deck when yarding or skidding pose a hazard to the loader operator.

(5) When loading around powerlines the requirements of OAR 437-007-0230 must be complied with.

(6) Self-loading log truck operators must not unload their own load unless they use a positive means of securing the logs when wrappers and binders are removed.

**NOTE:** The loading boom, when placed alongside the load, may serve this purpose when no other means are available.

(7) Self-loading log truck operators must not operate chain saws or yard logs when working alone.

(8) Self-loading log truck operators must comply with OAR 437-007-0210, Checking System, and 437-007-0215, Working Alone requirements.

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

Stats. Implemented: ORS 654.001 - ORS 654.295

Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-1100

### General Work Practices

(1) It is the responsibility of the employer who has actual control of the log or wood fiber unloading, handling or storage activities to develop, post and enforce yard rules.

(2) Unauthorized foot and vehicle traffic is prohibited in the log or wood fiber unloading, handling or storage areas.

(3) No person is permitted to approach the immediate vicinity of a log or wood fiber handling machine without:

(a) Notifying the operator of the intention to approach the machine, and

(b) Receiving an acknowledgment from the operator.

(4) No person may enter the area next to a loaded log truck unless:

(a) They are protected by a barrier or log handling machine, or

(b) The centers of all logs are below the top of the stakes, or

(c) The load is secured with tight wrapper(s).

(5) Unauthorized persons must not operate vehicle(s), equipment or machines in log or wood fiber unloading, handling and storage areas.

(6) Before starting or moving any machine, the operator must determine that no personnel are in the path of the machine.

(7) All persons must be in the clear and plain view of the operator before the log or wood fiber unloading machine is moved.

(8) Logs must not be swung over ground personnel, occupied machinery, equipment or vehicles.

(9) The operator's attention must not be distracted from duties while engaged in operating a log-handling machine.

(10) Loads on forklift-type log handling machines must be transported as low as safely operable without obstructing visibility.

(11) Riding on any part of a log handling machine, other than the operator's seat, is prohibited.

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

Stats. Implemented: ORS 654.001 - ORS 654.295

Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-1105

### General Requirements for Log and Wood Fiber Unloading, Handling and Storage Areas

(1) It is the responsibility of the employer who has actual control of the log or wood fiber unloading, handling operations or storage activities to insure that road beds are:

(a) Hard-packed material.

(b) Of sufficient width and evenness to provide for safe operation of vehicles and mobile machinery.

(2) Log or wood fiber handling operations must be arranged so that ground personnel, buildings, machines and vehicles are not exposed to the hazards associated with the movement of logs and log handling machines.

(3) A clear space, free of obstructions, not less than 10 feet wide must be maintained the length of and parallel to the log or wood fiber load on the side opposite the unloader.

(4) Roadways and traffic lanes must be kept clear of protruding log ends and debris.

(5) Log or wood fiber unloading, handling and storage areas must be maintained in a condition which is conducive to safe operation of mobile equipment.

(6) Logs or wood fiber in decks or piles must be placed in a orderly manner which will eliminate as far as possible the hazards from rolling or shifting logs.

(7) Do not allow bark, chunks, mud and other debris to accumulate enough to become a hazard.

(8) The employer must implement an effective method to control dust at log unloading, handling and storage areas.

(9) All forklift-type log handling machines must be equipped with a grapple system and the arms must be closed whenever logs or wood fiber are being carried.

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

Stats. Implemented: ORS 654.001 - ORS 654.295

Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-1110

### Wrappers Removal General

(1) Yard rules for removing wrappers, binders and loads must be posted.

(2) Loads with logs or wood fiber above the stakes must be secured before all wrappers and binders are removed.

(3) Personnel must inspect log or wood fiber loads for potential hazards that could be created when binders are released and wrappers are removed.

(4) An extra wrapper or metal band of equal strength must be in place to hold the logs or wood fiber in place when it becomes necessary to remove a wrapper from fouled or dislodged logs.

(5) Wrappers must not be removed at weigh stations or other points of transit unless requirements for securing loads are met.

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

Stats. Implemented: ORS 654.001 - ORS 654.295

Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

# ADMINISTRATIVE RULES

## 437-007-1115

### Barriers For Securing Log Loads

- (1) Barriers used to secure loads must:
  - (a) Be at least 15 feet high.
  - (b) Be designed to physically contact and prevent logs from striking personnel while binders and wrappers are removed.
  - (c) Have the barrier controls, if any, on the release side of the unloading station and forward of the truck cab guard.
- (2) Barriers and the area surrounding the barrier structure must be free of accumulations of bark, mud and other debris.

Stat. Auth.: ORS 654.025(2) & ORS 656.726(4)  
Stats. Implemented: ORS 654.001 - ORS 654.295  
Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-1120

### Removing Wrappers From Barrier Secured Loads

- (1) Any person releasing binders and removing wrappers at a barrier, must not extend their upper body beyond the front of the protective structures.
- (2) After binders and wrappers have been removed at a barrier, loaded log or wood fiber trucks must not move through areas where ground personnel are present unless:
  - (a) The centers of all logs are below the top of the stakes; or
  - (b) Ground personnel and machines are not exposed to the hazard of falling logs or wood fiber.

Stat. Auth.: ORS 654.025(2) & ORS 656.726(4)  
Stats. Implemented: ORS 654.001 - ORS 654.295  
Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-1125

### Removing Wrappers From Machine Secured Loads

- (1) When a log handling machine is used to secure a load, binders should be released and wrappers removed from the side of the load on which the unloader operates.
- (2) If binders and wrappers must be removed from log loads on the side opposite the unloading machine, all logs must be secured from displacement before binders and wrappers are removed.
- (3) Any person removing binders and wrappers must be in the clear and in full view of the unloading operator before giving a signal to move the unloading machine or the load of logs.

Stat. Auth.: ORS 654.025(2) & ORS 656.726(4)  
Stats. Implemented: ORS 654.001 - ORS 654.295  
Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-1130

### Removing Center Wrappers From Unsecured Loads

When any binder and wrapper is removed before a log load is secured by a barrier or log handling machine:

- (1) There must not be double-ended logs loaded above the stakes on the side of the load from which the binders and wrappers are being released.
- (2) All short logs (27 feet or less) above the stakes or bunk blocks must be secured by a minimum of one tight binder and wrapper prior to the placement of the unloading grapple arms.
- (3) All long logs (more than 27 feet) above the stakes or bunk blocks must be secured by a minimum of two tight binders and wrappers prior to the placement of the unloading grapple arms.

**NOTE:** The wrappers nearest the truck and trailer bunks should be retained to allow clearance for the unloading device.

- (4) The remaining binders and wrappers must not be removed before the load is secured by a barrier or log handling machine.

Stat. Auth.: ORS 654.025(2) & ORS 656.726(4)  
Stats. Implemented: ORS 654.001 - ORS 654.295  
Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-1135

### Unloading Logs

- (1) The truck driver must be in front of the truck or in the truck cab when logs are unloaded.
- (2) When logs are unloaded, the loads must not be passed over the truck cab or personnel.

Stat. Auth.: ORS 654.025(2) & ORS 656.726(4)  
Stats. Implemented: ORS 654.001 - ORS 654.295  
Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-1140

### Split Loads

When logs are to be unloaded at different destinations within the log handling or storage areas, vehicles must not be moved after each partial unloading until the requirements for securing loads are met unless:

- (1) The centers of all logs are below the top of the stakes; or

- (2) There are no ground personnel and machines exposed to the hazard of falling logs.

Stat. Auth.: ORS 654.025(2) & ORS 656.726(4)  
Stats. Implemented: ORS 654.001 - ORS 654.295  
Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-1145

### Loading or Unloading Trailers

- (1) When forklift-type machines are used to load, unload, or handle trailers, a secure means of holding the lifting attachment on the fork must be installed and used.

- (2) When trailers are to be loaded after dark, sufficient lights must be provided for a safe operation.

Stat. Auth.: ORS 654.025(2) & ORS 656.726(4)  
Stats. Implemented: ORS 654.001 - ORS 654.295  
Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-1150

### Trailer Hoists

- (1) All trailer loading devices must be designed, constructed and maintained so as to have a five-to-one safety factor for the rated load capacity.

- (2) Trailer loading hoists must be high and wide enough so they can safely load the maximum-sized trailers they are expected to handle without hanging up or striking the equipment.

- (3) Trailer-loading-hoist controls (buttons) must have clear marking to indicating the "up" and "down" directions of travel.

- (4) Trailer loading hoists must have an upper limit switch installed and maintained to prevent the hook or other end fittings from contacting the upper sheaves. In addition:

- (a) The upper limit switch must not be used as an operating control.

- (b) If the upper limit switch does not function properly, the hoist must not be used until repairs are made.

- (5) Electric-powered trailer loading hoist controls (buttons) connected to flexible cords (pendant lines) must be secured with devices or fittings that prevents pull from being directly transmitted to joints or terminal screws.

- (6) Pendants must be installed so that the control switch does not touch the ground when retracted.

- (7) All electrical equipment must be weatherproof-type or adequately protected from the weather, and must meet or exceed the requirements of the National Electrical Code.

- (8) Electric-powered hoists using handheld cord remote controls in grounded locations must be actuated by circuits operating at less than 50 volts to ground.

- (9) Trailer loading hoists, except A-frames or bridge cranes, must be equipped with reach guides or devices that will keep the reach in proper alignment.

- (10) A tag rope or other safe guidance device must be used to guide trailers being loaded by A-frame loaders.

- (11) The maximum capacity that can be lifted by the trailer loader hoist must be posted in a conspicuous location where it can be easily seen by any person operating the hoist.

- (12) Trailer loading hoists must be inspected at least every 30 days and must be maintained in good repair.

- (13) A written trailer loading hoist inspection report signed by the person making the inspection must be kept on file by the company for 12 months.

- (14) The employer must do an annual lifting test on each loading device and keep a written record of the tests.

- (a) The written record must contain the:

- (A) Date of the test.

- (B) Name of person conducting the test.

- (C) Amount of weight lifted.

- (b) The written record of test results must be kept in the office of the employer or at the site.

- (c) The test weight must not be:

- (A) Less than 125 percent of the maximum rated load.

- (B) More than 130 percent of the maximum rated load.

- (15) Each trailer loading hoist drum must be designed and arranged so the hoisting line will maintain lead and spool evenly without chafing, crossing, or kinking.

- (16) A braking system must be installed on trailer loading hoists that has the ability to safely brake and hold 1 1/2 times the weight of the full rated load.

Stat. Auth.: ORS 654.025(2) & ORS 656.726(4)  
Stats. Implemented: ORS 654.001 - ORS 654.295  
Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

# ADMINISTRATIVE RULES

## 437-007-1155

### Dry Land Log and Fiber Handling and Processing

(1) Identification tags must not be applied or pulled unless logs are resting in a stationary place, such as bunks, cradles, skids, or sorting tables.

(2) When personnel are required to work on logs unloaded onto skids (bay logs), sufficient space must be maintained between the top of the skids (bay logs) and the ground or deck so logs will clear the prone body of a person.

(3) Logs placed onto skids (bay logs) for processing must be laid out so that the person bucking them has enough room to operate the chain saw safely. The diameter of the logs must be taken into consideration.

(4) Logs placed in bays or onto skids (bay logs) for processing or scaling must not be moved until the ground personnel have finished their tasks, or unless ground personnel request assistance to move a log to complete the task (i.e., extracting a pinched saw).

(5) Machines and ground personnel must not enter the swing radius of a machine without permission of the operator. The swing radius is determined by combining the working radius of the machine and the length of logs being handled.

(6) Ground personnel must not walk or work behind front-end loaders and forklift-type log handling machines without contacting the operator.

(7) Log handling machines must not carry logs over an active processing bay.

(8) Loads on forklift-type log handling machines must be transported as low as safely operable without obstructing visibility.

(9) The requirements of OAR 437, division 2/N, Materials Handling and Storage, apply to Overhead and Gantry Cranes used to unload, process and deck logs.

Stat. Auth.: ORS 654.025(2) & ORS 656.726(4)  
Stats. Implemented: ORS 654.001 - ORS 654.295  
Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-1160

### Water Dumps, Log Ponds and Booms

(1) A minimum of two people must work at water dumps when logs are being unloaded. At least one person must be an experienced unloading machine operator.

(2) At least two people must be present for stowing, sorting or boom work of any kind except when one person is feeding the slip (hot lane) from a designated area.

(3) All water dumps must have brow logs except when logs are lifted from the truck or rail car.

(4) If mobile log handling machines are used to dump loads, adequate stops must be provided to prevent the machines from running off the edge of the dump.

(5) When a brow log is used with a parbuckle system, all personnel are prohibited from going between the brow log and the load of logs at any time.

(6) Unloading lines must be arranged so that it is not necessary for a person to attach them on the water or dump side of the load.

(7) The unloading machine operator must:

(a) Have an unobstructed view of the dump and the logs being unloaded; or

(b) Receive a signal before dumping the logs.

(8) All personnel must be in the clear and a signal given before logs are dumped.

(9) When dry land log dumps use unloading methods similar to those of water dumps, OAR 437-007-1160(5) through (8) will apply.

(10) All personnel working on logs or around boom sticks in water must wear sharp-caulked shoes or slip-on sharp-caulked shoes.

(11) Metal or conductive pike poles must not be used around exposed electrical conductors.

(12) Defective poles, blunt or dull pikes must not be used.

(13) Sufficient walkways and floats must be installed and securely anchored to provide safe passage for personnel.

(14) Decks, floats or other walkways must be kept above the waterline at all times, and they must be capable of supporting four times the imposed load.

(15) Pond rafts must be removed from service when they are no longer capable of remaining above water while supporting a 500-pound load on any edge.

(16) All regular boom sticks and foot logs must be:

(a) Reasonably straight, free of protruding knots and have the bark removed, and

(b) Capable of supporting any necessary weight of personnel and equipment above the waterline at either end.

(17) Gaps between ends of boom sticks must not exceed 24 inches.

(18) All wire must be removed from booms and chains before they are reused or hung in rafting stalls.

(19) Permanent cable swifters must be arranged so it will not be necessary to roll boom sticks in order to attach or detach them.

(20) When cable swifters or dogging lines become hazardous from an excessive amount of jagers, they must be discarded.

(21) Stiff booms must be constructed of not less than two float logs or equivalent timbers and must have a minimum width of 36 inches.

(22) Float logs or equivalent timbers must be securely joined together by not less than 4-inch by 6-inch cross ties.

(23) Stiff booms must be planked over with not less than 2-inch planking, securely fastened and kept in good repair, at all sorting gaps or locations where mechanical devices are operated.

(24) Walkways along sorting gaps must be at least 4 feet wide. Other planked walkways must be at least 22 inches wide.

(25) Life rings attached to 90 feet of 1/4-inch line with a minimum breaking strength of 500 pounds, must be provided at convenient points adjacent to water that is 5 feet or more in depth.

(26) Life rings must have a minimum of 30 inches outside diameter and 17 inches inside diameter.

(27) Life rings must be maintained so as to retain a 32-pound positive buoyancy.

Stat. Auth.: ORS 654.025(2) & ORS 656.726(4)  
Stats. Implemented: ORS 654.001 - ORS 654.295  
Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-1165

### Boats

(1) Gasoline-powered inboard motorboats must be equipped with a mechanical exhaust system for ventilating the engine compartment and bilges.

(2) Mechanical exhaust systems must be powered by non-sparking fans or the fan motor must be located outside the bilge and engine compartment.

(3) Gasoline-powered inboard motorboats must not be started until the bilges and engine compartment have been mechanically vented of combustible fumes that may have accumulated.

(4) Decks of boats must be covered with a slip-resistant material.

(5) Boats must be provided with:

(a) At least one 3A-40B:C fire extinguisher.

(b) A life ring or equivalent with line attached.

**EXCEPTION:** A life ring is not required on small pond boats designed to transport only one employee.

Stat. Auth.: ORS 654.025(2) & ORS 656.726(4)  
Stats. Implemented: ORS 654.001 - ORS 654.295  
Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-1200

### Helicopter Operation.

(1) Prior to daily operations, a briefing must be conducted. This briefing must set forth the plan of operation for the pilot(s) and ground personnel. Anytime a change in operating procedure is necessary, affected personnel must be notified in advance.

(2) There must be reliable radio communications available between the helicopter service areas, woods, landing and ground crews. In the absence of radio communication there must be a designated signal person.

(3) Personnel must get the pilot's attention and permission before approaching a helicopter that has the rotor blades turning.

(4) When approaching or leaving a helicopter that has the rotor blades turning, personnel must follow the specific company procedures established for the type and make of aircraft.

(5) Personnel must wear high-visibility hard hats. When personnel are exposed to rotor wash, the hard hats must be secured by a chin strap.

(6) Personnel are not required to wear hard hats when:

(a) Working in helicopter service areas to perform activities, such as refueling or maintenance.

(b) Filling buckets from dip-tanks or tankers.

(c) Loading seed, fertilizer or chemicals.

(7) The flagging and signing requirements of OAR 437-007-0510 and 437-007-0515 must be complied with when the helicopter flight path crosses a road(s).

(8) Riding the hook of a helicopter is prohibited, except in a life-threatening emergency.

(9) The drop zone must be large enough for the load(s) to be landed without endangering the landing crew.

(10) The landing crew must be in the clear until the:

# ADMINISTRATIVE RULES

- (a) Load is placed on the ground.
- (b) Chokers are released from the hook.
- (11) The landing must be kept as free of debris as possible.
- (12) Before any load is moved, personnel must be in the clear.
- (13) When the helicopter is carrying a load or chokers, personnel must remain in the clear. Under no circumstances may personnel and occupied machines or vehicles be under a suspended load.
- (14) If ground personnel need to lighten a load, they must remain in the clear until the load is stabilized.
- (15) If a load must be aborted or lightened by the pilot, ground personnel must be in the clear before the pilot releases the hook.
- (16) The yarding helicopter must be equipped with a siren to warn personnel of any hazardous situation.

Stat. Auth.: ORS 654.025(2) & ORS 656.726(4)  
Stats. Implemented: ORS 654.001 - ORS 654.295  
Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-1205

### Aircraft Refueling/Maintenance Area

(1) The helicopter refueling and maintenance area must be located so personnel are not exposed to the hazards created by yarding and log handling activities.

(2) Unauthorized personnel are not allowed to be within 50 feet of an active refueling operation or fueling equipment.

(3) The refueling area must be posted with "NO SMOKING" signs.

(4) The following are prohibited within 50 feet of the refueling area or refueling equipment:

- (a) Smoking.
- (b) Open flames.
- (c) Exposed flame heaters.
- (d) Flare pots.
- (e) Open flame lights.
- (f) Operating pre-heaters.

(5) At least one or a combination of portable fire extinguishers must be provided for each refueling and maintenance area. The minimum ratings of portable fire extinguishers must be equivalent to: [Table not included. See ED. NOTE.]

**NOTE:** Helicopter overall length, includes the tail boom and the rotors fully extended.

(6) Personnel in the refueling area must be trained to effectively use fire extinguishers.

(7) All refueling personnel must be knowledgeable about the specific procedure to be followed for the aircraft being fueled.

(8) Before starting the refueling operation:

(a) Refueling equipment and the refueling nozzle must be electrically bonded to the helicopter.

(b) All bonding connections must be electrically and mechanically firm to clean unpainted metal parts.

**NOTE:** The use of conductive hose is not acceptable to accomplish this bonding.

(9) Helicopters using Jet A type fuel may be fueled with the engine(s) running.

(10) Helicopters using Jet B type fuel or aviation gasoline must not be fueled with the engine(s) running.

(11) To control spills:

(a) Self-closing nozzles or deadman controls must be used and they must not be blocked open.

(b) Nozzles must not be dragged along the ground.

(c) Pouring or gravity flow of fuel is not permitted from containers with a capacity of more than 5 gallons.

(12) When a spill creates a fire hazard, the refueling operation must be immediately stopped until a competent or authorized person determines that it is safe to resume the refueling operation.

[ED. NOTE: Tables referenced in this rule are available from the agency.]

Stat. Auth.: ORS 654.025(2) & ORS 656.726(4)  
Stats. Implemented: ORS 654.001 - ORS 654.295  
Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-1391

### Fire Suppression by Personnel Other than Fire Fighters

(1) All forest activity personnel who may be called upon to do fire suppression in wildland areas must within 60 days of employment:

- (a) Receive basic fire suppression training, as in Appendix 7-C; and
- (b) This training must occur before personnel do any fire fighting work and it must include:

- (A) The safe use of basic fire fighting tools and equipment; and
- (B) What to do in an emergency to escape a fire area.

(2) When forest activity personnel whose primary duty is not fire suppression are called upon to fight wildland fire, they must wear the following protective clothing:

(a) Pants and long-sleeve shirt.

(b) 8-inch high top leather lace-up boots or other suitable footwear. The sole and heel of boots must be of slip-resistant material.

(c) Hand protection of at least cotton gloves required by OAR 437-007-0395(1), (2) and (3).

(d) Head protection required by OAR 437-007-0392(1) and (2).

(3) When personnel are required to wear other than the basic listed protective clothing as required by OAR 437-007-1391(2), all such special protective clothing and equipment must be provided by the employer at no cost to the personnel.

Stat. Auth.: ORS 654.025(2) & ORS 656.726(4)  
Stats. Implemented: ORS 654.001 - ORS 654.295  
Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-1392

### Wildlands Fire Suppression and Controlled Burning by Fire Fighters

OAR 437-007-1392 through 437-007-1399 apply to personnel whose primary duty is fire fighting or controlled burning of wildland areas (i.e., professional firefighters).

Stat. Auth.: ORS 654.025(2) & ORS 656.726(4)  
Stats. Implemented: ORS 654.001 - ORS 654.295  
Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-1393

### General Requirements

(1) The employer must have and follow a written organizational statement that identifies the:

- (a) Basic structure and functions of their fire fighting unit.
- (b) Type, amount and frequency of training for fire fighters.

(2) The organizational statement must be available to fire fighting personnel and OR-OSHA.

(3) The employer must review and evaluate the physical capability of each employee annually to determine their ability to perform duties which may be assigned. The review and evaluation must be accomplished through physical examination, stress testing or satisfactory performance demonstrated during the performance of their assigned duties.

(4) The employer must not permit an employee with a known medical condition which would significantly impair their ability to engage in fire suppression activities, unless a physician's certificate of the employee's fitness to participate in such activities is provided.

**NOTE:** This does not limit the employer's ability to assign personnel to support activities (versus fire suppression activities).

Stat. Auth.: ORS 654.025(2) & ORS 656.726(4)  
Stats. Implemented: ORS 654.001 - ORS 654.295  
Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-1394

### Fire Fighting Training and Education

(1) The employer or employer representative must provide training, education and hands-on activities designed to:

(a) Develop and maintain an appropriate level of fire fighting knowledge and skill.

(b) Evaluate fire fighters skills and abilities to use fire fighting tools, equipment and machinery.

(2) Fire fighting training and education must include:

- (a) Pre-emergency strategy.
- (b) Fire behavior.
- (c) Fire suppression and control tactics.

(3) Fire fighting training and education must be provided:

- (a) To fire fighters before they perform fire fighting activities.
- (b) Annually.

(4) The employer must provide education and training in the safe use of fire fighting equipment, including vehicles.

(5) Supervisors, crew leaders and instructors must be provided training and education appropriate to their duties.

(6) The employer must keep training records for each employee.

Stat. Auth.: ORS 654.025(2) & ORS 656.726(4)  
Stats. Implemented: ORS 654.001 - ORS 654.295  
Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-1395

### Protective Clothing

(1) The employer must provide at no cost to employees all required special protective clothing and equipment.

**NOTE:** The employer is not required to provide the minimum listed basic protective clothing, as listed in OAR 437-007-1391(2).

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(2) Hand protection must be protective gloves or a glove system that provides protection against cuts, punctures and heat penetration.

(3) Body protection must be pants and long-sleeve shirts of cotton, wool, denim or of flame-resistant material.

Stat. Auth.: ORS 654.025(2) & ORS 656.726(4)  
Stats. Implemented: ORS 654.001 - ORS 654.295  
Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-1396

### Head Protection

When working around helicopters, hats must be secured by chin straps.

**NOTE:** Hard hats need not be worn when working where there is no danger from falling items. This might include the helicopter service and dip tank areas.

Stat. Auth.: ORS 654.025(2) & ORS 656.726(4)  
Stats. Implemented: ORS 654.001 - ORS 654.295  
Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-1397

### Fire Fighting Equipment

The employer must maintain and inspect all fire fighting equipment to assure the safe operational condition of the equipment.

(1) Fire fighting equipment must be inspected for defects prior to each emergency use and inspected after each emergency use and must be maintained in accordance with the manufacturers' recommendations.

(2) Fire fighting equipment that is defective or damaged so as to render it hazardous to operate, must be removed from service and not returned to service until repairs are completed.

Stat. Auth.: ORS 654.025(2) & ORS 656.726(4)  
Stats. Implemented: ORS 654.001 - ORS 654.295  
Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-1398

### Vehicles

(1) Vehicles used during fire fighting must comply with OAR 437 division 7, subdivision F.

(2) Personnel are not permitted to ride on the outside of a vehicle unless the vehicle is fighting a field fire and is being operated in low gear, and the employee is strapped into an enclosure especially built for that purpose.

Stat. Auth.: ORS 654.025(2) & ORS 656.726(4)  
Stats. Implemented: ORS 654.001 - ORS 654.295  
Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-1399

### Machine Operation

Machines (tractors, skidders, or excavators) used for fire trail construction or fire fighting, may be operated on slopes in excess of 50 percent provided measures are taken to assure the stability of the machine by:

- (1) Using the blade; or
- (2) Tying to stumps, anchors, or other machines; or
- (3) Excavation to limit the effective slope under machine, etc.

Stat. Auth.: ORS 654.025(2) & ORS 656.726(4)  
Stats. Implemented: ORS 654.001 - ORS 654.295  
Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-1400

### Jerk Wire Whistle System

The use of a jerk wire whistle system for any type of yarding operation is prohibited.

Stat. Auth.: ORS 654.025(2) & ORS 656.726(4)  
Stats. Implemented: ORS 654.001 - ORS 654.295  
Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

## 437-007-1405

### Radio Signal Systems

(1) When space transmission of radio signals is used to initiate any whistle, horn, bell, or other audible signaling device, or when such transmission of radio signals is used to activate or control any machine, material-handling device or other equipment hazardous to employees, the following must apply:

- (a) An operational whistle signal must be maintained.
- (b) A permit assigning tone frequencies and area of use for each radio unit to be used for the control and activation of any signal, machine or equipment, must be obtained from Department of Consumer and Business Services, Oregon Occupational Safety and Health Division (Oregon OSHA), by an owner prior to placing the unit in operation. Permits must be issued on the basis of compliance with the criteria contained in Appendix 7-F.

(c) Radio equipment must not be used without displaying a permit as required by this rule. The permit must be prominently displayed on the

receiver of the unit or on the transmitter in the yarder for radio-controlled carriages.

(d) Applicants for permits must submit the following information concerning the equipment to the Department of Consumer and Business Services, Oregon OSHA:

- (A) Name and address of applicant;
- (B) The assigned radio frequency;
- (C) The manufacturer of the unit;
- (D) The serial number of the receiver;
- (E) The tone frequencies upon which the unit operates;
- (F) The intended use or function of the unit; and
- (G) The designated area in which the equipment will be used. (See the Radio Signal Permit Area Map in Appendix 7-F.)

(e) Before moving any unit from one assigned area to another, a new permit must be secured from the Department of Consumer and Business Services, Oregon OSHA. (See the Radio Signal Permit Area Map in Appendix 7-F.)

(f) Users shall notify the Department of Consumer and Business Services, Oregon OSHA, within 15 days after the radio signaling device is:

- (A) Permanently retired (in what manner);
- (B) Sold (to whom); or
- (C) Stolen.

(g) Upon receipt and approval of a properly completed application, OR-OSHA must issue a permit within 30 days; or if OR-OSHA is unable to issue a permit within 30 days of receipt and approval of a properly completed application, the applicant must be notified of the proposed date of issuance.

(2) Additional systems must be certified in advance as spares, providing they are used only as replacements for malfunctioning systems during the time required to repair the original equipment.

(3) Each radio receiver must have its tone frequencies in hertz (cycles per second), the manufacturer's name and serial number, and the assigned radio frequency clearly and permanently indicated on the outside of the case. When the duration or width of the tone frequencies performs a function, the duration or width must also be permanently indicated on the outside of the case.

(4) Single tone frequency must not be used on radio equipment designed to initiate whistle or other audible signal, or to activate or control any machine, material-handling device, or other equipment hazardous to employees.

(5) All adjustment, repair or alteration of radio signaling devices must be done only by or under the immediate supervision and responsibility of a person holding a first or second class commercial radio operator's license (for either radio telephone or radio telegraph) issued by the Federal Communications Commission. All replacement parts must be of such quality as to cause the unit to meet the minimum performance specifications outlined in Appendix 7-F.

(6) At least one model of each radio system must be tested and certified that it meets or exceeds the minimum requirements for performance as specified in Appendix 7-F of this standard. This model must be a random selection from stock. A copy of such performance report must be signed by the person or persons who tested the unit and submitted to Department of Consumer and Business Services, Oregon OSHA.

(7) Radio-controlled devices must be tested each day before work begins. If, at any time, any part of the equipment fails to function properly, or if interference, overlap, fadeout or blackout of radio signals is encountered, the system shall not be used until the source of trouble is detected and corrected.

(8) Two or more whistle signal receivers on the same tone frequency is prohibited.

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

Stat. Auth.: ORS 654.025(2) & ORS 656.726(4)  
Stats. Implemented: ORS 654.001 - ORS 654.295  
Hist.: OSHA 5-2003, f. 6-2-03, cert. ef. 12-1-03

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

**Adm. Order No.:** WCD 5-2003

**Filed with Sec. of State:** 5-16-2003

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**Rules Amended:** 436-105-0003, 436-105-0008, 436-105-0500, 436-105-0510, 436-105-0520, 436-105-0530



# ADMINISTRATIVE RULES

**Subject:** Rules governing the Employer-at-Injury Program, OAR 436-105, have been amended to include several substantive changes. These rules:

- Require the insurer or self-insured employer to retain at the authorized claim processing location, documentation of the transitional work, to include the start date, wage and hours, and a description of the job duties.

- Modify the eligibility requirements regarding work releases. Under OAR 436-105-0510(2)(b), effective 10/1/01, eligibility required a work release with restrictions that prevented the worker from performing regular work. Conversely though, eligibility was contingent on some kind of work release, so a period of temporary disability would end eligibility for the Employer-at-Injury Program. These amended rules require only that the worker not have a release to perform regular work from the medical service provider.

- Simplify the process to resolve Employer-at-Injury Program disputes by: (1) making it the insurer's option to request or not request a director's review; (2) providing that if the insurer does want director's review, it may submit additional information in support of its position. Currently, if the Workers' Compensation Division disagrees with the insurer's position following reconsideration pursuant to OAR 436-105-0008, the file is automatically referred for a director's review.

- Provide that (an additional) type of medical release meets Employer-at-Injury Program criteria: A statement by the medical service provider that indicates the worker is not released to regular employment, accompanied by an approval of a job description, which includes the job duties and physical demands required for the transitional work.

- Provide that a medical release which indicates restrictions are permanent does not expire in 30 days.

- Clarify time frames for expiration of medical releases due to missed medical appointments. If the worker misses a follow-up appointment, the medical provider must, within 14 days from the date of the missed appointment, provide a new medical release or a signed and dated statement indicating previous restrictions are still in effect in order for the medical release to be continuous.

Questions can be directed to: Fred Bruyns, Rules Coordinator; phone 503-947-7717; fax 503-947-7581; or e-mail fred.h.bruyns@state.or.us

Rules are available on the internet at <http://oregonwcd.org/policy/rules/permanent/rules.html#permrules>

For a copy of the rules, contact Publications at 503-947-7627, Fax 503-947-7630.

**Rules Coordinator:** Fred Bruyns—(503) 947-7717

## 436-105-0003

### Applicability of Rules

(1) OAR 436-105-0510(2)(c) applies to all individual Employer-at-Injury Programs which began on or after October 1, 2001.

(2) Except for OAR 436-105-0510(2)(c), these rules apply to all individual Employer-at-Injury Programs which began on or after June 8, 2003.

(3) Applicable to this chapter, the director may, unless otherwise obligated by statute, in the director's discretion waive any procedural rules as justice so requires

Stat. Auth.: ORS 656.622 & ORS 656.726(4)

Stats. Implemented: ORS 656.622

Hist.: WCD 7-2001, f. 8-14-01, cert. ef. 10-1-01; WCD 12-2002(Temp), f. & cert. ef. 12-11-02 thru 6-8-03; WCD 5-2003, f. 5-16-03, cert. ef. 6-8-03

## 436-105-0008

### Reconsideration/Appeal to the Director

(1) The division will deny any reimbursement for Employer-at-Injury Program assistance it finds in violation of these rules. The division has the discretion to deny any reimbursement of Employer-at-Injury Program assistance it determines is not reasonable, practical, or feasible, or considers an abuse of the program.

(2) Parties directly affected by a division Employer-at-Injury Program decision may request a reconsideration by sending a written request for reconsideration to the administrator no later than 60 days after the date the decision is issued. Facsimiles that are legible and complete are acceptable

and will be processed the same as originals. Reconsideration must precede a director's review.

(3) The request for reconsideration shall specify the reasons why the decision is appealed and may include additional documentation. No reconsideration shall be granted unless the request meets the requirements of this rule.

(4) The division will reconsider the decision and notify all directly affected parties of its decision in writing. The affected parties may request a director's review by sending a written request no later than 60 days after the date the reconsideration was issued. The request shall specify the reasons why the decision is appealed and may include additional documentation.

(5) The director may require any affected party to provide information or to participate in the director's review. If the party requesting the director's review fails to participate without reasonable cause as determined by the director, the director may dismiss the review.

(6) The director's review decision will be issued in writing and all directly affected parties will be notified. The director's review decision is final and not subject to further review by any court or other administrative body.

Stat. Auth.: ORS 656.622 & ORS 656.726(4)

Stats. Implemented: ORS 656.622

Hist.: WCD 7-2001, f. 8-14-01, cert. ef. 10-1-01; WCD 5-2003, f. 5-16-03, cert. ef. 6-8-03

## 436-105-0500

### Insurer Participation in the Employer-At-Injury Program

(1) When the employer-at-injury requests assistance, the insurer shall be an active participant in providing reemployment assistance. Participation includes issuing notices of the available assistance and administering the Employer-at-Injury Program as specified in these rules.

(2) The insurer shall notify the worker and employer-at-injury in writing of the assistance available from the Employer-at-Injury Program. A notice shall be issued:

(a) Upon acceptance or reopening of a non-disabling or disabling claim; and

(b) Within five days of a worker's first release for work after claim opening unless the release is for regular work.

(3) The notices of Employer-at-Injury Program assistance shall contain the following language:

(a) The notice to the worker shall appear in bold type as follows:

**The Reemployment Assistance Program provides Oregon's qualified injured workers help with staying on the job or getting back to work. Because of your injury, your employer may be eligible for assistance to return you to transitional work through the Employer-at-Injury Program while your claim is open. Your employer may contact (insurer name and phone number).**

(b) The notice to the employer-at-injury shall appear in bold type as follows:

**Because of your worker's injury, you may be eligible for assistance through the Employer-at-Injury Program to return the worker to transitional work while the worker's claim is open. To learn more about the assistance available from the program, please call (insurer name and phone number).**

(4) The insurer shall respond to the employer's request for assistance and administer the Employer-at-Injury Program according to these rules. The insurer shall assist the employer to:

(a) Obtain a qualifying medical release, pursuant to section (6) of this rule, from the medical service provider;

(b) Identify a transitional work position;

(c) Process employer Wage Subsidy requests specified in OAR 436-105-0520(1);

(d) Make Worksite Modification purchases as specified in OAR 436-105-0520(2);

(e) Make Employer-at-Injury Program purchases as specified in OAR 436-105-0520(3); and

(f) Request Employer-at-Injury Program reimbursement from the division as specified in OAR 436-105-0540.

(5) The insurer may use the Employer-at-Injury Program upon establishing the worker and employer meet the eligibility criteria stated in OAR 436-105-0510(1) and (2).

(6) For purposes of the Employer-at-Injury Program, medical releases must meet the following criteria:

(a) All medical releases must be dated and related to the accepted conditions of the claim. The date the medical release is issued by the medical provider is considered the effective date if an effective date is not otherwise specified;

(b) Two types of medical releases qualify under these rules:

(A) A medical release that states the worker's specific restrictions; or

(B) A statement by the medical service provider that indicates the worker is not released to regular employment accompanied by an approval

# ADMINISTRATIVE RULES

of a job description which includes the job duties and physical demands required for the transitional work;

(c) A medical release must cover any period of time for which benefits are requested, except as provided in subsection (f) of this section;

(d) A medical release with no specific end date expires in 30 days, except medical releases that indicate the restrictions are permanent;

(e) A medical release with a specific end date or follow-up medical appointment date expires on the end date, or the follow-up appointment date, if the worker does not return to the medical service provider for a follow-up appointment, except as provided in subsection (f) of this section; and

(f) If the worker misses a follow-up medical appointment, the medical release will lapse unless, within 14 days of the missed appointment, the medical service provider provides a new medical release or a signed and dated statement that the previous medical release is still in effect.

(7) The insurer shall maintain all records of the Employer-at-Injury Program for a period of three years from the date of the last Employer-at-Injury Program Reimbursement Request. The division may request additional information from the insurer in order to perform and complete an audit. The insurer shall maintain the following information at the authorized claim processing location(s) for future audit by the division:

(a) The worker's claim file;

(b) Documentation from the worker's medical service provider that the worker is unable to perform regular employment due to the injury and dated copies of all work releases from the worker's medical service provider;

(c) A legible copy of the worker's payroll records for the wage subsidy period as follows:

(A) Payroll records shall state the dates (daily), hours worked, wage rate(s), and the worker's gross wages for the wage subsidy period;

(B) Payroll records shall state the wage rate or rates if the worker is paid by any method other than hourly wage. If only part of the period covered by the payroll record is for transitional work, the payroll record must be supplemented with documentation of how the worker's earnings were prorated for the Wage Subsidy; and

(C) If a partial day's reimbursement is requested after a worker is released for transitional work, or prior to returning from a medical appointment with a regular work release, documentation of the time of the medical appointment and hours and wages of transitional work shall be provided for those days.

(d) A legible copy of invoices, proof of payment, and proof of the delivery date of the item(s) for Worksite Modification purchases and Employer-at-Injury Program purchases;

(e) Written justification for Worksite Modification as specified in OAR 436-105-0520(2)(f); and

(f) Documentation of the transitional work, which must include the start date, wage and hours, and a description of the job duties.

(8) The insurer may end the Employer-At-Injury Program at any time while the worker's claim is open. The insurer shall end the Employer-At-Injury Program when the worker or employer meet any of the end of eligibility criteria listed in OAR 436-105-0510(3).

Stat. Auth.: ORS 656.340, 656.622, 656.726(4)

Stats. Implemented: ORS 656.340, 656.622

Hist.: WCD 1-1987(Admin), f. 2-20-87, ef. 3-16-87; WCD 12-1987, f. 12-17-87, ef. 1-1-88; WCD 13-1990(Temp), f. 6-21-90, cert. ef. 7-1-90; WCD 32-1990, f. 12-10-90, cert. ef. 12-26-90; WCD 1-1993, f. 1-21-93, cert. ef. 3-1-93; Renumbered from 436-110-0090; WCD 20-1995(Temp), f. 12-8-95, cert. ef. 1-1-96; WCD 10-1996, f. 3-12-96, cert. ef. 4-5-96; WCD 11-1997, f. 8-28-97, cert. ef. 9-12-97; Renumbered from 436-110-0360; WCD 7-2001, f. 8-14-01, cert. ef. 10-1-0, Renumbered from 436-110-0540; WCD 12-2002(Temp), f. & cert. ef. 12-11-02 thru 6-8-03; WCD 5-2003, f. 5-16-03, cert. ef. 6-8-03

## 436-105-0510

### Eligibility and End of Eligibility for the Employer-at-Injury Program

(1) The eligibility criteria for an employer are:

(a) The employer has and maintains Oregon workers' compensation insurance coverage during and through the Employer-at-Injury Program period;

(b) The employer is the employer at injury as defined in OAR 436-105-0005;

(c) The employer is re-employing an eligible worker while the worker's claim is open; and

(d) The employer is not currently ineligible for Employer-at-Injury Program benefits under OAR 436-105-0560.

(2) The eligibility criteria for a worker are:

(a) The worker has an accepted Oregon compensable injury or occupational disease. Injuries covered by the Injured Inmate Law do not qualify;

(b) The worker has not returned to regular work under the most recent claim opening except when there is a release for regular work and the worker is subsequently not released for regular work under the same claim opening; and

(c) The medical service provider has not released the worker to perform regular work.

(3) Reasons for ending Employer-at-Injury Program eligibility include the following, whichever occurs first:

(a) The worker or employer no longer meet the eligibility provisions stated in sections (1) and (2) of this rule. A period of temporary total disability by itself does not end eligibility;

(b) The worker works beyond a medical release provided by the medical service provider;

(c) The worker's claim is closed;

(d) The worker's transitional work ends;

(e) The medical release lapses per OAR 436-105-0500(6);

(f) The worker's need for transitional work is no longer due to the compensable injury which gave cause for use of the Employer-at-Injury Program;

(g) The Employer-at-Injury Program reimbursement is requested; or

(h) Sanctions under OAR 436-105-0560 preclude eligibility.

Stat. Auth.: ORS 656.622 & ORS 656.726(4)

Stats. Implemented: ORS 656.622

Hist.: WCB 1-1973, f. 1-2-73, ef. 1-15-73; WCB 3-1973, f. 3-14-73, ef. 4-1-73; WCD 2-1977(Admin)(Temp), f. 9-29-77, ef. 10-4-77; WCD 2-1978 (Admin), f. & ef. 2-1-78, WCD 7-1981(Admin), f. 12-30-81, ef. 1-1-82; Renumbered from 436-063-0020, 5-1-85; WCD 1-1987(Admin), f. 2-20-87, ef. 3-16-87; WCD 12-1987, f. 12-17-87, ef. 1-1-88; WCD 13-1990(Temp), f. 6-21-90, cert. ef. 7-1-90; WCD 32-1990, f. 12-10-90, cert. ef. 12-26-90; WCD 1-1993, f. 1-21-93, cert. ef. 3-1-93; Renumbered from 436-110-0020; WCD 20-1995(Temp), f. 12-8-95, cert. ef. 1-1-96; WCD 10-1996, f. 3-12-96, cert. ef. 4-5-96; WCD 4-1997(Temp), f. 3-13-97, cert. ef. 3-17-97; WCD 11-1997, f. 8-28-97, cert. ef. 9-12-97, Renumbered to 436-110-0280; WCD 7-2001, f. 8-14-01, cert. ef. 10-1-0, Renumbered from 436-110-0520; WCD 12-2002(Temp), f. & cert. ef. 12-11-02 thru 6-8-03; WCD 5-2003, f. 5-16-03, cert. ef. 6-8-03

## 436-105-0520

### Assistance Available from the Employer-at-Injury Program

The Employer-at-Injury Program may be used only once per worker per claim opening, for a non-disabling claim or a disabling claim. If a non-disabling claim becomes a disabling claim after one year from the date of acceptance, the disabling claim is considered a new opening and the Employer-At Injury Program may be used again. The worker must return to transitional work in order for the employer to receive Employer-at-Injury Program assistance except as provided in paragraph (2)(c)(B) of this rule. Assistance available includes:

(1) Wage Subsidy provides 50 percent reimbursement of a worker's gross wages for transitional work. The wages must have been paid the worker. Wage Subsidy benefits are restricted to the following conditions:

(a) A Wage Subsidy is limited to a maximum duration of three consecutive months occurring between the dates of worker and employer eligibility and end of eligibility;

(b) A Wage Subsidy may not start or end with paid leave;

(c) Reimbursement is limited to wages for hours actually worked, or hours of paid leave;

(d) If the worker has hourly restrictions, reimbursable paid leave shall be limited up to the maximum number of hours of the worker's hourly restrictions. Paid leave exceeding the worker's hourly restrictions is not subject to reimbursement; and

(e) When a worker is released for regular work during the Wage Subsidy period, and the worker is subsequently released for transitional work under the same claim opening, the Wage Subsidy may continue until the end of the three consecutive month period. The wages earned during the time the worker was released for regular work are not subject to reimbursement.

(2) Worksite Modification means altering a work site by renting, purchasing, modifying, or supplementing equipment, or changing the work process to enable a worker to work within the stated specific work restrictions caused by the compensable injury. Maximum reimbursement is \$2,500. Worksite Modification assistance is limited to the following conditions:

(a) The worker's restrictions must be known on, or prior to, the date Worksite Modification purchases are initiated;

(b) The form of modification shall be determined based solely on the worker's inability to perform the job due to the stated specific work restrictions caused by the compensable injury. The insurer makes the approval/denial decision and may deny a worksite modification if it determines the modification will be of little or no use to the worker during the Employer-at-Injury Program;

# ADMINISTRATIVE RULES

(c) Modifications must be provided for and used by the worker during the Employer-at-Injury Program, except under the following conditions:

(A) The modification equipment had been ordered during the Employer-at-Injury Program, and documentation is provided that the equivalent modification item(s) were loaned to and used by the worker while the worker and employer were eligible for the Employer-at-Injury Program; or

(B) The employer can demonstrate that the modification(s) were provided in good faith and the worker refused to return to work;

(d) The maximum reimbursement for a chair is \$1000;

(e) Worksite modification items become the employer's property upon the end of the Employer-at-Injury Program, except for modification items unique to the worker, such as a custom-designed tool to adapt the worker's prosthesis to a job-related task. Such items become the worker's property; and

(f) Justification for a Worksite Modification must be documented and include a written statement of the worker's specific work restrictions from the medical service provider; identification of job duties which exceed the worker's stated limitations; and a statement of how the Worksite Modification overcame the worker's restrictions.

(3) Employer-at-Injury Program Purchases are limited to:

(a) Tuition, books, and fees for a class or course of instruction to update existing skills or to meet the requirements of the transitional work position. Maximum reimbursement is \$750. Tuition, books, and fees shall be provided under the following conditions:

(A) Instruction must be provided by an educational entity accredited or licensed by an appropriate body; and

(B) Costs for tuition, books, and fees may be fully reimbursed if the worker began participation in the class or course while eligible for the Employer-at-Injury Program. Those costs will not be reimbursed if the class or course began after eligibility for the Employer-at-Injury Program ended;

(b) Tools and equipment required for the transitional work position limited to items mandatory for employment. Tools and equipment shall be provided under the following conditions:

(A) Purchases do not include items the worker possesses or duplicate Worksite Modification items;

(B) Tools and equipment may be rented or purchased;

(C) Tools and equipment that were purchased become the employer's property upon the end of the program;

(D) Tools and equipment are for future transitional work unless the tools and equipment are assigned to the worker due to the worker's injury-caused permanent limitations;

(E) The purchase of tools and equipment do not qualify for reimbursement if their use exceeds the worker's injury-caused medical release; and

(F) Maximum reimbursement is \$1000;

(c) Clothing required for the job, except clothing the employer normally provides or the worker already possesses. Clothing becomes the worker's property. Maximum reimbursement is \$400.

Stat. Auth.: ORS 656.622 & ORS 656.726(4)

Stats. Implemented: ORS 656.622

Hist.: WCB 1-1973, f. 1-2-73, ef. 1-15-73; WCB 3-1973, f. 3-14-73, ef. 4-1-73; WCD 2-1977(Admin)(Temp), f. 9-29-77, ef. 10-4-77; WCD 2-1978(Admin), f. & ef. 2-1-78; WCD 7-1981(Admin), f. 12-30-81, ef. 1-1-82; Renumbered from 436-063-0015, 5-1-85; WCD 1-1987(Admin), f. 2-20-87, ef. 3-16-87; WCD 12-1987, f. 12-17-87, ef. 1-1-88; WCD 13-1990(Temp), f. 6-21-90, cert. ef. 7-1-90; WCD 32-1990, f. 12-10-90, cert. ef. 12-26-90; WCD 1-1993, f. 1-21-93, cert. ef. 3-1-93; Renumbered from 436-110-0010, 436-110-0020, 436-110-0025, 436-110-0041, 436-110-0042 & 436-110-0045; WCD 15-1995(Temp), f. 10-9-95, cert. ef. 10-11-95; WCD 20-1995(Temp), f. 12-8-95, cert. ef. 1-1-96; WCD 10-1996, f. 3-12-96, cert. ef. 4-5-96; WCD 4-1997(Temp), f. 3-13-97, cert. ef. 3-17-97; WCD 11-1997, f. 8-28-97, cert. ef. 9-12-97; Renumbered from 436-110-0200; WCD 7-2001, f. 8-14-01, cert. ef. 10-1-0, Renumbered from 436-110-0510; WCD 5-2003, f. 5-16-03, cert. ef. 6-8-03

## 436-105-0530

### Employer-at-Injury Program Procedures for Concurrent Injuries

(1) A worker is eligible for only one Employer-At-Injury Program at a time.

(2) When a worker in an Employer-at-Injury Program incurs a new compensable injury, transitional work for the first Employer-At-Injury is considered regular work for the second Employer-at-Injury Program.

(3) If the new injury makes the first Employer-at-Injury Program unsuitable, the worker may be eligible for a second Employer-at-Injury Program under the new injury.

(4) When the worker is no longer eligible for the second Employer-At-Injury Program, the first Employer-At-Injury Program may be resumed if the employer and worker still meet eligibility criteria under that claim.

Stat. Auth.: ORS 656.622 & ORS 656.726(4)

Stats. Implemented: ORS 656.622

Hist.: WCD 7-2001, f. 8-14-01, cert. ef. 10-1-01; WCD 5-2003, f. 5-16-03, cert. ef. 6-8-03

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**Rules Amended:** 436-009-0004, 436-009-0005, 436-009-0008, 436-009-0010, 436-009-0015, 436-009-0020, 436-009-0022, 436-009-0030, 436-009-0040, 436-009-0050, 436-009-0060, 436-009-0070, 436-009-0090

**Subject:** These rules:

- Adopt the Centers for Medicare & Medicaid Services 2003 Medicare Resource-Based Relative Value Scale, Addendum B "Relative Value Units (RVUs) and Related Information" except the "status indicators," and Addendum C "Codes with Interim RVUs," 67 Federal Register No. 251 December 31, 2002 as the fee schedule for payment of medical service providers except as otherwise provided in these rules.

- Adopt the American Society of Anesthesiologists (ASA), Relative Value Guide 2003 as a supplementary fee schedule for payment of anesthesia service providers except as otherwise provided in these rules for those anesthesia codes not found in the Federal Register.

- Adopt Current Procedural Terminology (CPT® 2003), Fourth Edition Revised, 2002 for billing by medical providers except as otherwise provided in these rules. The guidelines are adopted as the basis for determining level of service.

- Provide for the use of estimated data based on financial statements to determine a hospital's adjusted cost/charge ratio (CCR) if a current Centers for Medicare & Medicaid Services 2552 form is not available. If the CCR is determined from estimated data, the hospital will receive the lower of (1) the hospital's last published CCR or, (2) the hospital's CCR based on estimated data.

- Provide that rural hospitals which are designated as critical access hospitals under the Oregon Medicare Rural Hospital Flexibility Program are automatically exempt from imposition of the adjusted cost/charge ratio (in addition to those determined exempt pursuant to OAR 436-009-0020(3)(k)).

- Maintain the requirement that the Workers' Compensation Division publish adjusted cost/charge ratios for Oregon hospitals twice yearly, but eliminate the requirement that the ratios be published on or before March 20th and September 20th of each year.

- Adjust the conversion factors to be applied to medical service categories of evaluation/management (from \$55.70 to \$66.84), anesthesiology (from \$45.42 to 52.23), radiology (from \$78.17 to \$66.45), lab & pathology (from \$89.43 to \$58.63), medicine (from \$89.43 to \$73.33), physical medicine and rehabilitation (from \$66.42 to \$64.29), and multidisciplinary and other Oregon-specific codes (from \$9.53 to \$58.63). Factors were adjusted following input from a medical fee advisory committee, public rules hearing and testimony. The Workers' Compensation Division estimates the net effect of the changes will be essentially "revenue-neutral" system wide.

- Reduce the relative value units used for multidisciplinary and other Oregon-specific codes to exactly offset the increase in the conversion factors for these Oregon-specific codes so payments remain the same.

- Provide that insurers and self-insured employers must advance payment to workers who need pre-payment in order to attend a medical arbiter examination or an examination needed to resolve a medical treatment dispute pursuant to ORS 656.327.

Questions can be directed to: Fred Bruyns, Rules Coordinator; phone 503-947-7717; fax 503-947-7581; or e-mail fred.h.bruyns@state.or.us

Rules are available on the internet at <http://oregonwcd.org/policy/rules/permanent/rules.html#permrules>

For a copy of the rules, contact Publications at 503-947-7627, Fax 503-947-7630.

**Rules Coordinator:** Fred Bruyns—(503) 947-7717

# ADMINISTRATIVE RULES

## 436-009-0004

### Adoption of Standards

(1) The director adopts, by reference, the Centers for Medicare & Medicaid Services (CMS) 2003 Medicare Resource-Based Relative Value Scale (RBRVS) Addendum B "Relative Value Units (RVUs) and Related Information" except the "status indicators," and Addendum C "Codes with Interim RVUs," 67 *Federal Register* No. 251, December 31, 2002 as the fee schedule for payment of medical service providers except as otherwise provided in these rules.

(2) The director adopts, by reference, the *American Society of Anesthesiologists (ASA), Relative Value Guide 2003* as a supplementary fee schedule for payment of anesthesia service providers except as otherwise provided in these rules for those anesthesia codes not found in the Federal Register.

(3) The director adopts *Current Procedural Terminology (CPT® 2003)*, Fourth Edition Revised, 2002 for billing by medical providers except as otherwise provided in these rules. The guidelines are adopted as the basis for determining level of service.

(4) Specific provisions contained in OAR chapter 436, divisions 009, 010, and 015 shall control over any conflicting provision in Addenda B and C, 67 *Federal Register* No. 251, December 31, 2002, *ASA Relative Value Guide 2003*, or *CPT® 2003*.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 656.248 & 656.726(4)

Stats. Implemented: ORS 656.248

Hist.: WCD 9-1999, f. 5-27-99, cert. ef. 7-1-99; WCD 2-2000, f. 3-15-00, cert. ef. 4-1-00; WCD 2-2001, f. 3-8-01, cert. ef. 4-1-01; WCD 3-2002, f. 2-25-02 cert. ef. 4-1-02; WCD 6-2003, f. 5-28-03, cert. ef. 7-1-03

## 436-009-0005

### Definitions

(1) Unless a term is specifically defined elsewhere in these rules or the context otherwise requires, the definitions of ORS chapter 656 and OAR 436-010-0005 are hereby incorporated by reference and made part of these rules.

(a) Durable medical equipment (DME) is equipment which is primarily and customarily used to serve a medical purpose, can withstand repeated use, appropriate for use in the home, and not generally useful to a person in the absence of an illness or injury.

(b) Medical supplies are expendable materials including, but not limited to, incontinent pads, catheters, bandages, elastic stockings, irrigating kits, sheets, and bags.

(c) Ambulatory surgical center (ASC) is any distinct entity licensed by the state of Oregon and operated exclusively for the purpose of providing surgical services to patients not requiring hospitalization. Any ambulatory surgical center outside of Oregon must meet similar licensing requirements, or be certified by Medicare or a nationally recognized agency.

(2) Abbreviations used in these rules are defined as follows:

(a) ADA means American Dental Association;

(b) ASA means American Society of Anesthesiologists;

(c) ASC means ambulatory surgical center;

(d) CARF means Commission on Accreditation of Rehabilitation

Facilities;

(e) CMS means Centers for Medicare & Medicaid Services (formerly HCFA, Health Care Financing Administration);

(f) CPT® means Current Procedural Terminology;

(g) DME means Durable Medical Equipment;

(h) DMSO means Dimethyl sulfoxide;

(i) DRG means diagnosis related group;

(j) EDI means Electronic Data Interchange;

(k) EMG means electromyography;

(l) HCFA means Health Care Financing Administration (former name of CMS);

(m) HCPCS means Healthcare Common Procedure Coding System;

(n) ICD-9-CM means International Classification of Diseases, Ninth Revision, Clinical Modification, Vol. 1, 2 & 3;

(o) JCAHO means Joint Commission on Accreditation of Healthcare Organizations;

(p) MCO means Managed Care Organization;

(q) MRI means magnetic resonance imaging;

(r) NCPDP means National Council for Prescription Drug Programs;

(s) NPI means National Provider Identifier;

(t) OSC means Oregon specific code;

(u) PCE means physical capacity evaluation;

(v) RBRVS means Medicare Resource-Based Relative Value Scale;

(w) RVU means relative value unit;

(x) TC means technical component;

(y) UB means Universal Billing;

(z) WCE means work capacity evaluation.

Stat. Auth.: ORS 656.726(4)

Stats. Implemented: ORS 656.726(4)

Hist.: WCD 12-1996, f. 5-6-96, cert. ef. 6-1-96; WCD 20-1996, f. 10-2-96, cert. ef. 1-1-97; WCD 5-1998, f. 4-3-98, cert. ef. 7-1-98; WCD 9-1999, f. 5-27-99, cert. ef. 7-1-99; WCD 3-2002, f. 2-25-02 cert. ef. 4-1-02; WCD 6-2003, f. 5-28-03, cert. ef. 7-1-03

## 436-009-0008

### Administrative Review, Fee Disputes and Contested Cases

Administrative review before the director:

(1)(a) The director has exclusive jurisdiction to resolve all disputes concerning medical fees and non-payment of compensable medical bills. A party need not be represented to participate in the administrative review before the director except as provided in ORS chapter 183 and OAR chapter 436, division 001.

(b) Any party may request the director provide voluntary mediation after a request for administrative review or contested case hearing is filed. When a dispute is resolved by agreement of the parties to the satisfaction of the director, any agreement shall be reduced to writing and approved by the director. If the dispute does not resolve through mediation, a director's order shall be issued.

(c) All issues pertaining to disagreement about medical fees or non-payment of bills within an MCO are subject to the provisions of ORS 656.260. A party dissatisfied with an action or decision of the MCO must first apply for and complete the internal dispute resolution process within the MCO before requesting administrative review of the matter by the director. If the MCO does not have a process for resolving fee and billing disputes, the insurer shall advise the medical provider or worker that they may request review by the director.

(2) The medical provider, injured worker, or insurer may request review by the director in the event of a dispute about either the amount of a fee or non-payment of bills for medical services on a compensable injury. The following time frames and conditions apply to requests for administrative review before the director under this rule:

(a) For all MCO enrolled claims, the aggrieved party shall first apply to the MCO for dispute resolution within 30 days pursuant to OAR 436-015-0110. Administrative review by the director must be requested within 60 days of receipt of the MCO's final decision under the MCO's dispute resolution process. If a party has been denied access to the MCO dispute process or the process has not been completed for reasons beyond a party's control, the party may request director review within 60 days of the failure of the MCO process.

(b) For all claims not enrolled in an MCO, the aggrieved party must request administrative review by the director within 90 days of the date the party knew, or should have known, there was a dispute over the provision of medical services. This time frame only applies if the aggrieved party other than the insurer is given written notice that they have 90 days in which to request administrative review by the director. For purposes of this rule, the date the insurer should have known of the dispute is the date action on the bill was due pursuant to OAR 436-009-0030. Filing a request for administrative review under this rule may also be accomplished in the manner prescribed in OAR chapter 438, division 005.

(c) The director may, on the director's own motion, initiate a medical services review at any time.

(d) When there is a formal denial of the underlying condition or a denial of the causal relationship between the medical service and the accepted condition, the issue must first be decided by the Hearings Division of the Workers' Compensation Board.

(3) Parties shall submit requests for administrative review to the director in the form and format prescribed by the director. The requesting party shall simultaneously notify all other interested parties of the dispute, and their representatives, if known, as follows:

(a) Identify the worker's name, date of injury, insurer, and claim number.

(b) Specify the issues in dispute and the relief sought.

(c) Provide the specific dates of the unpaid disputed treatment.

(d) If the request for review is submitted by either the insurer or medical provider, it shall state specific code(s) of service(s) in dispute and include sufficient documentation to support the review request, including but not limited to copies of original HCFA/CMS bills, chart notes, bill analyses, operative reports, any correspondence between the parties regarding the dispute, and any other documentation necessary to evaluate the dispute. The insurer or medical provider requesting review shall certify that the involved parties have been provided a copy of the request for review and attached supporting documentation and, if known, that there is no issue of causation or compensability of the underlying claim or condition.

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(4) The division shall investigate the matter upon which review was requested.

(a) The investigation may include, but shall not be limited to, request for and review of pertinent medical treatment and payment records, interviews with the parties to the dispute, or consultation with an appropriate committee of the medical provider's peers.

(b) Upon receipt of a written request for additional information, the party shall have 14 days to respond.

(c) Pursuant to section (5) of this rule, within 30 days of the administrative order, any party may appeal to a contested case before the director.

(5) Contested cases before the director: Pursuant to 183.310 through 183.550, as modified by OAR chapter 436, division 001 and ORS 656.704(2), any party that disagrees with an action or order of the director pursuant to these rules, may request a contested case before the director. For purposes of these rules, "contested case" has the meaning prescribed in ORS 183.310(2) and OAR chapter 436 division 001. A party may appeal to the director as follows:

(a) The party must send a written request to the administrator of the Workers' Compensation Division. The request must specify the grounds upon which the order or other action of the director is contested and include a copy of the order being appealed.

(b) The appeal must be made within 30 days of the mailing date of the order or notice of action being appealed.

(6) Contested case hearings of sanction and civil penalties: Under ORS 656.740, any party that disagrees with a proposed order or proposed assessment of a civil penalty issued by the director pursuant to ORS 656.254, or 656.745 may request a hearing by the Hearings Division of the Workers' Compensation Board as described in OAR 436-010-0008(14).

(7) Director's administrative review of other actions: Any party seeking an action or decision by the director or aggrieved by an action taken by any other party, not covered under sections (1) through (6) of this rule, pursuant to these rules, may request administrative review by the director. Any party may request administrative review as follows:

(a) A written request for review must be sent to the administrator of the Workers' Compensation Division within 90 days of the disputed action and must specify the grounds upon which the action is contested.

(b) The division may require and allow such input and information as it deems appropriate to complete the review.

(c) A director's order may be issued and will specify if the order is final or if it may be appealed in accordance with section (5) of this rule.

Stat. Auth.: ORS 656.704 & ORS 656.726(4)  
Stats. Implemented: ORS 656.704

Hist.: WCD 5-1982(Admin), f. 2-23-82, ef. 3-1-82; WCD 1-1984(Admin), f. & ef. 1-16-84; Renumbered from 436-069-0901, 5-1-85 WCD 1-1988, f. 1-20-88, cert. ef. 2-1-88; WCD 1-1990, f. 1-5-90, cert. ef. 2-1-89; (Former sections (3), (4), & (7) Renumbered to 436-010-0130); WCD 12-1990(Temp), f. 6-20-90, cert. ef. 7-1-90; WCD 30-1990, f. 12-10-90, cert. ef. 12-26-90; WCD 11-1992, f. 6-11-92, cert. ef. 7-1-92; WCD 13-1994, f. 12-20-94, cert. ef. 2-1-95; WCD 12-1996, f. 5-6-96, cert. ef. 6-1-96; Renumbered from 436-010-0110; WCD 5-1998, f. 4-3-98, cert. ef. 7-1-98; WCD 9-1999, f. 5-27-99, cert. ef. 7-1-99; WCD 13-1999(Temp), f. & cert. ef. 10-25-99 thru 4-21-00; WCD 2-2000, f. 3-15-00, cert. ef. 4-1-00; WCD 2-2001, f. 3-8-01, cert. ef. 4-1-01; WCD 3-2002, f. 2-25-02 cert. ef. 4-1-02; WCD 6-2003, f. 5-28-03, cert. ef. 7-1-03

## 436-009-0010

### General Requirements for Medical Billings

(1) Only treatment that falls within the scope and field of the practitioner's license to practice will be paid under a worker's compensation claim.

(2) All medical providers shall submit bills to the insurer or managed care organization, as provided by their contract for medical services, on a current UB92 or HCFA/CMS 1500 form, except for:

(a) dental billings which shall be submitted on ADA dental claim forms;

(b) pharmacy billings, which shall be submitted on the most current NCPDP form;

(c) EDI transmissions of medical bills pursuant to OAR 436-009-0030(3)(c). Computer-generated reproductions of these forms may also be used. Billings shall include the worker's full name, date of injury, the employer's name and, if available, the insurer's claim number.

(3)(a) All original medical provider billings shall be accompanied by legible chart notes documenting services which have been billed, and identifying the person performing the service and license number of person providing the service. Medical doctors are not required to provide their medical license number if they are already providing other identification such as tax identification, NPI, and social security numbers.

(b) When processing billings via EDI, the insurer may waive the requirement that billings be accompanied by chart notes. The insurer remains responsible for payment of only compensable medical services.

The medical provider may submit their chart notes separately or at regular intervals as agreed with the insurer.

(4) Codes listed in CPT® 2003 or Oregon Specific Codes (OSC) shall be used when billing medical services. All billings shall be fully itemized and include ICD-9-CM codes. Services shall be identified by the code numbers and descriptions provided in these rules.

(a) If there is no specific code for the medical service, the medical provider shall use the appropriate unlisted code at the end of each medical service section of CPT® 2003 and provide a description of the service provided.

(b) Any service not identifiable with a code number shall be adequately described by report.

(5) Billings for treatment shall be rendered at reasonable intervals not to exceed 60 days following treatment. Late billings may be subject to discounts, not to exceed 10 percent for each 30 day period or fraction thereof, beyond 60 days, provided the medical provider has notice or knowledge of the responsible workers' compensation insurer or processing agent.

(6) Rebillings shall indicate that the charges have been previously billed.

(7) The medical provider shall bill their usual and customary fee charged to the general public. The submission of the bill by the medical provider shall serve as a warrant that the fee submitted is the usual fee of the medical provider for the services rendered. The department shall have the right to require documentation from the medical provider establishing that the fee under question is the medical provider's usual fee charged to the general public. For purposes of this rule, "general public" means any person who receives medical services, except those persons who receive medical services subject to specific billing arrangements allowed under the law which require providers to bill other than their usual fee.

(8) Medical providers shall not submit false or fraudulent billings. As used in this section, "false or fraudulent" shall mean an intentional deception or misrepresentation issued with the knowledge that the deception could result in unauthorized benefit to the provider or some other person. The medical provider shall not bill for services not provided.

(9) When a worker with two or more separate compensable claims receives treatment for more than one injury or illness costs shall be divided among the injuries or illnesses, irrespective of whether there is more than one insurer.

(10) Workers may make a written request to a medical provider to receive copies of medical billings. Upon receipt of a request, the provider may furnish the worker a copy during the next billing cycle, but in no event later than 30 days following receipt of the request. Thereafter, worker copies shall be furnished during the regular billing cycle.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 656.245, ORS 656.252 & ORS 656.254

Stats. Implemented: ORS 656.245, ORS 656.252 & ORS 656.254

Hist.: WCD 12-1996, f. 5-6-96, cert. ef. 6-1-96; WCD 20-1996, f. 10-2-96, cert. ef. 1-1-97; WCD 9-1999, f. 5-27-99, cert. ef. 7-1-99; WCD 2-2000, f. 3-15-00, cert. ef. 4-1-00; WCD 2-2001, f. 3-8-01, cert. ef. 4-1-01; WCD 8-2001, f. 9-13-01, cert. ef. 9-17-01; WCD 3-2002, f. 2-25-02 cert. ef. 4-1-02; WCD 6-2003, f. 5-28-03, cert. ef. 7-1-03

## 436-009-0015

### Limitations on Medical Billings

(1) An injured worker shall not be liable to pay for any medical service related to an accepted compensable injury or illness or any amount reduced by the insurer pursuant to OAR chapter 436. A medical provider shall not attempt to collect payment for any medical service from an injured worker, except as follows:

(a) When the injured worker seeks treatment for conditions not related to the accepted compensable injury or illness;

(b) When the injured worker seeks treatment that has not been prescribed by the attending physician or specialist physician upon referral of the attending physician. This would include, but not be limited to, ongoing treatment by non-attending physicians in excess of the 30 day/12 visit period as set forth in OAR 436-010-0210;

(c) When the injured worker seeks palliative care that is either not compensable or not authorized by the insurer or the director pursuant to OAR 436-010-0290, after the worker has been provided notice that the worker is medically stationary;

(d) When the injured worker seeks treatment outside the provisions of a governing MCO contract after insurer notification in accordance with OAR 436-010-0275; or

(e) When the injured worker seeks treatment after being notified that such treatment has been determined to be unscientific, unproven, outmoded, or experimental pursuant to OAR 436-010-0300.

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(2) A medical provider may not charge any fee for completing a medical report form required by the director under this chapter or for providing chart notes required by OAR 436-009-0010(3) of this rule.

(3) The preparation of a written treatment plan and the supplying of progress notes are integral parts of the fee for the medical service.

(4) No fee shall be paid for the completion of a work release form or completion of a PCE form where no tests are performed.

(5) No fee is payable for a missed appointment except a closing examination or an appointment arranged by the insurer or the department or for a Worker Requested Medical Examination. Except as provided in OAR 436-009-0070(10)(d), when the worker fails to appear without providing the medical provider at least 24 hours notice, the medical provider shall be paid at 50 percent of the examination or testing fee. A medical arbiter may also receive payment for a file review as determined by the director.

(6) Pursuant to ORS 656.245(3), the director has excluded from compensability the following medical treatment. While these services may be provided, medical providers shall not be paid for the services or for treatment of side effects.

- (a) DMSO, except for treatment of compensable interstitial cystitis;
- (b) Intradiscal electrothermal therapy (IDET);
- (c) Surface EMG tests;
- (d) Roling;
- (e) Prolotherapy; and
- (f) Thermography.

(7) Only one office visit code may be used for each visit except for those code numbers relating specifically to additional time.

(8) Mechanical muscle testing may be paid a maximum of three times during a treatment program when prescribed and approved by the attending physician: once near the beginning, once near the middle, and once near the end of the treatment program. Additional mechanical muscle testing shall be paid for only when authorized in writing by the insurer prior to the testing. The fee for mechanical muscle testing includes a copy of the computer printout from the machine, written interpretation of the results, and documentation of time spent with the patient.

(9)(a) When a physician provides services in hospital emergency or outpatient departments which are similar to services that could have been provided in the physician's office, such services shall be identified by CPT® codes and paid according to the fee schedule.

(b) When a worker is seen initially in an emergency department and is then admitted to the hospital for inpatient treatment, the services provided immediately prior to admission shall be considered part of the inpatient treatment. Diagnostic testing done prior to inpatient treatment shall be considered part of the hospital services subject to the hospital fee schedule.

(10) Physician assistant or nurse practitioner fees shall be paid at the rate of 80 percent of a physician's allowable fee for a comparable service. The bills for services by these providers shall be marked with modifier "81." Chart notes shall document when medical services have been provided by a physician assistant or nurse practitioner.

(11) Except as otherwise provided in OAR 436-009-0070, when a medical provider is asked to prepare a report, or review records or reports prepared by another medical provider, insurance carrier or their representative, the medical provider should bill for their report or review of the records utilizing CPT® Codes such as 99080. Refer to specific code definitions in the CPT® for other applicable codes. The billing should include the actual time spent reviewing the records or reports.

[Publications: Publications referenced are available from the agency.

Stat. Auth.: ORS 656.245, ORS 656.252 & ORS 656.254

Stats. Implemented: ORS 656.245, ORS 656.252 & ORS 656.254

Hist.: WCD 9-1999, f. 5-27-99, cert. ef. 7-1-99; WCD 2-2000, f. 3-15-00, cert. ef. 4-1-00; WCD 2-2001, f. 3-8-01, cert. ef. 4-1-01; WCD 8-2001, f. 9-13-01, cert. ef. 9-17-01; WCD 13-2001, f. 12-17-01, cert. ef. 1-1-02; WCD 3-2002, f. 2-25-02 cert. ef. 4-1-02; WCD 6-2003, f. 5-28-03, cert. ef. 7-1-03

## 436-009-0020

### Hospital Fees

(1) Hospital inpatient charges billed to insurers shall include ICD-9-CM diagnostic and procedural codes. Unless otherwise provided for by a governing MCO contract, insurers shall pay hospitals for inpatient services using the current adjusted cost/charge ratio (see Bulletin 290). For purposes of this rule, hospital inpatient services include, but are not limited to, those bills coded "111" through "118" in space #4 on the UB92 billing form. The audited bill shall be multiplied by the hospital's adjusted cost/charge ratio to determine the allowable payment.

(2) Hospital outpatient charges billed to insurers shall include ICD-9-CM diagnostic and procedural codes, CPT® codes, HCPCS codes, and NDC codes, where applicable. Unless otherwise provided for by a governing MCO contract, insurers shall pay hospitals for outpatient services

according to the following: the insurer shall first separate out and pay charges for services covered under the CPT® and RBRVS. These charges should be subtracted from the total bill and the adjusted cost/charge ratio should be applied only to the balance. For all outpatient therapy services (physical therapy, occupational therapy, and speech language pathology), use the non-facility total column. All other charges billed using both the hospital name and tax identification number will be paid as if provided by the hospital.

(3) Each hospital's HCFA/CMS 2552 form and financial statement shall be the basis for determining its adjusted cost/charge ratio. If a current 2552 is not available, then financial statements may be used to develop estimated data. If the adjusted cost/charge ratio is determined from estimated data, the hospital will receive the lower ratio of (1) the hospital's last published cost/charge ratio or, (2) the hospital's cost/charge ratio based on estimated data.

(a) The basic cost/charge ratio shall be developed by dividing the total net expenses for allocation shown on Worksheet A, and as modified in subsection (b), by the total patient revenues from Worksheet G-2.

(b) The net expenses for allocation derived from Worksheet A shall be modified by adding, from Worksheet A-8, the expenses for:

(A) Provider-Based physician adjustment;

(B) Provider-Based physician adjustment — general services cost center;

(C) Telephone service;

(D) Television and radio service; and

(E) Expenses identified as for physician recruitment.

(c) The basic cost/charge ratio shall be further modified to allow a factor for bad debt and the charity care provided by each hospital. The adjustment for bad debt and charity care is calculated in two steps. Step one: Add the dollar amount for net bad debt to the dollar amount for charity care. Divide this sum by the dollar amount of the total patient revenues, from Worksheet G-2, to compute the bad debt and charity ratio. Step two: Multiply the bad debt and charity ratio by the basic cost/charge ratio calculated in (3)(a) to obtain the factor for bad debt and charity care.

(d) The basic cost/charge ratio shall be further modified to allow an adequate return on assets. The director will determine a historic real growth rate in the gross fixed assets of Oregon hospitals from the audited financial statements. This real growth rate, and the projected growth in a national fixed weight price deflator will be added together to form a growth factor. This growth factor will be multiplied by the total fund balance, from Worksheet G of each hospital's HCFA/CMS 2552 to produce a fund balance amount. The fund balance amount is then divided by the total patient revenues from Worksheet G-2, to compute the fund balance factor.

(e) The factors resulting from subsections (3)(c) and (3)(d) of this rule will be added to the ratio calculated in subsection (3)(a) of this rule to obtain the adjusted cost/charge ratio. In no event will the adjusted cost/charge ratio exceed 1.00.

(f) The adjusted cost/charge ratio for each hospital will be revised annually, at a time based on their fiscal year, as prescribed by bulletin. Each hospital shall submit a copy of their HCFA/CMS 2552 and financial statements each year within 150 days of the end of their fiscal year to the Information Management Division, Department of Consumer and Business Services. The adjusted cost/charge ratio schedule will be published by bulletin twice yearly, to be effective for the six-month period beginning April 1, and to be effective for the six-month period beginning October 1.

(g) For those newly formed or established hospitals for which no HCFA/CMS 2552 has been filed, or for those hospitals that do not file Worksheet G-2 with the submission of their HCFA/CMS 2552, the division shall determine an adjusted cost/charge ratio for the hospital based upon the adjusted cost/charge ratios of a group of hospitals of similar size and/or geographic location.

(h) If the financial circumstances of a hospital unexpectedly and/or dramatically change, the division may revise the hospital's adjusted cost/charge ratio to allow equitable payment.

(i) If audit of a hospital's HCFA/CMS 2552 by the CMS produces significantly different data from that obtained from the initial filing, the division may revise the hospital's adjusted cost/charge ratio to reflect the data developed subsequent to the initial calculation.

(j) Notwithstanding subsections (c) through (i) of this section, the cost/charge ratio shall be 1.000 for out-of-state hospitals, unless a lower rate is negotiated between the insurer and the hospital.

(k) Notwithstanding section (1) and (2) of this rule, the director may exclude rural hospitals from imposition of the adjusted cost/charge ratio based upon a determination of economic necessity. The rural hospital exclusion will be based on the financial health of the hospital reflected by

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its financial flexibility index, as originally developed by Dr. William Cleverley. All rural hospitals having a financial flexibility index at or below the median for hospitals nationwide with a bond rating of BBB+, BBB, or BBB- will qualify for the rural exemption. Rural hospitals that are designated as critical access hospitals under the Oregon Medicare Rural Hospital Flexibility Program are automatically exempt from imposition of the adjusted cost/charge ratio.

[ED. NOTE: Forms referenced are available from the agency.]  
[Publications: Publications referenced are available from the agency.]  
Stat. Auth.: ORS 656.726(4)  
Stats. Implemented: ORS 656.248, ORS 656.252, ORS 656.256 & OL 1991, Ch. 771, Sect. 2  
Hist.: WCD 5-1982(Admin), f. 2-23-82, ef. 3-1-82; WCD 1-1984(Admin), f. & ef. 1-16-84; WCD 2-1985(Admin), f. 4-29-85, ef. 6-3-85; Renumbered from 436-069-0701, 5-1-85; WCD 3-1985(Admin)(Temp), f. & ef. 9-4-85; WCD 4-1985(Admin)(Temp), f. & ef. 9-11-85; WCD 6-1985(Admin), f. 12-10-85, ef. 1-1-86; WCD 1-1986(Admin)(Temp), f. 2-5-86, ef. 2-6-86; WCD 2-1986(Admin), f. 3-10-86, ef. 3-17-86; WCD 2-1987(Admin), f. 2-20-87, ef. 3-16-87; WCD 1-1988, f. 1-20-88, cert. ef. 2-1-88; WCD 6-1988, f. 9-6-88, cert. ef. 9-15-88; WCD 2-1989, f. 8-21-89, cert. ef. 9-1-89; WCD 1-1990, f. 1-5-90, cert. ef. 2-1-90; WCD 12-1990(Temp), f. 6-20-90, cert. ef. 7-1-90; WCD 15-1990, f. & cert. ef. 8-7-90; WCD 30-1990, f. 12-10-90, cert. ef. 12-26-90; WCD 11-1992, f. 6-11-92, cert. ef. 7-1-92; WCD 13-1994, f. 12-20-94, cert. ef. 2-1-95; WCD 18-1995(Temp), f. & cert. ef. 12-4-95; WCD 12-1996, f. 5-6-96, cert. ef. 6-1-96; Renumbered from 436-010-0090; WCD 20-1996, f. 10-2-96, cert. ef. 1-1-97; WCD 5-1997, f. 4-21-97, cert. ef. 7-1-97; Administrative correction 6-18-97; WCD 8-1997(Temp), f. & cert. ef. 7-9-97; WCD 16-1997, f. & cert. ef. 12-15-97; WCD 5-1998, f. 4-3-98, cert. ef. 7-1-98; WCD 9-1999, f. 5-27-99, cert. ef. 7-1-99; WCD 2-2001, f. 3-8-01, cert. ef. 4-1-01; WCD 3-2002, f. 2-25-02 cert. ef. 4-1-02; WCD 6-2003, f. 5-28-03, cert. ef. 7-1-03

## 436-009-0022

### Ambulatory Surgical Center Fees

(1) Bills from an ASC shall be submitted on HCFA/CMS 1500 form. The modifier "SG" shall be used to identify facility charges.

(2) Fees shall be paid at the usual and customary fee, or in accordance with the fee schedule, whichever is less. For all MCO enrolled claims, payment of fees shall be as provided by the MCO contract, at the provider's usual and customary fee, or according to the fee schedule, whichever is less.

(3) Payment shall be made using the Medicare ASC groups, except:

(a) Arthroscopies (CPT® codes 29819 through 29898 except 29888 and 29889) are paid as Group 6.

(b) Arthroscopies (CPT® codes 29888 and 29889) are paid as Group 7.

(c) Procedures not listed in the Medicare ASC groups shall be paid at the provider's usual and customary rate.

(4) The ASC fee schedule is: [Table not included. See ED. NOTE.]

(5) The ASC fee includes services, such as:

(a) Nursing, technical, and related services;

(b) Use of the facility where the surgical procedure is performed;

(c) Drugs, biologicals, surgical dressings, supplies, splints, casts, and appliances and equipment directly related to the provision of the surgical procedure;

(d) Diagnostic or therapeutic services or items directly related to the provision of a surgical procedure;

(e) Administrative, record-keeping, and housekeeping items and services;

(f) Materials for anesthesia; and

(g) Supervision of the services of an anesthetist by the operating surgeon.

(6) The ASC fee does not include services, such as physicians services, laboratory, x-ray or diagnostic procedures not directly related to the surgical procedure, prosthetic devices, orthotic devices, durable medical equipment, and anesthetists services.

(7) When multiple procedures are performed, the highest payment group shall be paid at 100% of the maximum allowed fee. Each additional procedure shall be paid at 50% of the maximum allowed fee.

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

Stat. Auth.: ORS 656.726(4)

Stats. Implemented: ORS 656.248; 656.252

Hist.: WCD 3-2002, f. 2-25-02 cert. ef. 4-1-02; WCD 6-2003, f. 5-28-03, cert. ef. 7-1-03

## 436-009-0030

### Insurer's Duties and Responsibilities

(1) The insurer shall pay for medical services related to a compensable injury claim, except as provided by OAR 436-060-0055.

(2) The insurer, or its designated agent, may request from the medical provider, any and all necessary records needed to review accuracy of billings. The medical provider may charge an appropriate fee for copying documents in accordance with OAR 436-009-0070(1). If the evaluation of the records must be conducted on-site, the provider shall furnish a reason-

able work-site for the records to be reviewed at no cost. These records shall be provided or made available for review within 14 days of a request.

(3) Insurers shall date stamp medical bills and reports upon receipt and pay bills for medical services on accepted claims within 45 days of receipt of the bill, if the billing is submitted in proper form in accordance with OAR 436-009-0010(2) through (4) and clearly shows that the treatment is related to the accepted compensable injury or disease. Billings not submitted in the proper form must be returned or a request for chart notes on EDI billings must be made, to the medical provider within 20 days of receipt of the bill. The number of days between the date the insurer returns the billing or requests for chart notes from the provider and the date the insurer receives the corrected billing or chart notes, shall not apply toward the 45 days within which the insurer is required to make payment.

(a) The insurer shall retain a copy of each medical provider's bill received by the insurer or shall be able to reproduce upon request data relevant to the bill, including but not limited to, provider name, date of service, type of service, billed amount, coding submitted by the medical provider as described in OAR 436-009-0010(2) and insurer action, for any fee reduction other than a fee schedule reduction. This includes all bills submitted to the insurer even when the insurer determines no payment is due.

(b) Any service billed with a code number commanding a higher fee than the services provided shall be returned to the medical provider for correction or paid at the value of the service provided.

(c) When a medical provider renders a bill via EDI, it shall be considered "mailed" in accordance with OAR 436-010-0005.

(4) Payment of medical bills is required within 14 days of any action causing the service to be payable, or within 45 days of the insurer's receipt of the bill, whichever is later.

(5) Failure to pay for medical services timely may render insurer liable to pay a reasonable monthly service charge for the period payment was delayed, if the provider customarily levies such a service charge to the general public.

(6) When there is a dispute over the amount of a bill or the appropriateness of services rendered, the insurer shall, within 45 days, pay the undisputed portion of the bill and at the same time provide specific reasons for non-payment or reduction of each medical service code. Resolution of billing disputes shall be made in accordance with OAR 436-009-0008, 436-010-0008 and 436-015.

(7) Bills for medical services rendered at the request of the insurer and bills for information submitted at the request of the insurer, which are in addition to those required in OAR 436-010-0240 must be paid for within 45 days of receipt by the insurer even if the claim is denied.

(8) The insurer shall establish an audit program for bills for all medical services to determine that the bill reflects the services provided, that appropriate prescriptions and treatment plans are completed in a timely manner, that payments do not exceed the maximum fees adopted by the director, and that bills are submitted in a timely manner. The audit shall be continuous and shall include no fewer than 10 percent of medical bills. The insurer shall provide upon request documentation establishing that the insurer is conducting a continuous audit of medical bills. This documentation shall include, but not be limited to, medical bills, internal audit forms, and any medical charge summaries prepared by private medical audit companies.

(9) Insurers that have at least 100 accepted disabling claims in a calendar year, as determined by the director, are required to transmit detailed medical service and billing data to the Information Management Division of the Department of Consumer and Business Services. Once an insurer has been determined to have the minimum number of accepted disabling claims, they must continue to report in subsequent years unless there is a significant decrease below the 100 claim minimum which is expected to continue. In such circumstances, the insurer may apply for exemption from the reporting requirement. The reporting requirements are as follows:

(a) The director will publish a bulletin identifying the affected insurers and advising the insurers of the data and format requirements for data transmission;

(b) The data shall include all payments made during each calendar quarter for medical services which are covered by the department's fee schedules. These fee schedules include anesthesiology, surgery, radiology, laboratory and pathology, medicine, physical medicine and rehabilitation, evaluation and management services, multidisciplinary and other Oregon-specific codes, all hospital services, pharmacy, and durable medical equipment;

(c) The affected insurers shall submit the medical data within 45 days of the end of each calendar quarter. However, a grace period of two calen-

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dar quarters may be granted for revised requirements and also for insurers which are newly affected by these requirements.

(d) **Data Quality:** The director will conduct electronic edits for blank or invalid data. Listed insurers are responsible for pre-screening the data they submit to check that all the required information is reported. Files which have more than five percent missing or invalid data in any field, based on initial computerized edits, will be returned to the insurer for correction and must be resubmitted within three weeks (21 days) from the date it was returned by the department.

(e) **Audit Quality:** The director may also conduct field audits of actual payments reported for individual claims. When an audit occurs, in order to be in compliance with this rule and OAR 436-010-0275(10), audited data must have no more than 15 percent inaccurate data in any field.

Stat. Auth.: ORS 656.726(4)  
Stats. Implemented: ORS 656.252, ORS 656.325, ORS 656.245, ORS 656.248, ORS 656.260 & ORS 656.264  
Hist.: WCD 12-1996, f. 5-6-96, cert. ef. 6-1-96; WCD 20-1996, f. 10-2-96, cert. ef. 1-1-97; WCD 5-1997, f. 4-21-97, cert. ef. 7-1-97; WCD 5-1998, f. 4-3-98, cert. ef. 7-1-98; WCD 9-1999, f. 5-27-99, cert. ef. 7-1-99; WCD 2-2000, f. 3-15-00, cert. ef. 4-1-00; WCD 3-2002, f. 2-25-02 cert. ef. 4-1-02; WCD 6-2003, f. 5-28-03, cert. ef. 7-1-03

## 436-009-0040

### Calculating Medical Provider Fees

(1) Medical fees shall be paid at the provider's usual and customary fee or in accordance with the fee schedule whichever is less. For all MCO enrolled claims, payment of medical fees shall be at the provider's usual and customary fee or according to the fee schedule, whichever is less, unless otherwise provided by MCO contract.

(2)(a) When using RBRVS, the RVU is determined by reference to the appropriate CPT® code. Where the procedure is performed inside the medical service provider's office, use Year 2003 non-facility total column. Where the procedure is performed outside the medical service provider's office, use Year 2003 facility total column. Use the global column to identify the follow up days when applicable. For all outpatient therapy services (physical therapy, occupational therapy, and speech language pathology), use the Year 2003 non-facility total column. No other column applies.

(b) When an Oregon Specific Code is assigned, the RVU for multi-disciplinary program services is found in OAR 436-009-0060(5), or for other services in 436-009-0070 (13).

(c) When using the ASA Relative Value Guide, a basic unit value is determined by reference to the appropriate Anesthesia code. The basic unit value includes unit value, time units, and modifying units.

(3) Payment according to the fee schedule shall be determined by multiplying the assigned RVU or basic unit value by the applicable conversion factor. Where the code is designated by an RVU of "0.00" or IC (individual consideration) for Anesthesia codes, it shall be paid at the provider's usual and customary rate.

(4) The table below lists the conversion factors to be applied to services, assigned an RVU, rendered by all medical professionals. [Table not included. See ED. NOTE.]

[ED. NOTE: Tables referenced are available from the agency.]  
Stat. Auth.: ORS 656.726(4)  
Stats. Implemented: ORS 656.248  
Hist.: WCD 9-1999, f. 5-27-99, cert. ef. 7-1-99; WCD 2-2000, f. 3-15-00, cert. ef. 4-1-00; WCD 2-2001, f. 3-8-01, cert. ef. 4-1-01; WCD 3-2002, f. 2-25-02 cert. ef. 4-1-02; WCD 6-2003, f. 5-28-03, cert. ef. 7-1-03

## 436-009-0050

### CPT™ Sections

Each CPT® section has its own schedule of relative values, completely independent of and unrelated to any of the other sections. The definitions, descriptions, and guidelines found in CPT® shall be used as guides governing the descriptions of services, except as otherwise provided in these rules. The following provisions are in addition to those provided in each section of CPT®.

(1) Evaluation and Management services.

(2) Anesthesia services.

(a) In calculating the units of time, use 15 minutes per unit. If a medical provider bills for a portion of 15 minutes, round the time up to the next 15 minutes and pay one unit for the portion of time.

(b) Anesthesia basic unit values are to be used only when the anesthesia is personally administered by either a licensed physician or nurse anesthetist who remains in constant attendance during the procedure for the sole purpose of rendering such anesthesia service.

(c) When a regional anesthesia is administered by the attending surgeon, the value shall be the "basic" anesthesia value only without added value for time.

(d) When the surgeon or attending physician administers a local or regional block for anesthesia during a procedure, the modifier "NT" (no time) shall be noted on the bill.

(e) Local infiltration, digital block, or topical anesthesia administered by the operating surgeon is included in the relative value unit for the surgical procedure.

(3) Surgery services.

(a) When a worker is scheduled for elective surgery, the immediate pre-operative visit, in the hospital or elsewhere, necessary to examine the patient, complete the hospital records, and initiate the treatment program is included in the listed global value of the surgical procedure. If the procedure is not elective, the physician is entitled to payment for the initial evaluation of the worker in addition to the global fee for the surgical procedure(s) performed.

(b) When an additional surgical procedure(s) is carried out within the listed period of follow-up care for a previous surgery, the follow-up periods will continue concurrently to their normal terminations.

(c) Multiple surgical procedures performed at the same session shall be paid as follows:

(A) When multiple surgical procedures are performed by one surgeon, the principal procedure is paid at 100 percent of the maximum allowable fee, the secondary and all subsequent procedures are paid at 50 percent of the maximum allowable fee. A diagnostic arthroscopic procedure performed preliminary to an open operation, is considered a secondary procedure and paid accordingly.

(B) When multiple arthroscopic procedures are performed, the major procedure shall be paid at no more than 100 percent of the value listed in these rules and the subsequent procedures paid at 50 percent of the value listed.

(C) When more than one surgeon performs surgery, each procedure shall be billed separately. The maximum allowable fee for each procedure, as listed in these rules, shall be reduced by 25 percent. When the surgeons assist each other throughout the operation, each is entitled to an additional fee of 20 percent of the other surgeon's allowable fee as an assistant's fee. When the surgeons do not assist each other, and a third physician assists the surgeons, the third physician is entitled to the assistant's fee of 20 percent of the surgeons' allowable fees.

(D) When a surgeon performs surgery following severe trauma that requires considerable time, and the surgeon does not think the fees should be reduced under the multiple surgery rule, the surgeon may request special consideration by the insurer. Such a request must be accompanied by written documentation and justification. Based on the documentation, the insurer may pay for each procedure at 100 percent.

(E) When a surgical procedure is performed bilaterally, the modifier "-50" shall be noted on the bill for the second side, and paid at 50% of the fee allowed for the first side.

(d) Physician assistants or nurse practitioners shall be paid at the rate of 10 percent of the surgeon's allowable fee for the surgical procedure(s). The bills for services by these providers shall be marked with a modifier "-81." Chart notes shall document when medical services have been provided by a physician assistant or nurse practitioner.

(e) Other surgical assistants who are self-employed and work under the direct control and supervision of a physician shall be paid at the rate of 10 percent of the surgeon's allowable fee for the surgical procedure(s). The operation report shall document who assisted.

(4) Radiology services.

(a) In order to be paid, x-ray films must be of diagnostic quality. Billings for 14" x 36" lateral views shall not be paid. Billings for X-rays shall not be paid without a report of the findings.

(b) When multiple areas are examined by CAT scan or MRI, the first area examined shall be paid at 100 percent, the second area at 50 percent, and the third and all subsequent areas at 25 percent of these rules.

(5) Pathology and Laboratory services.

(a) The laboratory and pathology conversion factor applies only when there is direct physician involvement.

(b) Laboratory fees shall be billed in accordance with ORS 676.310. If any physician submits a bill for laboratory services that were performed in an independent laboratory, the bill shall show the amount charged by the laboratory and any service fee that the physician charges.

(6) Medicine services.

(7) Physical Medicine and Rehabilitation services.

(a) Increments of time for a time-based CPT® code shall not be reported.

(b) Payment for modalities and therapeutic procedures shall be limited to a total of three separate CPT® coded services per day. CPT® codes



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97001, 97002, 97003, or 97004 are not subject to this limit. An additional unit of time (15 minute increment) for the same CPT® code is not counted as a separate code.

(c) All modality codes requiring constant attendance (97032, 97033, 97034, 97035, 97036, and 97039) are time-based. Chart notes must clearly indicate the time treatment begins and the time treatment ends for the day.

(d) CPT® codes 97010 through 97028 shall not be paid unless they are performed in conjunction with other procedures or modalities which require constant attendance or knowledge and skill of the licensed medical provider.

(e) When multiple treatments are provided simultaneously by a machine, device or table there shall be a notation on the bill that treatments were provided simultaneously by a machine, device or table and there shall be one charge.

Stat. Auth.: ORS 656.726(4)  
Stats. Implemented: ORS 656.248  
Hist.: WCD 9-1999, f. 5-27-99, cert. ef. 7-1-99; WCD 2-2000, f. 3-15-00, cert. ef. 4-1-00; WCD 2-2001, f. 3-8-01, cert. ef. 4-1-01; WCD 3-2002, f. 2-25-02 cert. ef. 4-1-02; WCD 6-2003, f. 5-28-03, cert. ef. 7-1-03

## 436-009-0060

### Oregon Specific Code, Multidisciplinary Services

(1) Services provided by multidisciplinary programs not otherwise described by CPT® codes shall be billed under Oregon-Specific Codes.

(2) Treatment in a chronic pain management program, physical rehabilitation program, work hardening program, or a substance abuse program shall not be paid unless the program is accredited for that purpose by the CARF or the JCAHO.

(a) Organizations which have applied for CARF accreditation, but have not yet received such accreditation, may receive payment for multidisciplinary programs upon providing evidence to the insurer that an application for accreditation has been filed with and acknowledged by CARF. Such organizations may provide multidisciplinary services under this section for a period of up to 6 months from the date CARF provided notice to the organization that the accreditation process has been initiated, or until such time as CARF accreditation has been received or denied, whichever occurs first.

(b) Notwithstanding OAR 436-009-0010(4), program fees for services within a multidisciplinary program may be used based upon written pre-authorization from the insurer. Programs must identify the extent, frequency, and duration of services to be provided.

(c) All job site visits and ergonomic consultations must be preauthorized by the insurer.

(3) When an attending physician approves a multidisciplinary treatment program for an injured worker, the attending physician must provide the insurer with a copy of the approved treatment program within 14 days of the beginning of the treatment program.

(4) Billings using the multidisciplinary codes must include copies of the treatment record which specifies the type of service rendered, the medical provider who provided the service, whether treatment was individualized or provided in a group session, and the amount of time treatment was rendered for each service billed.

(5) The table below lists the Oregon Specific Codes for Multidisciplinary Services. [Table not included. See ED. NOTE.]

[ED. NOTE: Tables referenced are available from the agency.]  
Stat. Auth.: ORS 656.726(4)  
Stats. Implemented: ORS 656.248  
Hist.: WCD 9-1999, f. 5-27-99, cert. ef. 7-1-99; WCD 2-2001, f. 3-8-01, cert. ef. 4-1-01; WCD 3-2002, f. 2-25-02 cert. ef. 4-1-02; WCD 6-2003, f. 5-28-03, cert. ef. 7-1-03

## 436-009-0070

### Oregon Specific Code, Other Services

(1) Copies of requested medical records shall be paid under OSC-R0001.

(2) A brief narrative by the attending physician, including a summary of treatment to date and current status, and, if requested, brief answers to one to five specific questions related to the attending physician's current or proposed treatment, shall be paid under OSC-N0001.

(3) A complex narrative by the attending physician may include past history, history of present illness, attending physician's treatment to date, current status, impairment, prognosis, and medically stationary information, shall be paid under OSC-N0002.

(4) Fees for a PCE and a WCE shall be based upon the type of evaluation requested. The description of each level of evaluation and the maximum allowable payment shall be as follows:

(a) **FIRST LEVEL PCE:** This is a limited evaluation to measure the functional performance testing of a specific body part. This level requires not less than 45 minutes of actual patient contact. A first level PCE shall be

paid under OSC-99196 which includes the evaluation and report. Additional 15-minute increments may be added for each additional body part to establish endurance (e.g. cardiovascular), or to project tolerances (e.g. repetitive motion). Each additional 15 minutes shall be paid under OSC-99193 which includes the evaluation and report.

(b) **SECOND LEVEL PCE:** This is a PCE requested by the insurer, or attending physician, to measure general residual functional capacity to perform work or provide other general evaluation information, including musculoskeletal evaluation. It may be used to establish Residual Functional Capacities for claim closure. This level requires not less than two hours of actual patient contact. The second level PCE shall be paid under OSC-99197 which includes the evaluation and report. Additional 15 minute increments (per additional body part) may be necessary to establish endurance (e.g., cardiovascular) or to project tolerances (e.g., repetitive motion). Each additional 15 minutes shall be paid under OSC-99193 which includes the evaluation and report.

(c) **WCE:** This is a residual functional capacity evaluation with special emphasis on the ability to perform essential physical functions of the job based on specific job analysis. This level requires not less than 6 hours of actual patient contact. The primary purpose of this evaluation is to establish if a worker can return to work at a specific job(s). A WCE shall be paid under OSC-99198 which includes the evaluation and report.

(d) In addition, if requested, a musculoskeletal evaluation (e.g., ROM, strength, sensory, etc.) with up to 30 minutes of actual patient contact for the first body part may be added to a first level PCE, second level PCE or WCE. An additional 15 minutes may be requested for each additional body part tested. Musculoskeletal evaluation and each additional 15 minutes shall be paid under OSC-99193 which includes the evaluation and report.

(5) When an attorney requires a consultation with a medical provider, the medical provider shall bill under OSC-D0001.

(6) The fee for a deposition shall be billed under OSC-D0002. This code should include time for preparation, travel and deposition. Payment of the hourly rate may be limited to a customary fee charged by similar providers.

(7) When an insurer obtains an Insurer Medical Examination (IME), the medical service provider shall bill under OSC-D0003. This code shall be used for a report, file review or examination.

(8) The fee for interpretive services shall be billed under OSC-D0004.

(9) Fees for all arbiters and panel of arbiters used for director reviews pursuant to OAR 436-030-0165 shall be established by the director. This fee determination will be based on the complexity of the examination, the report requirements and the extent of the record review. The level of each category is determined by the director based on the individual complexities of each case as compared to the universe of claims in the medical arbiter process. When the examination is scheduled, the director shall notify the medical arbiter and the parties of the authorized fee for that medical arbiter review based on a combination of separate components.

(a) As determined by the director, a level 1 exam generally involves a basic medical exam with no complicating factors. A level 2 exam generally involves a moderately complex exam and may have complicating factors. A level 3 exam generally involves a very complex exam and may have several complicating factors. A limited exam generally involves a newly accepted condition, or some other partial exam. [Table not included. See ED. NOTE.]

(b) As determined by the director, a level 1 report generally includes standard questions. A level 2 report generally includes questions regarding complicating factors. A level 3 report generally includes questions regarding multiple complicating factors. [Table not included. See ED. NOTE.]

(c) As determined by the director, a level 1 file review generally includes review of a limited record. A level 2 file review generally includes review of an average record. A level 3 file review generally includes review of a large record or disability evaluation without an exam. A level 4 file review generally includes an extensive record. A level 5 file review generally includes an extensive record with unique factors. [Table not included. See ED. NOTE.]

(d) The director shall notify the medical arbiter and the insurer of the approved code for each component to establish the total fee for the medical arbiter review.

(e) If the director determines that a supplemental medical arbiter report is necessary to clarify information or address additional issues, an additional report fee may be established. The fee is based on the complexity of the supplemental report as determined by the director. The additional fees are established as follows: [Table not included. See ED. NOTE.]

(f) Prior to completion of the reconsideration process, the medical arbiter may request the director to redetermine the authorized fee by pro-

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viding the director with rationale explaining why the physician believes the fee should be different than authorized.

(g) The director may authorize testing which shall be paid according to OAR 436-009.

(h) Should an advance of costs be necessary for the worker to attend a medical arbiter exam, a request for advancement shall be made in sufficient time to ensure a timely appearance. After receiving a request, the insurer must advance the costs in a manner sufficient to enable the worker to appear on time for the exam. If the insurer believes the request is unreasonable, the insurer shall contact the director in writing. If the director agrees the request is unreasonable, the insurer may decline to advance the costs. Otherwise, the advance must be made timely as required in this subsection.

(10) A single physician selected pursuant to ORS 656.327 or 656.260, to review treatment, perform reasonable and appropriate tests, or examine the worker, and submit a report to the director shall be paid at an hourly rate up to a maximum of 4 hours for record review and examination.

(a) The physician will be paid for preparation and submission of the report. Billings for services by a single physician shall be billed under OSC-P0001 for the examination and under OSC-P0003 for the report.

(b) Physicians selected pursuant to OAR 436-010-0008, to serve on a panel of physicians shall each receive payment based on an hourly rate up to a maximum of 4 hours for record review and panel examination. Each physician shall bill for the record review and panel examination under OSC-P0002. The panel member who prepares and submits the panel report shall receive an additional payment under OSC-P0003.

(c) The director may in a complex case requiring extensive review by a physician pre-authorize an additional fee. Complex case review shall be billed under OSC-P0004.

(d) If a worker fails to appear for a director required examination without providing the physician with at least 48 hours notice, each physician shall bill under OSC-P0005.

(e) Should an advance of costs be necessary for the worker to attend an exam under ORS 656.327 or 656.260, a request for advancement shall be made in sufficient time to ensure a timely appearance. After receiving a request, the insurer must advance the costs in a manner sufficient to enable the worker to appear on time for the exam. If the insurer believes the request is unreasonable, the insurer shall contact the director in writing. If the director agrees the request is unreasonable, the insurer may decline to advance the costs. Otherwise, the advance must be made timely as required in this subsection.

(11) The fee for a Worker Requested Medical Examination shall be billed under OSC-W0001. This code shall be used for a report, file review, or examination.

(12) The table below lists the Oregon Specific Codes for Other Services. [Table not included. See ED. NOTE.]

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

Stat. Auth.: ORS 656.726(4)

Stats. Implemented: ORS 656.248

Hist.: WCD 9-1999, f. 5-27-99, cert. ef. 7-1-99; WCD 2-2000, f. 3-15-00, cert. ef. 4-1-00; WCD 2-2001, f. 3-8-01, cert. ef. 4-1-01; WCD 13-2001, f. 12-17-01, cert. ef. 1-1-02; WCD 3-2002, f. 2-25-02 cert. ef. 4-1-02; WCD 6-2003, f. 5-28-03, cert. ef. 7-1-03

## 436-009-0090

### Pharmacy Fees

(1) Pharmacy fees shall be paid at 95% of the Average Wholesale Price (AWP) + \$6.70 (dispensing fee) for both brand name and generic, effective on the day the drug was dispensed except for in-patient hospital charges. Payment will be the lower of either the provider's usual and customary charge or 95% of the AWP + dispensing fee. All providers who are licensed to dispense medications in accordance with their practice must be paid similarly regardless of profession.

(2) All prescription medications are required medical services and do not require prior approval under the palliative care provisions of OAR 436-010-0290.

(3) Under ORS 689.515(2) licensed providers may dispense generic drugs to injured workers.

(4) Insurers shall use the prescription pricing guide published by First DataBank Inc, Thomson Healthcare, Inc., or Facts & Comparisons (a Wolters Kluwer Health, Inc., Company) for calculating payments to the licensed provider. Insurers must update their source at least monthly.

(5) The worker shall have the right to select the pharmacy, except for claims enrolled in a managed care organization (MCO) where pharmacy service providers are specified by the MCO contract.

(6) This rule shall not apply to a worker's direct purchase of prescription medications, and shall not limit a worker's right to reimbursement for actual out-of-pocket expenses pursuant to OAR 436-009-0025.

(7) The insurer shall be required to pay the retail-based fee for over-the-counter medications.

(8) Drugs dispensed by a hospital (inpatient or outpatient) shall be billed pursuant to OAR 436-009-0020.

Stat. Auth.: ORS 656.726(4)

Stats. Implemented: ORS 656.248

Hist.: WCD 9-1999, f. 5-27-99, cert. ef. 7-1-99; WCD 2-2001, f. 3-8-01, cert. ef. 4-1-01; WCD 3-2002, f. 2-25-02 cert. ef. 4-1-02; WCD 6-2003, f. 5-28-03, cert. ef. 7-1-03

## Department of Corrections Chapter 291

**Adm. Order No.:** DOC 9-2003(Temp)

**Filed with Sec. of State:** 5-19-2003

**Certified to be Effective:** 5-19-03 thru 11-15-03

**Notice Publication Date:**

**Rules Amended:** 291-064-0060

**Subject:** The department is amending this rule to clarify circumstances under which a treating practitioner may administer psychotropic medications without informed consent to an inmate in emergency circumstances.

**Rules Coordinator:** David R. Schumacher—(503) 945-0933

### 291-064-0060

#### Emergency Administration of Psychotropic Medications without Informed Consent

(1) An emergency that is sufficient to allow the administration of psychotropic medications without informed consent exists, if in the opinion of the treating practitioner, an inmate has a mental disorder and as a result of that disorder:

(a) Immediate administration of psychotropic medication is medically necessary to preserve the life or health of the inmate; or

(b) Immediate administration of psychotropic medication is medically necessary because the inmate's behavior creates a likelihood of serious physical injury to the inmate or others; or

(c) Immediate administration of psychotropic medication is medically necessary because the inmate has:

(A) Recently damaged property and caused physical injury to self or others; or

(B) Recently expressed and acted upon an intent to cause serious physical injury to self or others by damaging property; or

(C) Recently demonstrated behavior or thinking which, in examining the inmate's prior medical history, is associated with a pattern of behavior leading to such property damage or physical injury to self or others.

(2) If an emergency exists, the treating practitioner may administer psychotropic medications to an inmate without first obtaining the inmate's written informed consent provided:

(a) The specific nature of the emergency and all procedures used to cope with the emergency are fully documented in the inmate's treatment record; and

(b) An effort has been made to contact the legal guardian of a legally incapacitated inmate prior to the administration of psychotropic medications.

(c) If the treating practitioner is not a mental health prescriber, consultation with the chief medical officer or his/her designee shall occur within 12 hours of the emergency.

(3) Within 72 hours after the emergency administration of psychotropic medications, the treating practitioner shall review the treatment plan and may implement a revised treatment plan.

(4) The administration of psychotropic medications in an emergency situation may not continue for more than 72 hours.

(5) If, in the opinion of the treating practitioner, involuntary administration of psychotropic medications beyond 72 hours is medically necessary, the treating practitioner must:

(a) Obtain the inmate's written informed consent, or

(b) Determine that good cause for recommending involuntary administration exists as provided in OAR 291-064-0070, and

(c) Refer the determination of good cause for review as provided in OAR 291-064-0080.

(6) Within seven days of a determination that good cause exists for involuntary administration of medications subsequent to an emergency, the independent examining physician shall review that determination as provided in OAR 291-064-0090 to 291-064-0120.

Stat. Auth.: ORS 179.040, ORS 423.020, ORS 423.030, ORS 423.075 & ORS 430.021

Stats. Implemented: ORS 179.040, ORS 423.020, ORS 423.030, ORS 423.075 & ORS 430.021

Hist.: CD 8-1995, f. 4-24-95, cert. ef. 5-1-95; DOC 9-2003(Temp), f. & cert. ef. 5-19-03 thru 11-15-03

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## Department of Environmental Quality Chapter 340

**Adm. Order No.:** DEQ 8-2003(Temp)

**Filed with Sec. of State:** 5-21-2003

**Certified to be Effective:** 5-21-03 thru 11-14-03

**Notice Publication Date:**

**Rules Amended:** 340-150-0010

**Subject:** Amends existing definitions that include the phrase "beneath the surface of the ground" to eliminate need to refer to a separate definition of this phrase and to clarify the meaning of this phrase. Modifies definition of an underground storage tank to be broader in scope than the U.S. Environmental Protection Agency definition.

**Rules Coordinator:** Rachel Sakata—(503) 229-5659

### 340-150-0010

#### Definitions

For the purpose of this division and as applicable for OAR chapter 340, divisions 151 and 160, the following definitions apply:

(1) "Ancillary equipment" means any devices including, but not limited to, connected piping, fittings, flanges, valves and pumps used to distribute, meter or control the flow of regulated substances to and from an UST.

(2) "As built drawing" or "as built" means a line drawing to-scale that accurately illustrates the location of USTs, underground piping and all related equipment in relation to buildings or other structures at an UST facility and provides thorough construction documentation. Other terms used in lieu of "as built" are "record drawing" or "measured drawing", which indicate that the drawing is for an existing structure or UST system.

(3) "Cathodic protection" means a technique to prevent corrosion of a metal surface by making that surface the cathode of an electrochemical cell. For example, an UST system can be cathodically protected through the application of either galvanic anodes or impressed current.

(4) "Cathodic protection tester" means a person who demonstrates an understanding of the principles and measurements of all common types of cathodic protection systems as applied to buried or submerged underground metal piping and tank equipment.

(5) "CERCLA" means the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended.

(6) "Change-in-service" means to transfer an UST system containing a regulated substance from regulated status (i.e., subject to the requirements of this division) to nonregulated status while the UST remains in its original location.

(7) "Closure" means to permanently decommission an UST (by removal, filling in-place with an inert material or change-in-service) or to temporarily remove an UST from operation.

(8) "Commission" means the Oregon Environmental Quality Commission.

(9) "Compatible" means the ability of two or more substances to maintain their respective physical and chemical properties upon contact with one another for the design life of the UST system under conditions likely to be encountered in the UST.

(10) "Confirmed release" means:

(a) For petroleum. Contamination observed in soil or groundwater as a sheen, stain or petroleum odor or petroleum contamination detected in soil by the Northwest Total Petroleum Hydrocarbon Identification Analytical Method (NWTPH-HCID, DEQ, December 1996) or detected in groundwater by any appropriate analytical method specified in OAR 340-122-0218; or

(b) For hazardous substances other than petroleum. Contamination observed in soil or groundwater as a sheen, stain or identifiable odor or as detected in soil, surface water or groundwater by any appropriate analytical method specified in "Test Methods for Evaluating Solid Waste," SW-846, 3rd Edition, Revised May 1997 (U.S. Environmental Protection Agency EPA).

(11) "Connected piping" means all piping located beneath the ground surface or otherwise covered by earthen materials, including valves, elbows, joints, flanges and flexible connectors attached to an UST system through which regulated substances flow. For the purpose of determining how much piping is connected to any individual UST system, the piping that joins two UST systems should be allocated equally between them.

(12) "Corrective action" means remedial action taken to protect the present or future public health, safety, welfare or the environment from a release of a regulated substance. "Corrective action" includes but is not limited to:

(a) The prevention, elimination, removal, abatement, control, investigation, assessment, evaluation or monitoring of a hazard or potential hazard or threat, including migration of a regulated substance; or

(b) Transportation, storage, treatment or disposal of a regulated substance or contaminated material from a site.

(13) "Corrosion expert" means a person who, by reason of thorough knowledge of the physical sciences and the principles of engineering and mathematics acquired by a professional education and related practical experience, is qualified to engage in the practice of corrosion control on buried or submerged underground metal piping systems and metal tanks. Corrosion experts must be accredited or certified by NACE (National Association of Corrosion Engineers) and licensed by the department under OAR chapter 340, division 160.

(14) "Decommission" means temporary or permanent closure, including temporary or permanent removal from operation, filling in-place, removal from the ground or change-in-service to a nonregulated status.

(15) "Deferred" means an UST system that may be subject to state or federal regulation at some point in the future.

(16) "De minimis" means an insignificant amount of regulated substance (e.g., meets the definition of "empty") or is less than a reportable quantity as defined under CERCLA.

(17) "Department" means the Oregon Department of Environmental Quality.

(18) "Dielectric material" means a material that does not conduct direct electrical current. Dielectric coatings are used to electrically isolate an UST system from the surrounding soils. Dielectric bushings are used to electrically isolate portions of an UST system (e.g., the tank from underground piping).

(19) "Dispenser" means a device that is used for the delivery of a regulated substance from an UST (e.g., fuel from an UST to a motor vehicle). The term includes associated metering, delivery mechanisms and other equipment contained inside a housing unit for the dispenser.

(20) "Distributor" means a person who is engaged in the business of selling regulated substances to an owner or permittee of an UST.

(21) "Electrical equipment" means equipment that is located beneath the ground surface or otherwise covered by earthen materials and contains dielectric fluid that is necessary for the operation of equipment such as transformers and buried electrical cable.

(22) "Emergency generator" means an engine that uses fuel (regulated substance) to produce auxiliary electrical or mechanical energy for use in emergencies.

(23) "Empty" means that all materials have been removed using commonly employed practices so that no more than one inch (2.5 centimeters) of residue or 0.3 percent by weight of the total capacity of the tank remain in the UST system.

(24) "Excavation zone" means an area containing an UST system and backfill material bounded by the ground surface, walls and floor of the pit and trenches into which the UST system is placed at the time of installation.

(25) "Farm tank" means a tank located on a tract of land devoted to the production of crops or raising animals, including fish and associated residences and improvements. A farm tank must be located on the farm property. "Farm" includes fish hatcheries, rangeland and nurseries with growing operations.

(26) "Fee" means a fixed charge or service charge.

(27) "Field constructed tank" means an UST that is constructed at the location it will be installed rather than factory-built.

(28) "Field penalty" means a civil penalty amount assessed in a field citation.

(29) "Flow-through process tank" means a tank that forms an integral part of a production process through which there is a steady, variable, recurring or intermittent flow of materials during the operation of the process. Flow-through process tanks do not include tanks used for the storage of materials before their introduction into the production process or for the storage of finished products or by-products from the production process.

(30) "Free product" means a regulated substance that is present as a nonaqueous phase liquid (e.g., liquid not dissolved in water).

(31) "Gathering lines" means any pipeline, equipment, facility or building used in the transportation of oil or gas during oil or gas production or gathering operations.

(32) "General permit" means a permit issued for a category of UST activities (e.g., installing, decommissioning or operating an UST) in lieu of individual permits developed for each UST facility.

(33) "Hazardous substance UST system" means an UST system that contains a hazardous substance defined in section 101(14) of CERCLA or any mixture of such substances and petroleum and which is not a petroleum

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UST system (but not including any substance regulated as a hazardous waste under Subtitle C of the SWDA).

(34) "Heating oil" means petroleum that is No. 1, No. 2, No. 4—light, No. 4—heavy, No. 5—light, No. 5—heavy and No. 6 technical grades of fuel oil; other residual fuel oils (including Navy Special Fuel Oil and Bunker C); and other fuels when used as substitutes for one of these fuel oils. Heating oil is typically used in the operation of heating equipment, boilers or furnaces.

(35) "Heating oil tank" means a tank used for storing heating oil for consumptive use on the premises where stored (i.e., the tank is located on the same property where the stored heating oil is used).

(36) "Hydraulic lift tank" means a tank holding hydraulic fluid for a closed-loop mechanical system that uses compressed air or hydraulic fluid to operate lifts, elevators and other similar devices.

(37) "Install" or "installation" means the physical construction of an UST system, including, but not limited to, activities such as excavating, backfilling, testing, placement of the tank, underground piping, release detection devices, corrosion protection systems, spill and overflow devices and any associated administrative activities such as notifications, record keeping and record submissions.

(38) "Interstitial" means the space between the primary and secondary containment systems (i.e., the space between the inner and outer walls of a tank or pipe).

(39) "Investigation" means monitoring, surveying, testing, sampling, analyzing or other information gathering techniques.

(40) "Leak" has the same meaning as "release" as defined by OAR 340-150-0010(63).

(41) "Liquid traps" means sumps, well cellars and other traps used in association with oil and gas production, gathering and extraction operations (including gas production plants), for the purpose of collecting oil, water and other liquids. These liquid traps may temporarily collect liquids for subsequent disposition or reinjection into a production or pipeline stream or may collect and separate liquids from a gas stream.

(42) "Maintenance" means the normal operational upkeep to prevent an UST system from releasing a regulated substance or to ensure that a release is detected.

(43) "Modification" means to change an UST system currently in use by the installation of new UST system components. This includes, but is not limited to, the addition of corrosion protection to a previously lined tank, installation of new underground piping or replacement of existing underground piping, changing the primary release detection method to one of the methods listed in OAR 340-150-0450 through 340-150-0470 or adding secondary containment. "Modification" does not include those activities defined as "repair" or "replacement".

(44) "Motor fuel" means petroleum or a petroleum based substance that is motor gasoline, aviation gasoline, No. 1 or No. 2 diesel fuel or any grade of gasohol and is typically used in the operation of a motor engine.

(45) "Multichamber" or "multicompartment" means an UST that contains two or more chambers or compartments created by the presence of an interior wall so that two or more regulated substances can be stored at the same time within a single tank shell. Even if the same regulated substance is stored in all chambers or compartments, the UST is a multichambered or multicompartmented UST for the purpose of these rules.

(46) "Native soil" means the soil outside of the immediate boundaries of the pit that was originally excavated for the purpose of installing an UST.

(47) "OAR" means Oregon Administrative Rule.

(48) "Operate" or "operation" means depositing a regulated substance into an UST, storing a regulated substance in or dispensing a regulated substance from an UST and such other activities, including, but not limited to, performing release detection, maintaining corrosion protection, preventing spills and overfills, investigating and confirming suspected releases, conducting maintenance, additions, modifications, replacements and repairs of equipment, maintaining a financial responsibility mechanism and keeping and submitting records on the UST and underground pipings' performance.

(49) "Operational life" means the period beginning when installation of the UST system has commenced until the time the UST system is permanently closed.

(50) "ORS" means Oregon Revised Statute.

(51) "Owner" means a person who currently owns an UST or owned an UST during the tank's operational life, including:

(a) In the case of an UST system in use on November 8, 1984, or brought into use after that date, any person who owns an UST system used for storage, use or dispensing of regulated substances; and

(b) In the case of an UST system in use before November 8, 1984, but no longer in use on that date, any person who owned such UST immediately before the discontinuation of its use.

(52) "Permittee" means the owner or person designated by the owner, who is in control of or has responsibility for daily UST system operation and maintenance, financial responsibility and UST operator training requirements under a general permit pursuant to OAR 340-150-0160 through 340-150-0168.

(53) "Person" means an individual, trust, firm, joint stock company, corporation, partnership, joint venture, consortium, association, state, municipality, commission, political subdivision of a state or any interstate body, any commercial entity or the federal government or any agency of the federal government.

(54) "Petroleum" or "oil" means gasoline, crude oil, fuel oil, diesel oil, lubricating oil, oil sludge, oil refuse and crude oil fractions and refined petroleum fractions, including gasoline, kerosene, heating oils, diesel fuels and any other petroleum-related product or waste or fraction thereof that is liquid at a temperature of 60 degrees Fahrenheit and a pressure of 14.7 pounds per square inch absolute. "Petroleum" does not include any substance identified as a hazardous waste under 40 CFR Part 261.

(55) "Petroleum UST system" means an UST system that contains petroleum or a mixture of petroleum with de minimis quantities of other regulated substances. Such systems include those containing motor fuels, jet fuels, distillate fuel oils, residual fuel oils, lubricants, petroleum solvents and used oils.

(56) "Pipe" or "piping" means a hollow cylinder or tubular conduit that is constructed of nonferrous materials.

(57) "Pipeline facilities" (including gathering lines) means new and existing pipe rights-of-way and any associated equipment, facilities or buildings.

(58) "Probability of detection" means the likelihood, expressed as a percentage, that a test method will correctly identify a release from an UST system.

(59) "Probability of false alarm" means the likelihood, expressed as a percentage, that a test method will incorrectly identify an UST system as leaking when a release is not occurring.

(60) "Property owner" means the legal owner of the real property on which an UST is located.

(61) "Registration certificate" means a document issued by the department that authorizes a person to install, operate or decommission an UST system under a general permit pursuant to OAR 340-150-0160 through 340-150-0168.

(62) "Regulated substance" includes, but is not limited to:

(a) Any substance defined in section 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) of 1980 (but not including any substance regulated as a hazardous waste under Subtitle C of the SWDA);

(b) Petroleum, including crude oil or any fraction thereof that is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute); and

(c) Petroleum based substances comprised of a complex blend of hydrocarbons derived from crude oil through processes of separation, conversion, upgrading and finishing, such as motor fuels, jet fuels, distillate fuel oils, residual fuel oils, lubricants, petroleum solvents and used oils.

(63) "Release" means the discharge, deposit, injection, dumping, spilling, emitting, leaking or placing of a regulated substance from an UST into the air or into or on land or the waters of the state, other than as authorized by a permit issued under state or federal law.

(64) "Release detection" or "leak detection" means determining whether a release of a regulated substance has occurred from the UST system into the environment, into the interstitial space between the UST system and its secondary barrier or into a secondary containment unit or sump around the UST.

(65) "Repair" means to restore any portion of an UST system that has failed, but does not include the activities defined by "modification" or "replacement".

(66) "Replacement" means to effect a change in any part of an UST system by exchanging one unit for a like or similar unit, but does not include activities defined as "repair" or "modification".

(67) "Residential tank" means a tank located on property used primarily for single family dwelling purposes.

(68) "Septic tank" means a watertight covered receptacle designed to receive or process, through liquid separation or biological digestion, the sewage discharged from a building sewer. The effluent from such receptacle

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is distributed for disposal through the soil and settled solids and scum from the tank are pumped out periodically and hauled to a treatment facility.

(69) "Service provider" means a person licensed by the department to offer to perform or perform UST services on USTs regulated under OAR chapter 340, division 150.

(70) "Storm water" or "wastewater collection system" means piping, pumps, conduits and any other equipment necessary to collect and transport the flow of surface water run off resulting from precipitation or domestic, commercial or industrial wastewater to and from retention areas or any areas where treatment is designated to occur. The collection of storm water and wastewater does not include treatment except where incidental to conveyance.

(71) "Supervisor" means an individual licensed by the department to direct and oversee specific UST services.

(72) "Surface impoundment" means a natural topographic depression, human-made excavation or diked area formed primarily of earthen materials (although it may be lined with human-made materials) that is not an injection well.

(73) "Suspected release" has the same meaning as described in OAR 340-150-0500.

(74) "Tank" means a stationary device designed to contain an accumulation of regulated substances and is constructed of nonearthen materials (e.g., concrete, steel, plastic) that provide structural support.

(75) "Tank tightness testing" means a method used to determine if an UST is leaking and is used to supplement another release detection method (such as inventory control or manual tank gauging) and to verify a suspected release when another method indicates a failure.

(76) "Temporary closure" means a halt in operation activities of an UST system for a limited time where the UST system will be brought back into operation or permanently decommissioned at some future date. For example, an UST may be temporarily closed due to corrective action activities on site, abandonment by the owner and permittee, bankruptcy proceedings, failure to maintain a financial responsibility mechanism, sale in progress or for any other reason that a permittee may choose to stop operating the UST. The term applies to an UST system that meets the definition of "temporary closure" whether or not the department has issued a registration certificate for this activity to the owner and permittee.

(77) "Testing" means applying a method to determine the integrity or operational status of any part of an UST system.

(78) "Third party evaluation" means an evaluation of a method or system including, but not limited to, a release detection system or tank integrity assessment method that is conducted by an independent organization. The evaluation includes certification that the method evaluated will operate as designed and includes information about any limitations of the method. As used in this definition, "independent" means that the organization that conducted the evaluation may not be owned, controlled by or associated with any client, industry organization or any other institution with a financial interest in the method or system evaluated.

(79) "Underground area" means an underground room, such as a basement, cellar, shaft or vault that provides enough space for physical inspection of the exterior of the tank situated on or above the surface of the floor.

(80) "Underground piping" means connected piping that is located beneath the ground surface or otherwise covered by earthen materials.

(81) "Underground storage tank" or "UST" means any one or combination of tanks (including connected underground pipes) that is used to contain an accumulation of regulated substances and the volume of which (including the volume of connected underground pipes) is 10 percent or more beneath the ground surface or otherwise covered by earthen materials.

(82) "UST facility" means the real property on which an UST is installed or will be installed. An UST facility encompasses all contiguous real property owned by the same property owner that is associated with the operation of the UST system.

(83) "UST services" includes without limitation, installation, decommissioning, modification, testing (e.g., cathodic protection and tank tightness) and inspection of UST systems.

(84) "UST system" means an underground storage tank, underground piping, underground ancillary equipment and containment system, if any.

(85) "UST system operator" means the individual designated by the owner and permittee as having control of or responsibility for the operation of an UST system, including the on-site operation and maintenance of the system in a manner to ensure that the UST system is in compliance with applicable state and federal regulations and industry standards.

(86) "Wastewater treatment tank" means a tank that is designed to receive and treat influent wastewater through physical, chemical or biological methods.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 466.706 - ORS 466.835, ORS 466.994 & ORS 466.995

Stats. Implemented: ORS 466.706, ORS 466.746

Hist.: DEQ 2-1988, f. 1-27-88, cert. ef. 2-1-88; DEQ 3-1989, f. & cert. ef. 3-10-89; DEQ 21-1989(Temp), f. & cert. ef. 9-18-89; DEQ 10-1990, f. & cert. ef. 3-13-90; DEQ 20-1990, f. & cert. ef. 6-7-90; DEQ 24-1998, f. & cert. ef. 11-2-98; DEQ 6-2003, f. & cert. ef. 2-14-03; DEQ 6-2003, f. & cert. ef. 2-14-03; DEQ 6-2003, f. & cert. ef. 2-14-03; DEQ 8-2003(Temp), f. & cert. ef. 5-21-03 thru 11-14-03

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**Subject:** These rule amendments make permanent the changes adopted by the Environmental Quality Commission in December 2002. The changes include revisions to the pre-demolition and pre-renovation asbestos survey requirement; clarifications to definitions that classify asbestos containing material as friable (easily releases fibers) or nonfriable and other definitions; removal of specific non-friable asbestos handling requirements; and error corrections.

**Rules Coordinator:** Rachel Sakata—(503) 229-5659

## 340-248-0010

### Definitions

The definitions in OAR 340-200-0020 and this rule apply to this division. If the same term is defined in this rule and OAR 340-200-0020, the definition in this rule applies to this division.

(1) "Accredited inspector" means a person that has completed training and received accreditation under 40 CFR Part 763 Subpart E, Appendix C (Model Accreditation Plan), Section B (Initial Training), Subsection 3 (Inspector), (1994).

(2) "Accredited trainer" means a provider of asbestos abatement training courses authorized by the Department to offer training courses that satisfy requirements for worker training.

(3) "Adequately wet" means to sufficiently mix or penetrate asbestos-containing material with liquid to prevent the release of particulate asbestos materials. An asbestos-containing material is not adequately wetted if visible emissions originate from that material. Precipitation is not an appropriate method for wetting asbestos-containing material.

(4) "Agent" means an individual who works on an asbestos abatement project for a contractor but is not an employee of the contractor.

(5) "Asbestos" means the asbestiform varieties of serpentine (chrysotile), riebeckite (crocidolite), cummingtonite-grunerite (amosite), anthophyllite, actinolite and tremolite.

(6) "Asbestos abatement project" means any demolition, renovation, repair, construction or maintenance activity of any public or private facility that involves the repair, enclosure, encapsulation, removal, salvage, handling, or disposal of any asbestos-containing material with the potential of releasing asbestos fibers from asbestos-containing material into the air.

(7) "Asbestos manufacturing operation" means the combining of commercial asbestos, or in the case of woven friction products, the combining of textiles containing commercial asbestos with any other material(s) including commercial asbestos, and the processing of this combination into a product as specified in OAR 340-248-0210(3).

(8) "Asbestos-containing material" means any material containing more than one-percent asbestos by weight.

(9) "Asbestos mill" means any facility engaged in the conversion or any intermediate step in the conversion of asbestos ore into commercial asbestos.

(10) "Asbestos tailings" mean any solid waste product of asbestos mining or milling operations that contains asbestos.

(11) "Asbestos waste generator" means any person performing an asbestos abatement project or any owner or operator of a source subject to OAR 340-248-0005 through 248-0290 whose act or process generates asbestos-containing waste material.

(12) "Asbestos-containing waste material" means any waste that contains asbestos tailings or any commercial asbestos, and is generated by a source subject to OAR 340-248-0205 through 340-248-0290. This term includes, but is not limited to, filters from control devices, asbestos abate-

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ment project waste, and bags or containers that previously contained commercial asbestos.

(13) "Asbestos waste shipment record" means the shipment document, required to be originated and signed by the asbestos waste generator; used to track and substantiate the disposition of asbestos-containing waste material.

(14) "Certified supervisor" means a person who has a current Oregon supervisor certification card.

(15) "Certified worker" means a person who has a current Oregon worker certification card.

(16) "Contractor" means a person that undertakes for compensation an asbestos abatement project for another person. As used in this Division, "compensation" means wages, salaries, commissions and any other form of remuneration paid to a person for personal services.

(17) "Commercial asbestos" means asbestos that is produced by extracting asbestos from asbestos ore.

(18) "Commission" means the Environmental Quality Commission.

(19) "Demolition" means the wrecking or removal of any load-supporting structural member of a facility together with any related handling operations or the intentional burning of any facility.

(20) "Department" means the Department of Environmental Quality.

(21) "Director" means the Director of the Department of Environmental Quality.

(22) "EPA" means the U.S. Environmental Protection Agency.

(23) "Fabricating" means any processing (e.g., cutting, sawing, drilling) of a manufactured product that contains commercial asbestos, with the exception of processing at temporary sites (field fabricating) for the construction or restoration of facilities. In the case of friction products, fabricating includes bonding, debonding, grinding, sawing, drilling, or other similar operations performed as part of fabricating.

(24) "Facility" means all or part of any public or private building, structure, installation, equipment, vehicle or vessel, including but not limited to ships.

(25) "Friable asbestos material" means any asbestos-containing material that hand pressure can crumble, pulverize or reduce to powder when dry.

(26) "HEPA filter" means a high efficiency particulate air filter capable of filtering 0.3 micron particles with 99.97 percent efficiency.

(27) "Inactive asbestos-containing waste disposal site" means any disposal site for asbestos-containing waste where the operator has allowed the Department's solid waste permit to lapse, has gone out of business, or no longer receives asbestos-containing waste.

(28) "Interim storage of asbestos-containing material" means the storage of asbestos-containing waste material that has been placed in a container outside a regulated area until transported to an authorized landfill.

(29) "Licensed" means a contracting entity has met the Department's training and experience requirements to offer and perform asbestos abatement projects and has a current asbestos abatement contractor license. For purposes of this definition, a license is not a permit subject to OAR chapter 340, division 216 or 218.

(30) "Negative pressure enclosure" means any enclosure of an asbestos abatement project area where the air pressure outside the enclosure is greater than the air pressure inside the enclosure and the air inside the enclosure is changed at least four times an hour by exhausting it through a HEPA filter.

(31) "Nonfriable asbestos material" means any asbestos-containing material that cannot be crumbled, pulverized, or reduced to powder by hand pressure.

(32) "Open accumulation" means any accumulation, including interim storage, of friable asbestos material or asbestos-containing waste material other than material securely enclosed and stored as required by this division.

(33) "Owner or operator" means any person who owns, leases, operates, controls or supervises a facility being demolished or renovated or any person who owns, leases, operates, controls, or supervises the demolition or renovation operation, or both.

(34) "Particulate asbestos material" means any finely divided particles of asbestos material.

(35) "Person" means an individual, public or private corporation, non-profit corporation, association, firm, partnership, joint venture, business trust, joint stock company, municipal corporation, political sub-division, the state and any agency of the state or any other entity, public or private, however organized.

(36) "Renovation" means altering in any way one or more facility components. Operations in which load-supporting structural members are wrecked or removed are excluded.

(37) "Small-scale, short-duration activity" means a task for which the removal of asbestos is not the primary objective of the job, including, but not limited to:

(a) Removal of small quantities of asbestos-containing insulation on beams or above ceilings;

(b) Replacement of an asbestos-containing gasket on a valve;

(c) Installation or removal of a small section of wallboard;

(d) Removal of asbestos-containing thermal system insulation not to exceed amounts greater than those that can be contained in a single glove bag;

(e) Minor repairs to damaged thermal system insulation that do not require removal;

(f) Repairs to asbestos-containing wallboard;

(g) Installation of electrical conduits through or proximate to asbestos-containing materials;

(h) Repairs, involving encapsulation, enclosure, or removal, of small amounts of friable asbestos material in the performance of emergency or routine maintenance activity and not intended solely as asbestos abatement. Such work may not exceed amounts greater than those that can be contained in a single prefabricated mini-enclosure. Such an enclosure must conform spatially and geometrically to the localized work area, in order to perform its intended containment function.

(38) "Structural member" means any load-supporting member of a facility, such as beams and load-supporting walls; or any non-supporting member, such as ceilings and non-load-supporting walls.

(39) "Survey" means to conduct a detailed inspection of a building, structure, or facility for the presence of asbestos-containing material. The survey must be conducted by an accredited inspector and include sampling of materials suspected to contain asbestos, analysis of those samples to determine asbestos content, and evaluation of the materials in order to assess their condition.

(40) "Training Day" means a day of classroom instruction that consists of at least seven hours of actual classroom instruction and hands-on practice.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.700

Hist.: DEQ 10-1988, f. & cert. ef. 5-19-88 (and corrected 6-3-88); DEQ 4-1990, f. & cert. ef. 2-7-90 (and corrected 5-21-90); DEQ 18-1991, f. & cert. ef. 10-7-91; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 15-1995, f. 6-16-95, cert. ef. 7-1-95; DEQ 96, f. 9-2-75, ef. 9-25-75; DEQ 22-1982, f. & ef. 10-21-82; DEQ 9-1988, f. 5-19-88, cert. ef. 6-1-88 (and corrected 6-3-88); DEQ 4-1990, f. & cert. ef. 2-7-90 (and corrected 5-21-90 & 7-8-91); DEQ 18-1991, f. & cert. ef. 10-7-91; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 18-1993, f. & cert. ef. 11-4-93; Renumbered from 340-025-0455; DEQ 20-1993(Temp), f. & cert. ef. 11-4-93; DEQ 15-1995, f. & cert. ef. 6-16-95; DEQ 22-1995, f. & cert. ef. 10-6-95; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-033-0020, 340-032-5590; DEQ 1-2002, f. & cert. ef. 2-4-02; DEQ 19-2002(Temp), f. & cert. ef. 12-23-02 thru 6-21-03; DEQ 9-2003, f. 5-21-03, cert. ef. 6-21-03

## 340-248-0100

### Applicability

(1) OAR 340-248-0005 through 340-248-0180:

(a) Apply to asbestos contractor licensing, worker and supervisor certification, asbestos abatement trainer accreditation, and the Department's administration and enforcement;

(b) Apply to any asbestos abatement project; and

(c) Provide training, licensing, and certification standards for implementation of OAR 340-248-0205 through 340-248-0280, Emission Standards and Procedural Requirements for Asbestos.

(2) OAR 340-248-0100 through 340-248-0180 do not apply to:

(a) An asbestos abatement project exempted by OAR 340-248-0250(2)(a); and

(b) Persons performing vehicle brake and clutch maintenance or repair.

Stat. Auth.: ORS 468.065, ORS 468A.745 & ORS 468A.750

Stats. Implemented: ORS 468A.745

Hist.: DEQ 10-1988, f. 5-19-88, cert. ef. 5-19-88 (and corrected 6-3-88); DEQ 18-1991, f. & cert. ef. 10-7-91; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 18-1993, f. & cert. ef. 11-4-93; DEQ 19-1994, f. 9-6-94, cert. ef. 10-1-94; DEQ 15-1995, f. 6-16-95, cert. ef. 7-1-95; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-033-0010; DEQ 1-2002, f. & cert. ef. 2-4-02; DEQ 19-2002(Temp), f. & cert. ef. 12-23-02 thru 6-21-03; DEQ 9-2003, f. 5-21-03, cert. ef. 6-21-03

## 340-248-0120

### Contractor Licensing

(1) Any contractor performing an asbestos abatement project must be licensed by the Department.

(2) Application for licenses must be submitted on forms prescribed by the Department and must be accompanied by the following:

(a) Documentation that the contractor, or the contractor's employee representative, is a certified supervisor;

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(b) Certification that the contractor has read and understands the applicable Oregon and federal rules and regulations on asbestos abatement and agrees to comply with the rules and regulations;

(c) A list of all certificates or licenses, issued to the contractor by any other jurisdiction, that have been suspended or revoked during the past year, and a list of any asbestos-related enforcement actions taken against the contractor during the past year;

(d) A list of additional project supervisors for asbestos abatement projects and their certification numbers;

(e) A summary of all asbestos abatement projects conducted by the contractor during the past 12 months; and

(f) A license application fee.

(3) The Department will review the application for completeness. If the application is incomplete, the Department will notify the applicant in writing of the deficiencies.

(4) The Department will deny, in writing, a license to a contractor who has not satisfied the license application requirements.

(5) The Department will issue a license to the applicant after the license is approved.

(6) A license is valid for a period of 12 months but will be extended pending the Department's review of a renewal application provided the renewal application is filed before the expiration date of the contractor's license.

(7) Renewals:

(a) License renewals must be applied for in the same manner as required for the initial license;

(b) For renewal, the contractor or employee representative must have a valid certified supervisor card; and

(c) The complete renewal application must be submitted no later than 60 days before the license expiration date.

(8) The Department may suspend or revoke a license if the licensee:

(a) Fraudulently obtains or attempts to obtain a license; or

(b) Fails at any time to satisfy the qualifications for a license; or

(c) Fails to meet any applicable state or federal standard relating to asbestos abatement; or

(d) Permits an untrained or uncertified worker to work on an asbestos abatement project; or

(e) Employs a worker who fails to comply with applicable state or federal rules or regulations relating to asbestos abatement; or

(f) Fails to make current certification cards readily available at work-sites for inspection by the Department; or

(g) Fails to pay delinquent application fees, notification fees, or civil penalty assessments.

(9) A contractor whose license has been revoked may reapply for a license after demonstrating to the Department that the cause of the revocation has been resolved.

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.707

Hist.: DEQ 10-1988, f. & cert. ef. 5-19-88 (and corrected 6-3-88); DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 15-1995, f. 6-16-95, cert. ef. 7-1-95; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-033-0040; DEQ 1-2002, f. & cert. ef. 2-4-02; DEQ 19-2002(Temp), f. & cert. ef. 12-23-02 thru 6-21-03; DEQ 9-2003, f. 5-21-03, cert. ef. 6-21-03

## 340-248-0130

### Certification

(1) Any persons working on an asbestos abatement project must be either an Oregon certified supervisor or certified worker. A certified supervisor may work as a certified worker without having separate certification as a worker.

(2) Application for Certification — General Requirements:

(a) Any person wishing to become a certified supervisor or relying on prior training, as provided in OAR 340-248-0160 must apply to the Department, through the training provider, for certification.

(b) Any person applying for worker certification without prior training and any certified worker taking a refresher course must apply directly to the accredited training provider using Department-approved forms.

(3) An application to be a certified supervisor must include:

(a) Documentation that the applicant has successfully completed the supervisor-level training and examination as specified in OAR 340-248-0150 and the Department's **Asbestos Training Guidance Document**; and

(b) Documentation that the applicant has:

(A) Been certified as a worker and has at least three months of asbestos abatement experience, including time on powered air purifying respirators and experience on at least five separate asbestos abatement projects; or

(B) Successfully completed certified worker training and six months of general construction, environmental or maintenance supervisory experience demonstrating skills to independently plan, organize and direct person-

nel in conducting an asbestos abatement project. The Department will determine if an applicant's experience satisfies those requirements.

(4) An application to be a certified worker must include documentation that the applicant has successfully completed the level of training and examination as specified in OAR 340-248-0150 and the Department's **Asbestos Training Guidance Document**.

(5) A typed certification card and a certificate of course completion will be issued by the training course provider to an applicant who has fulfilled the requirements of certification.

(6) Certification at all levels is valid for one year after the date of issue.

(7) Annual Recertification:

(a) Previously certified Oregon workers and supervisors must apply through the training provider to take recertification refresher courses;

(b) Applicants for re-certification must possess a valid certification card in order to take the refresher course;

(c) All certified supervisors and workers must complete an annual recertification course during the three months before the expiration date of their certification card. A certified supervisor or worker may reinstate certification by taking the appropriate refresher course up to one year after the expiration date of the current Oregon certification card. After that time, such persons must take the initial course to be recertified.

(8) A current worker certification card must be readily available for inspection by the Department at each asbestos abatement project for each worker or supervisor engaged in asbestos abatement activities.

(9) Suspensions and Revocations: The Department may suspend or revoke a person's certification if the person:

(a) Fails to comply with state or federal asbestos abatement regulations; or

(b) Performs asbestos removal without having physical possession of a current certification card; or

(c) Permits the use or duplication of one's certification card or certificate by another; or

(d) Obtains certification from a training provider that does not have the Department's or the EPA's approval to offer training for the particular discipline; or

(e) Fails to pay delinquent application fees, or civil penalties.

(10) A person whose certification has been revoked may not apply for recertification until 12 months after the revocation date.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468.020 & ORS 468A.025

Hist.: DEQ 10-1988, f. & cert. ef. 5-19-88 (and corrected 6-3-88); DEQ 9-1989(Temp), f. & cert. ef. 6-7-89; DEQ 4-1990, f. & cert. ef. 2-7-90 (and corrected 5-21-90); DEQ 18-1991, f. & cert. ef. 10-7-91; DEQ 15-1995, f. 6-16-95, cert. ef. 7-1-95; DEQ 26-1995, f. & cert. ef. 12-6-95; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-033-0050; DEQ 1-2002, f. & cert. ef. 2-4-02; DEQ 19-2002(Temp), f. & cert. ef. 12-23-02 thru 6-21-03; DEQ 9-2003, f. 5-21-03, cert. ef. 6-21-03

## 340-248-0140

### Training Provider Accreditation

(1) General:

(a) Any person may apply to become an Oregon accredited asbestos training provider under this Division.

(b) Only training providers accredited by the Department may offer training in Oregon to satisfy the certification requirements contained in this Division.

(c) The Department will accredit each individual training course.

(d) Course instructors must have academic credentials, demonstrated knowledge, prior training, or field experience in their respective training roles.

(e) Training course providers must permit representatives of the Department or its designee to attend, evaluate and monitor any training course without charge. The Department is not required to give advance notice of its inspection. The Department may suspend or withdraw approval of a training course based upon the grounds specified in OAR 340-248-0140(4).

(f) All initial worker and supervisor certification training, or refresher training involving persons wishing to be certified in Oregon using prior training from an EPA approved accreditation or certification course, must take place in Oregon.

(g) The Department may require accredited training providers to pay a fee to cover the reasonable travel expenses for one Department representative to audit for compliance with this Division any accredited refresher course that is not offered in the State of Oregon. This fee is an addition to the standard accreditation application fee.

(2) Application for Accreditation:

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(a) Applications for accreditation must be submitted to the Department in writing on forms provided by the Department and include the information required by this section:

(A) Name, address, telephone number of the firm, individual(s), or sponsors conducting the course, including the name under which the training provider intends to conduct the training;

(B) The type of course(s) for which approval is requested;

(C) A detailed course outline showing topics covered and the amount of time given to each topic, and includes working with asbestos-substitute materials, fitting and using respirators, use of glove-bag, donning protective clothing and constructing a decontamination unit, the number of students to be accommodated; the number of instructors; and the amount of time for hands-on skill training;

(D) A copy of the course manual, instructor notebooks and all printed material to be distributed in the course;

(E) A description of teaching methods to be employed, including description of audio-visual materials to be used. Upon the Department's request the applicant must provide copies of the materials. Any audio-visual materials provided to the Department will be returned to the applicant;

(F) A description of the hands-on facility to be utilized including protocol for instruction;

(G) A description of the equipment that will be used during classroom lectures and hands-on training;

(H) A list of all personnel involved in course preparation and presentation and a description of the background, special training and qualification of each, as well as the subject matter covered by each;

(I) A copy of each written examination to be given including the scoring methodology to be used in grading the examination; and a detailed statement about the development and validation of the examination;

(J) A list of the tuition or other fees required;

(K) A sample of the certificate of completion;

(L) A description of the procedures and policies for re-examination of students who do not successfully complete the training course examination;

(M) A list of any states or accrediting systems that approve the training course;

(N) A description of student evaluation methods (other than written examination to be used) associated with the hands-on skill training and course evaluation methods used by students;

(O) Any restriction on attendance such as class size, language, affiliation, or target audience of class;

(P) A description of the procedure for issuing replacement certification cards to workers who were issued a certification card by the training provider within the previous 12 months and whose cards have been lost or destroyed;

(Q) Any additional information or documentation the Department may require in order to evaluate the adequacy of the application; and

(R) The accreditation application fee.

(b) The training provider must retain a copy of the application materials listed above for at least three years. Such applications must be made available for inspection by the Department or its designees upon request.

(c) Application for initial training course accreditation and course materials must be submitted to the Department at least 45 days before the requested approval date.

(d) Upon approval of an initial or refresher asbestos training course, the Department will issue a certificate of accreditation. The certificate is valid for one year from the date of issuance.

(e) Application for renewal of accreditation must follow the procedures described for the initial accreditation. In addition, course instructors must demonstrate that they have maintained proficiency in their instructional specialty and adult training methods during the 12 months before renewal.

(3) Training Provider Administrative Tasks. Accredited training providers must perform the following as a condition of accreditation:

(a) Administer the training course only to those persons who have been approved by the Department, or have surrendered their expired certification cards to the trainer and others who are otherwise qualified according to these rules. Such persons may take the examination to complete the training course.

(b) Issue a numbered certificate and a photo certification card to each student who successfully passes the training course examination and meets all other requirements for certification. Each certificate and photo certification card must include:

(A) A unique certificate number;

(B) Name of certified person;

(C) Training course completed;

(D) Dates of the training course;

(E) Date of the examination;

(F) An expiration date of one year after the date upon which the person successfully completed the course and examination;

(G) The name, address, and telephone number of the training provider that issued the certificate; and

(H) A statement that the person receiving the certificate has completed the requisite training for asbestos certification as specified in OAR-340-248-0130.

(c) Provide the Department with advance payment for each certificate to be issued.

(d) Utilize and distribute as part of the course information or training aides furnished by the Department.

(e) Provide the Department with a monthly class schedule at least one week before the schedule begins. Notification must include time and location of each course. Training providers must obtain approval from the Department before any class taking place that is not on their monthly schedule, and if the trainer wishes to hold a class with less than one week advanced notice.

(f) Training Providers must comply with the following recordkeeping requirements:

(A) Maintain the training records required by this subsection for a minimum of three years and make them readily available for inspection by the Department or its designee.

(B) Retain copies of all instructional materials used during each classroom course.

(C) Retain copies of all instructor resumes and instructor approvals issued by either the Department or US EPA.

(D) Document the following information for each accredited course:

(i) The date the exam was given;

(ii) Training course for which the exam was given;

(iii) The name of the exam proctor;

(iv) The name and score of each person taking the exam and a single copy of the exam;

(v) Attendance record;

(vi) Course evaluation form; and

(vii) The names of the instructors for each part of the course offered.

(E) Maintain records of certificates issued to students, including the following information:

(i) Name, address, telephone number, social security number of person receiving the certificate;

(ii) Certificate number given to each person;

(iii) Photograph of each person;

(iv) Discipline for which the certificate was given; and

(v) Dates of training and certificate expiration.

(F) If a training provider is not accredited or ceases to give asbestos worker certification training, the training provider must notify and allow the Department to take possession of the records for lawful disposition.

(G) Submit certification class information to the Department within 30 days after the end of each training class or as directed by the Department.

(g) Notify the Department before issuing a replacement certification card.

(h) Have a current accreditation certificate at the training location.

(4) Denial, Suspension or Revocation of Accreditation. The Director may deny, suspend, or revoke an application or current accreditation for any of the reasons contained in this section. The Department will issue a notice of denial, suspension, or revocation specifying the reasons for the action and any conditions that must be met before the certificate will be issued or reinstated. Applicants may appeal the Director's determination by requesting a contested case hearing pursuant to the provisions of OAR chapter 340 division 11. The following are considered grounds for denial, revocation or suspension:

(a) Misrepresenting the extent of a training course's approval by a State or the EPA; or

(b) Failing to submit required information or notifications in a timely manner; or

(c) Failing to report to the Department any change in staff or program which substantially deviates from the information contained in the application; or

(d) Failing to maintain requisite records; or

(e) Falsifying accreditation records, instructor qualifications, or other accreditation information; or

(f) Failing to adhere to the training standards and requirements of this Division; or



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- (g) Failing to comply with the administrative tasks and any other requirement of this Division; or
- (h) Providing concurrent training for either initial or refresher courses for supervisors and asbestos workers; or
- (i) Failing to pay delinquent application fees, notification fees, or civil penalties; or
- (j) The Department may suspend or withdraw a training course's approval if an approved training course instructor or other person with supervisory authority over the delivery of training violates any other asbestos regulations administered by the Department or other agencies.

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468.020 & ORS 468A.025

Hist.: DEQ 10-1988, f. & cert. ef. 5-19-88 (and corrected 6-3-88); DEQ 4-1990, f. & cert. ef. 2-7-90 (and corrected 5-21-90); DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 15-1995, f. 6-16-95, cert. ef. 7-1-95; DEQ 26-1995, f. & cert. ef. 12-6-95; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-033-0060; DEQ 1-2002, f. & cert. ef. 2-4-02; DEQ 19-2002(Temp), f. & cert. ef. 12-23-02 thru 6-21-03; DEQ 9-2003, f. 5-21-03, cert. ef. 6-21-03

## 340-248-0150

### General Training Standards

(1) The training provider must limit each class to a maximum of 25 participants unless the Department grants an exception in writing. The student to instructor ratio for hands-on training must be equal to or less than ten to one (10:1). To apply for an exception allowing class size to exceed 25, the course sponsor must submit the following information in writing to the Department and receive approval before expanding the class size:

- (a) The new class size limit;
  - (b) The teaching methods and techniques for training the proposed larger class;
  - (c) The protocol for conducting the written examination; and
  - (d) Justification for a larger class size.
- (2) Course instructors must have academic credentials, demonstrated knowledge, prior training, or field experience in their respective training roles.

(3) The Department may require any accredited training provider to use examinations developed by the Department in lieu of the examinations offered by the training provider.

(4) Courses of instruction required for certification must be specific for each of the certificate categories and must be in accordance with the Department's requirements. The course instruction must be presented through a combination of lectures, demonstrations, and hands-on practice.

(5) Courses requiring hands-on training must provide participants actual experience performing tasks associated with asbestos abatement. Demonstrations not involving individual participation are unacceptable as a substitute for hands-on training.

(6) Any person seeking certification as a supervisor must successfully complete an accredited training course of at least five training days that satisfies the elements contained in the Department **Asbestos Training Guidance Document**. The training course must include lectures, demonstrations, at least 14 hours of hands-on training, individual respirator fit testing, course review, and a written examination consisting of multiple choice questions. To successfully complete the course, the candidate must attend the lectures and demonstrations, fully participate in the hands-on training, and achieve a passing score on the closed book examination.

(7) Any person seeking certification as a worker must successfully complete an accredited training course of at least four training days as outlined in the Department **Asbestos Training Guidance Document**. The training course must include lectures, demonstrations, at least 14 hours of actual hands-on training, individual respirator fit testing, course review, and an examination of multiple choice questions. To successfully complete the course, the candidate must attend the lectures and demonstrations, fully participate in the hands-on training, and achieve a passing score on the closed book examination.

(8) Refresher training consists of one training day for certified supervisors and workers. The refresher courses must include a review of key areas of initial training, updates, and an examination of multiple choice questions as outlined in the Department **Asbestos Training Guidance Document**. To successfully complete the course, the candidate must attend the course, fully participate in any hands-on training, and achieve a passing score on the closed book examination.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.745

Hist.: DEQ 10-1988, f. & cert. ef. 5-19-88 (and corrected 6-3-88); DEQ 4-1990, f. & cert. ef. 2-7-90 (and corrected 5-21-90); DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 15-1995, f. 6-16-95, cert. ef. 7-1-95; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-033-0070; DEQ 1-2002, f. & cert. ef. 2-4-02; DEQ 19-2002(Temp), f. & cert. ef. 12-23-02 thru 6-21-03; DEQ 9-2003, f. 5-21-03, cert. ef. 6-21-03

## 340-248-0160

### Prior Training

A candidate may rely on successful completion of a training course accredited by a governmental agency other than the Department to satisfy the training and examination requirements of OAR 340-248-0130 and 340-248-0140 if all of the following conditions are met:

(1) The Department determines that the course and examination requirements are equivalent to or exceed the requirements of OAR 340-248-0130 and 340-248-0140 and the Department's **Asbestos Training Guidance Document** for the level of certification sought or the Department has a reciprocity agreement with the other jurisdiction.

(2) To qualify for a refresher course and certification, prior training must have occurred during the two years preceding the date the applicant applies to the Department. Applicants must have a current certification from EPA or an equivalent certification from another state when applying under this section.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.745

Hist.: DEQ 10-1988, f. & cert. ef. 5-19-88 (and corrected 6-3-88); DEQ 4-1990, f. & cert. ef. 2-7-90 (and corrected 5-21-90); DEQ 15-1995, f. 6-16-95, cert. ef. 7-1-95; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-033-0080; DEQ 1-2002, f. & cert. ef. 2-4-02; DEQ 9-2003, f. 5-21-03, cert. ef. 6-21-03

## 340-248-0180

### Fees

(1) The Department may assess the following fees to provide revenues to operate the asbestos control program.

(a) Contractor Licenses: A non-refundable license application fee of \$1000 for a one-year Asbestos Abatement Contractor license;

(b) Worker and Supervisor Certifications: A non-refundable fee of \$65 for a one-year certification as an asbestos supervisor and \$45 for a one-year certification as an asbestos worker;

(c) Training Provider Accreditation: A non-refundable accreditation application fee of:

(A) \$320 for a one-year accreditation to provide a course for training asbestos supervisors;

(B) \$320 for a one-year accreditation to provide a course for training asbestos workers; and

(C) \$320 each for a one-year accreditation to provide a course for refresher training for any level of Oregon asbestos certification.

(d) Asbestos Abatement Project Notifications as required in OAR 340-248-0260.

(2) Requests for waiver of fees must be made in writing to the Director, on a case-by-case basis, and be based upon financial hardship. Applicants for waivers must describe the reason for the request and certify financial hardship. The Director may waive part or all of a fee.

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.745

Hist.: DEQ 10-1988, f. & cert. ef. 5-19-88 (and corrected 6-3-88); DEQ 4-1990, f. & cert. ef. 2-7-90 (and corrected 5-21-90); DEQ 18-1991, f. & cert. ef. 10-7-91; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 19-1994, f. 9-6-94, cert. ef. 10-1-94; DEQ 15-1995, f. 6-16-95, cert. ef. 7-1-95; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-033-0100; DEQ 1-2002, f. & cert. ef. 2-4-02; DEQ 19-2002(Temp), f. & cert. ef. 12-23-02 thru 6-21-03; DEQ 9-2003, f. 5-21-03, cert. ef. 6-21-03

## 340-248-0205

### General Provisions

(1) No person may openly accumulate friable asbestos material or asbestos-containing waste material.

(2) Contractors working on asbestos abatement projects at secure facilities must ensure that all security clearance requirements are completed before asbestos abatement projects at secure facilities start so Department inspectors may gain immediate access to perform required asbestos project inspections.

(3) Any asbestos-containing material that is subjected to sanding, grinding, sawing, or abrading must be handled and disposed of as friable asbestos material.

(4) The content of asbestos in any asbestos-containing material must be determined using the method specified in 40 CFR Part 763 Subpart E, Appendix E, Section 1, Polarized Light Microscopy or another method approved by the Department.

Stat. Auth.: ORS 468.020, ORS 468A.025, ORS 468A.135 & ORS 468A.745

Stats. Implemented: ORS 468A.700 - ORS 468A.760

Hist.: DEQ 1-2002, f. & cert. ef. 2-4-02; DEQ 19-2002(Temp), f. & cert. ef. 12-23-02 thru 6-21-03; DEQ 9-2003, f. 5-21-03, cert. ef. 6-21-03

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## 340-248-0210

### Asbestos Requirements for Mills, Roadways and Parking lots, and Manufacturing Operations

(1) Emission standard for asbestos mills. No person may cause or allow to be discharged into the atmosphere any visible emissions, including fugitive emissions, from any asbestos milling operation except as provided under OAR 340-248-0275(2) Air Cleaning. For purposes of this rule, the presence of uncombined water in the emission plume is not a violation of the visible emission requirement. Outside storage of asbestos materials is not part of an asbestos mill operation. The owner or operator of an asbestos mill must meet the following requirements:

(a) Monitor each potential source of asbestos emissions from any part of the mill facility, including air cleaning devices, process equipment, and buildings that house equipment for material processing and handling, at least once each day, during daylight hours, for visible emissions to the outside air during periods of operations. The monitoring must be by visual observation of at least 15 seconds duration per source of emissions.

(b) Inspect each air cleaning device at least once each week for proper operation and for changes that signal the potential for malfunction including, to the maximum extent possible without dismantling other than opening the device, the presence of tears, holes, and abrasions in filter bags and for dust deposits on the clean side of bags. For air cleaning devices that cannot be inspected on a weekly basis, submit to the Department, revise as necessary, and implement a written maintenance plan to include, at a minimum, a maintenance schedule and recordkeeping plan.

(c) Maintain records of the results of visible emissions monitoring and air cleaning device inspections using a format approved by the Department and including the following information:

- (A) Date and time of each inspection;
- (B) Presence or absence of visible emissions;
- (C) Condition of fabric filters, including presence of any tears, holes, and abrasions;
- (D) Presence of dust deposits on clean side of fabric filters;
- (E) Brief description of corrective actions taken, including date and time; and
- (F) Daily hours of operation for each air cleaning device.

(d) Furnish upon request, and make available at the affected facility during normal business hours for inspection by the Department, all records required under this section.

(e) Retain a copy of all monitoring and inspection records for at least two years.

(f) Submit a copy of visible emission monitoring records to the Department quarterly. The quarterly reports must be postmarked by the 30th day following the end of the calendar quarter.

(g) Asbestos-containing waste material produced by any asbestos milling operation must be disposed of according to OAR 340-248-0280 and -0290.

(2) Roadways and Parking Lots. No person may construct or maintain, or allow to be constructed or maintained a roadway with asbestos tailings or asbestos-containing waste material on that roadway, unless (for asbestos tailings):

(a) It is a temporary roadway on an area of asbestos ore deposits (asbestos mine); or

(b) It is a temporary roadway at an active asbestos mill site and is encapsulated with a resinous or bituminous binder. The encapsulated road surface must be maintained at least once per calendar year or within 12 months of road construction to prevent dust emissions; or

(c) It is encapsulated in asphalt concrete meeting the specifications contained in Section 401 of Standard Specifications for Construction of Roads and Bridges on Federal Highway Projects, FP-85, 1985, or their equivalent.

(3) Manufacturing. No person may cause or allow to be discharged into the atmosphere any visible emissions, except as provided in OAR 340-248-0275(2), from any building or structure in which manufacturing operations utilizing commercial asbestos are conducted, or directly from any such manufacturing operations if they are conducted outside buildings or structures, or from any other fugitive emissions. All asbestos-containing waste material produced by any manufacturing operation must be disposed of according to OAR 340-248-0280 and -0290. Visible emissions from boilers or other points not producing emissions directly from the manufacturing operation and having no possible asbestos material in the exhaust gases are not a violation of this rule. The presence of uncombined water in the exhaust plume is not a violation of the visible emission requirements:

(a) Applicability. Manufacturing operations subject to this rule are as follows:

- (A) The manufacture of cloth, cord, wicks, tubing, tape, twine, rope, thread, yarn, roving, lap, or other textile materials;
- (B) The manufacture of cement products;
- (C) The manufacture of fire proofing and insulating materials;
- (D) The manufacture of friction products;
- (E) The manufacture of paper, millboard, and felt;
- (F) The manufacture of floor tile;
- (G) The manufacture of paints, coatings, caulks, adhesives, or sealants;
- (H) The manufacture of plastics and rubber materials;
- (I) The manufacture of chlorine, using asbestos diaphragm technology;
- (J) The manufacture of shotgun shell wads;
- (K) The manufacture of asphalt concrete; and
- (L) Any other manufacturing operation that results or may result in the release of asbestos material to the ambient air.

(b) The owner or operator of the manufacturing operation must monitor each potential source of asbestos emissions from any part of the manufacturing facility, including air cleaning devices, process equipment, and buildings housing material processing and handling equipment. Monitoring must be done at least once each day during daylight hours for visible emissions to the outside air during periods of operation and be by visual observation of at least 15 seconds duration per source of emissions.

(c) The owner or operator of the manufacturing operation must inspect each air cleaning device at least once each week for proper operation and for changes that signal the potential for malfunctions, including, to the maximum extent possible without dismantling other than opening the device, the presence of tears, holes, and abrasions in filter bags and for dust deposits on the clean side of bags. For air cleaning devices that cannot be inspected on a weekly basis, submit to the Department, revise as necessary, and implement a written maintenance plan to include, at a minimum, a maintenance schedule and recordkeeping plan.

(d) The owner or operator of a manufacturing operation must maintain records of the results of visible emission monitoring and air cleaning device inspections using a format approved by the Department and including the following information:

- (A) Date and time of each inspection;
- (B) Presence or absence of visible emissions;
- (C) Condition of fabric filters, including presence of any tears, holes and abrasions;
- (D) Presence of dust deposits on clean side of fabric filters;
- (E) Brief description of corrective actions taken, including date and time; and
- (F) Daily hours of operation for each air cleaning device.

(e) The owner or operator of a manufacturing operation must furnish upon request, and make available at the affected facility during normal business hours for inspection by the Department, all records required under this section.

(f) The owner or operator of a manufacturing operation must retain a copy of all monitoring and inspection records for at least two years.

(g) The owner or operator of a manufacturing operation must submit quarterly a copy of the visible emission monitoring records to the Department if visible emissions occurred during the report period. Quarterly reports must be postmarked by the 30th day following the end of the calendar quarter.

(h) Asbestos-containing waste material produced by any asbestos manufacturing operation must be disposed of according to OAR 340-248-0280 or 340-248-0290.

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.745

Hist.: DEQ 96, f. 9-2-75, ef. 9-25-75; DEQ 22-1982, f. & ef. 10-21-82; DEQ 9-1988, f. 5-19-88 (and corrected 6-3-88), ef. 6-1-88; DEQ 4-1990, f. & cert. ef. 2-7-90 (and corrected 5-21-90 & 7-8-91); DEQ 8-1990, f. 3-13-90, cert. ef. 4-23-90; DEQ 18-1991, f. & cert. ef. 10-7-91; Section (4)(a) - (d) renumbered to 340-025-0466; Section (5)(a-d) renumbered to 340-025-0467; Sections (6) - (12) renumbered to 340-025-0468; Sections (13) - (15) renumbered to 340-025-0469; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 18-1993, f. & cert. ef. 11-4-93; Renumbered from 340-025-0465; DEQ 15-1995, f. & cert. ef. 6-16-95; DEQ 22-1995, f. & cert. ef. 10-6-95; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-032-5600; DEQ 1-2002, f. & cert. ef. 2-4-02; DEQ 19-2002(Temp), f. & cert. ef. 12-23-02 thru 6-21-03; DEQ 9-2003, f. 5-21-03, cert. ef. 6-21-03

## 340-248-0220

### Reporting Requirements for Asbestos Sources Using Air Cleaning Devices

(1) New sources covered by this rule must submit the requested information 90 days before initial startup. Existing sources covered by this rule must comply by March 1, 1996. Changes in the information provided to the Department must be submitted within 30 days after the change.

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(2) Sources covered by OAR 340-248-0210(1) Mills, 340-248-0210(3) Manufacturing, 340-248-0275(4) Fabricating, and 340-248-0230 Asbestos to Nonasbestos Conversion Operations, must provide the following information to the Department:

(a) A description of the emission control equipment used for each process; and

(b) If a fabric filter device is used to control emissions:

(A) The airflow permeability in  $m^3/min/m^2$  ( $ft^3/min/ft^2$ ) if the fabric filter device uses a woven fabric, and, if the fabric is synthetic, whether the fill yarn is spun or not spun; and

(B) If the fabric filter device uses a felted fabric, the density in  $g/m^2$  ( $oz/yd^2$ ), the minimum thickness in millimeters (inches), and the airflow permeability in  $m^3/min/m^2$  ( $ft^3/min/ft^2$ ).

(c) If a HEPA filter is used to control emissions, the certified efficiency.

(3) Sources covered by this rule and subject to OAR 340-248-0280(1) through 340-248-0280(9) or 340-248-0290 must submit the following information:

(a) A brief description of each process that generates asbestos-containing waste material;

(b) The average volume of asbestos-containing waste material disposed of, measured in  $m^3/day$  ( $yd^3/day$ );

(c) The emission control methods used in all stages of waste disposal; and

(d) The type of disposal site or incineration site used for ultimate disposal, the name of the site operator, and the name and location of the disposal site.

(4) Sources covered by this rule and subject to OAR 340-248-0280(10), 340-248-0280(11) or 340-248-0290 must provide the following information:

(a) A brief description of the site; and

(b) The method or methods used to comply with the standards, or alternative procedures used.

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.745

Hist.: DEQ 26-1995, f. & cert. ef. 12-6-95; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-032-5604; DEQ 1-2002, f. & cert. ef. 2-4-02; DEQ 19-2002(Temp), f. & cert. ef. 12-23-02 thru 6-21-03; DEQ 9-2003, f. 5-21-03, cert. ef. 6-21-03

## 340-248-0240

### Asbestos Inspection Requirements for Oregon Title V Operating Permit Program Sources

This rule applies to renovation and demolition activities at major sources subject to the Oregon Title V Operating Permit program as defined in OAR 340-200-0020.

(1) To determine applicability of the Department's asbestos regulations, the owner or operator of a renovation or demolition project must thoroughly survey, using an accredited inspector, the affected area for the presence of asbestos, including nonfriable asbestos. A copy of that survey report must remain on site during any demolition or renovation activity.

(2) For demolition projects where no asbestos-containing material is present, written notification must be submitted to the Department on an approved form. The notification must be submitted by the owner or operator or by the demolition contractor as follows:

(a) Submit the notification, as specified in section (3) of this rule, to the Department at least ten days before beginning any demolition project.

(b) Failure to notify the Department before any changes in the scheduled starting or completion dates or other substantial changes renders the notification of demolition void.

(3) The following information must be provided for each notification of demolition:

(a) Name, address, and telephone number of the person conducting the demolition.

(b) Contractor's Oregon demolition license number, if applicable.

(c) Certification that no asbestos was found during the predemolition asbestos survey and that if asbestos-containing material is uncovered during demolition the procedures found in OAR 340-248-0250 through 340-248-0290 will be followed.

(d) Description of building, structure, facility, installation, vehicle, or vessel to be demolished, including:

(A) The age and present and prior use of the facility; and

(B) Address or location of the scheduled demolition project.

(e) Major source owner or operator name, address and phone number.

(f) Scheduled starting and completion dates of demolition work.

(g) Any other information requested on the Department form.

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.745

Hist.: DEQ 20-1993(Temp), f. & cert. ef. 11-4-93; DEQ 13-1994, f. & cert. ef. 5-19-94; DEQ 24-1994, f. & cert. ef. 10-28-94; DEQ 22-1995, f. & cert. ef. 10-6-95; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-032-5610; DEQ 1-2002, f. & cert. ef. 2-4-02; DEQ 19-2002(Temp), f. & cert. ef. 12-23-02 thru 6-21-03; DEQ 9-2003, f. 5-21-03, cert. ef. 6-21-03

## 340-248-0250

### Asbestos Abatement Project Exemptions

(1) Any person who conducts or provides for the conduct of an asbestos abatement project must comply with the provisions of OAR 340 division 248 except as provided in this rule.

(2) The following asbestos abatement projects are exempt from certain provisions of this Division as listed in this Section:

(a) Asbestos abatement conducted inside a single private residence is exempt from OAR 340-248-0110 through 340-248-0180, 340-248-0210 through 340-248-0240 and 340-248-0260 through 340-248-0270 if the residence is occupied by the owner and the owner occupant is performing the asbestos abatement work.

(b) Asbestos abatement conducted outside of a single private residence by the owner is exempt from the notification requirements contained in OAR 340-248-0260, if the residence is not a rental property, a commercial business, or intended to be demolished.

(c) Residential buildings with four or fewer dwelling units are exempt from the provisions of OAR 340-248-0270(1).

(d) Projects involving the removal of mastics and roofing products that are fully encapsulated with a petroleum-based binder and are not hard, dry, or brittle are exempt from OAR 340-248-0110 through 340-248-0280 provided the materials are not made friable.

(e) Projects involving the removal of less than three square feet or three linear feet of asbestos-containing material are exempt from OAR 340-248-0110 through 340-248-0180 and the notification requirements in 340-248-0260 provided that the removal of asbestos is not the primary objective, is part of a needed repair operation, and the methods of removal are in compliance with OAR 437 division 3 "Construction" Subsection Z and 29 CFR 1926, 1101(g)(i) through (iii) (1998). Asbestos abatement projects may not be subdivided into smaller sized units in order to qualify for this exemption.

(f) Projects involving the removal of asbestos-containing materials that are sealed from the atmosphere by a rigid casing are exempt from OAR 340-248-0110 through 340-248-0280, provided the casing is not broken or otherwise altered such that asbestos fibers could be released during removal, handling, and transport to an authorized disposal site.

(3) Any person who removes non-friable asbestos-containing material not exempted under OAR 340-248-0250(2) must comply with the following:

(a) Submit asbestos removal notification and the appropriate fee to the Department Business Office on a Department form in accordance with OAR 340-248-0260.

(b) Remove nonfriable asbestos materials in a manner that ensures the material remains nonfriable.

(c) A nonfriable asbestos abatement project is exempt from the asbestos licensing and certification requirements under OAR 340-248-0100 through 340-248-0180. The exemption ends whenever the asbestos-containing material becomes friable.

(4) Emergency fire fighting is not subject to this division.

(5) Asbestos containing waste material that is handled and disposed of in compliance with a solid waste permit issued pursuant to ORS 459 is not subject to OAR 340-248-0205(1).

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.745

Hist.: DEQ 96, f. 9-2-75, ef. 9-25-75; DEQ 22-1982, f. & ef. 10-21-82; DEQ 9-1988, f. 5-19-88 (and corrected 6-3-88), ef. 6-1-88; DEQ 4-1990, f. & cert. ef. 2-7-90 (and corrected 5-21-90 & 7-8-91); DEQ 8-1990, f. 3-13-90, cert. ef. 4-23-90; DEQ 18-1991, f. & cert. ef. 10-7-91; Section 1(a) - (d) renumbered from 340-025-0465(4)(a) - (d); DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 18-1993, f. & cert. ef. 11-4-93; Renumbered from 340-025-0466; DEQ 19-1994, f. 9-6-94, cert. ef. 10-1-94; DEQ 15-1995, f. & cert. ef. 6-16-95; DEQ 22-1995, f. & cert. ef. 10-6-95; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-032-5620; DEQ 1-2002, f. & cert. ef. 2-4-02; DEQ 19-2002(Temp), f. & cert. ef. 12-23-02 thru 6-21-03; DEQ 9-2003, f. 5-21-03, cert. ef. 6-21-03

## 340-248-0260

### Asbestos Abatement Notification Requirements

Except as provided for in OAR 340-248-0250, written notification of any asbestos abatement project must be provided to the Department on a form prepared by and available from the Department, accompanied by the appropriate fee. The notification must be submitted by the facility owner or operator or by the contractor in accordance with one of the procedures specified in sections (1), (2), or (3) of this rule except as provided in sections (5), (6), or (7).

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(1) Submit the notifications as specified in section (4) of this rule and the project notification fee to the Department at least ten days before beginning any friable asbestos abatement project and at least five days before beginning any non-friable asbestos abatement project.

(a) The project notification fee is:

(A) \$35 for each project less than 40 linear feet or 80 square feet of asbestos-containing material, a residential building, or a non-friable asbestos abatement project.

(B) \$70 for each project greater than or equal to 40 linear feet or 80 square feet but less than 260 linear feet or 160 square feet of asbestos-containing material.

(C) \$275 for each project greater than or equal to 260 linear feet or 160 square feet, and less than 1300 linear feet or 800 square feet of asbestos-containing material.

(D) \$375 for each project greater than or equal to 1300 linear feet or 800 square feet, and less than 2600 linear feet or 1600 square feet of asbestos-containing material.

(E) \$650 for each project greater than or equal to 2600 linear feet or 1600 square feet, and less than 5000 linear feet or 3500 square feet of asbestos-containing material.

(F) \$750 for each project greater than or equal to 5000 linear feet or 3500 square feet, and less than 10,000 linear feet or 6000 square feet of asbestos-containing material.

(G) \$1,200 for each project greater than or equal to 10,000 linear feet or 6000 square feet, and less than 26,000 linear feet or 16,000 square feet of asbestos-containing material.

(H) \$2,000 for each project greater than or equal to 26,000 linear feet or 16,000 square feet, and less than 260,000 linear feet or 160,000 square feet of asbestos-containing material.

(I) \$2,500 for each project greater than 260,000 linear feet or 160,000 square feet of asbestos-containing material.

(J) \$260 for annual notifications for friable asbestos abatement projects involving removal of 40 linear feet or 80 square feet or less of asbestos-containing material.

(K) \$350 for annual notifications for non-friable asbestos abatement projects performed at schools, colleges, and facilities.

(b) Project notification fees must accompany the project notification form. Notification has not occurred until the completed notification form and appropriate notification fee is received by the Department.

(c) The Department may waive the ten-day notification requirement in section (1) of this rule in emergencies that directly affect human life, health, and property. This includes:

(A) Emergencies where there is an imminent threat of loss of life or severe injury;

(B) Emergencies where the public is exposed to air-borne asbestos fibers; or

(C) Emergencies where significant property damage will occur if repairs are not made immediately.

(d) The Department may waive the ten-day notification requirement in section (1) of this rule for asbestos abatement projects that were not planned, resulted from unexpected events, and will cause damage to equipment or impose unreasonable financial burden if not performed immediately. This includes the non-routine failure of equipment.

(e) In either subsection (c) or (d) of this section persons responsible for such asbestos abatement projects must notify the Department by telephone before commencing work or by 9:00 am of the next working day if the work was performed on a weekend or holiday. In any case notification as specified in section (4) of this rule and the appropriate fee must be submitted to the Department within three days of commencing emergency or unexpected event asbestos abatement projects.

(f) Failure to notify the Department before any changes in the scheduled starting or completion dates or other substantial changes will render the notification void.

(g) If an asbestos project equal to or greater than 2,600 linear feet or 1,600 square feet continues for more than one year from the original start date of the project a new notification and fee must be submitted annually thereafter until the project is complete.

(h) Residential buildings include: site built homes, modular homes constructed off site, mobile homes, condominiums, and duplexes or other multi unit residential buildings consisting of four units or less.

(2) Annual notification for small-scale friable asbestos abatement projects. This notification may be used only for projects where no more than 40 linear or 80 square feet of asbestos-containing material is removed. The small-scale friable asbestos projects may be conducted at multiple facilities by a single licensed asbestos contractor, or at a facility that has a centrally

controlled asbestos operation and maintenance program where the facility owner uses appropriately trained and certified personnel to remove asbestos.

(a) Establish eligibility for use of this notification procedure with the Department prior to use.

(b) Maintain on file with the Department a general asbestos abatement plan. The plan must contain the information specified in subsections (4)(a) through (4)(i) of this rule to the extent possible.

(c) Provide to the Department a summary report of all asbestos abatement projects conducted in the previous three months by the 15th day of the month following the end of the calendar quarter. The summary report must include the information specified in subsections (4)(i) through (4)(l) of this rule for each project, a description of any significant variations from the general asbestos abatement plan; and a description of asbestos abatement projects anticipated for the next quarter when possible.

(d) Provide to the Department, upon request, a list of asbestos abatement projects that are scheduled or are being conducted at the time of the request.

(e) Submit project notification and fee prior to use of this notification procedure.

(f) Failure to provide payment for use of this notification procedure will void the general asbestos abatement plan and each subsequent abatement project will be individually assessed a project notification fee.

(3) Annual non-friable asbestos abatement projects may only be performed at schools, colleges, and facilities where the removal work is done by certified asbestos abatement workers. Submit the notification as follows:

(a) Establish eligibility for use of this notification procedure with the Department prior to use.

(b) Maintain on file with the Department a general non-friable asbestos abatement plan. The plan must contain the information specified in subsections (4)(a) through (4)(i) of this rule to the extent possible.

(c) Provide to the Department a summary report of all non-friable asbestos abatement projects conducted in the previous three months by the 15th day of the month following the end of the calendar quarter. The summary report must include the information specified in subsections (4)(i) through (4)(l) of this rule for each project, a description of any significant variations from the general asbestos abatement plan, and a list describing the non-friable asbestos abatement projects anticipated for the next quarter, when possible.

(d) Submit project notification and fee prior to use of this notification procedure.

(e) Failure to provide payment for use of this notification procedure will void the general non-friable asbestos abatement plan and each subsequent non-friable abatement project will be individually assessed a project notification fee.

(4) The following information must be provided for each notification:

(a) Name and address of person conducting asbestos abatement.

(b) The Oregon asbestos abatement contractor's license number and certification number of the supervisor for the asbestos abatement project or, for nonfriable asbestos abatement projects, the name of the supervising person that meets Oregon OSHA's competent person qualifications as required in OAR 437, division 3 "Construction", Subdivision Z, 1926.1101(b) "Competent person", (2/10/1994).

(c) Method of asbestos abatement to be employed.

(d) Procedures to be employed to insure compliance with OAR 340-248-0270 through 340-248-0290.

(e) Names, addresses, and phone numbers of waste transporters.

(f) Name and address or location of the waste disposal site where the asbestos-containing waste material will be deposited.

(g) Description of asbestos disposal procedure.

(h) Description of building, structure, facility, installation, vehicle, or vessel to be demolished or renovated, including:

(A) The age, present and prior use of the facility;

(B) Address or location where the asbestos abatement project is to be accomplished, including building, floor, and room numbers.

(i) Facility owner or operator name, address and phone number.

(j) Scheduled starting and completion dates of asbestos abatement work.

(k) Description of the asbestos type, approximate asbestos content (percent), and location of the asbestos-containing material.

(l) Amount of asbestos to be abated: linear feet, square feet, thickness.

(m) For facilities described in OAR 340-248-0270(8) provide the name, title and authority of the State or local government official who ordered the demolition, date the order was issued, and the date demolition is to begin.

(n) Any other information requested on the Department form.

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(5) The project notification fees specified in this section will be increased by 50% when an asbestos abatement project is commenced without filing of a project notification or submittal of a notification fee or when notification of less than ten days is provided under subsections (1)(c) and (d) of this rule.

(6) The Director may waive part or all of a project notification fee. Requests for waiver of fees must be made in writing to the Director, on a case-by-case basis, and be based upon financial hardship. Applicants for waivers must describe the reason for the request and certify financial hardship.

(7) Pursuant to ORS 468A.135, a regional authority may adopt project notification fees for asbestos abatement projects in different amounts than are set forth in this rule. The fees will be based upon the costs of the regional authority in carrying out the delegated asbestos program. The regional authority may collect, retain, and expend such project notification fees for asbestos abatement projects within its jurisdiction.

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468.020 & ORS 468A.025

Hist.: DEQ 96, f. 9-2-75, ef. 9-25-75; DEQ 22-1982, f. & ef. 10-21-82; DEQ 9-1988, f. 5-19-88 (and corrected 6-3-88), ef. 6-1-88; DEQ 4-1990, f. & cert. ef. 2-7-90 (and corrected 5-21-90 & 7-8-91); DEQ 8-1990, f. 3-13-90, cert. ef. 4-23-90; DEQ 18-1991, f. & cert. ef. 10-7-91; Renumbered from 340-025-0465(5)(a) - (d); DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 18-1993, f. & cert. ef. 11-4-93; Renumbered from 340-025-0467; DEQ 19-1994, f. 9-6-94, cert. ef. 10-1-94; DEQ 15-1995, f. & cert. ef. 6-16-95; DEQ 26-1995, f. & cert. ef. 12-6-95; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-032-5630; DEQ 1-2002, f. & cert. ef. 2-4-02; DEQ 19-2002(Temp), f. & cert. ef. 12-23-02 thru 6-21-03; DEQ 9-2003, f. 5-21-03, cert. ef. 6-21-03

## 340-248-0270

### Asbestos Abatement Work Practices and Procedures

Except as provided for in OAR 340-248-0250, the following procedures must be employed by any person who conducts or provides for the conduct of an asbestos abatement project.

(1) Prior to performing a demolition or renovation activity on a facility the owner or operator of a facility must have an accredited inspector thoroughly survey the affected facility or part of the facility where the demolition or renovation operation will occur for the presence of asbestos-containing material, including nonfriable asbestos material.

(2) The owner or operator of a facility that requires a survey pursuant to OAR 340-248-0270(1) must keep a copy of the survey report onsite at the facility during any demolition or renovation activity.

(3) Remove all asbestos-containing materials before any activity begins that would break up, dislodge, or disturb the materials or preclude access to the materials for subsequent removal. Asbestos-containing materials need not be removed before demolition if:

(a) They are on a facility component that is encased in concrete or other similar material and are adequately wetted whenever exposed during demolition;

(b) They were not discovered before demolition and cannot be removed because of unsafe conditions as a result of the demolition.

(4) Upon discovery of asbestos-containing materials found during demolition the owner or operator performing the demolition must:

(a) Stop demolition work immediately;

(b) Notify the Department immediately of the occurrence;

(c) Keep the exposed asbestos-containing materials and any asbestos-contaminated waste material adequately wet at all times until a licensed asbestos abatement contractor begins removal activities;

(d) Have the licensed asbestos abatement contractor remove and dispose of the asbestos-containing waste material.

(5) Asbestos-containing materials must be adequately wetted when they are being removed. In renovation, maintenance, repair, and construction operations, where wetting would unavoidably damage equipment or is incompatible with specialized work practices, or presents a safety hazard, adequate wetting is not required if the owner or operator:

(a) Obtains prior written approval from the Department for dry removal of asbestos-containing material;

(b) Keeps a copy of the Department's written approval available for inspection at the work site;

(c) Adequately wraps or encloses any asbestos-containing material during handling to avoid releasing fibers;

(d) Uses a local exhaust ventilation and collection system designed and operated to capture the particulate asbestos material produced by the asbestos abatement project.

(6) When a facility component covered or coated with asbestos-containing materials is being taken out of the facility as units or in sections:

(a) Adequately wet any asbestos-containing materials exposed during cutting or disjoining operation;

(b) Carefully lower the units or sections to ground level, not dropping them or throwing them;

(c) Asbestos-containing materials do not need to be removed from large facility components such as reactor vessels, large tanks, steam generators, but excluding beams if the following requirements are met:

(A) The component is removed, transported, stored, disposed of, or reused without disturbing or damaging the regulated asbestos-containing material; and

(B) The component is encased in leak-tight wrapping; and

(C) The leak-tight wrapping is labeled according to OAR 340-248-0280(2)(b) during all loading and unloading operations and during storage.

(7) For friable asbestos materials being removed or stripped:

(a) Adequately wet the materials to ensure that they remain wet until they are disposed of in accordance with OAR 340-248-0280;

(b) Carefully lower the materials to the floor, not dropping or throwing them;

(c) With prior written approval from the Department, transport the materials to the ground via dust-tight chutes or containers if they have been removed or stripped above ground level and were not removed as units or in sections.

(d) Enclose the area where friable asbestos materials are to be removed with a negative pressure enclosure prior to abatement unless written approval for an alternative is granted by the Department.

(e) A minimum of one viewing window will be installed in all enclosures, including negative pressure enclosures, in accordance with the following:

(A) Each viewing window must be a minimum of two feet by two feet and be made of a material that will allow a clear view inside the enclosure.

(B) For large enclosures, including negative pressure enclosures, install one viewing window for every 5,000 square feet of area when spatially feasible.

(8) Any person that demolishes a facility under an order of the State of Oregon or a local governmental agency, issued because the facility is structurally unsound and in danger of imminent collapse must comply with the following:

(a) Obtain written approval from the Department for an ordered demolition procedure before that demolition takes place; and

(b) Send a copy of the order and an asbestos abatement project notification (as described in OAR 340-248-0260) to the Department before commencing demolition work; and

(c) Keep a copy of the order, Department's approval, and the notification form at the demolition site during all phases of demolition until final disposal of the project waste at an authorized landfill; and

(d) Keep asbestos-containing materials and asbestos contaminated debris adequately wet during demolition and comply with the disposal requirements set forth in OAR 340-248-0280 or 340-248-0290.

(9) Persons performing asbestos abatement outside full negative pressure containment must obtain written approval from the Department before using mechanical equipment to remove asbestos-containing material.

(10) Before a facility is demolished by intentional burning, all asbestos-containing material must be removed and disposed of in accordance with OAR 340-248-0010 through 340-248-0290.

(11) None of the operations in section (1) through (4) of this rule may cause any visible emissions. Any local exhaust ventilation and collection system or vacuuming equipment used during an asbestos abatement project, must be equipped with a HEPA filter or other filter of equal or greater collection efficiency.

(12) The Director may approve, on a case-by-case basis, requests to use an alternative to the requirements contained in this rule. The contractor or facility owner or operator must submit a written description of the proposed alternative and demonstrate to the Director's satisfaction that the proposed alternative provides public health protection equivalent to the protection that would be provided by the specific requirement, or that such level of protection cannot be obtained for the asbestos abatement project.

(13) Final Air Clearance Sampling Requirements apply to projects involving more than 160 square feet or 260 linear feet of asbestos-containing material. Before containment around such an area is removed, the person performing the abatement must have at least one air sample collected that documents that the air inside the containment has no more than 0.01 fibers per cubic centimeter of air. The air sample(s) collected may not exceed 0.01 fibers per cubic centimeter of air. The Department may grant a waiver to this section or exceptions to the following requirements upon receiving an advanced written request:

(a) The air clearance samples must be performed and analyzed by a party who is National Institute of Occupational Safety and Health (NIOSH)

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582 certified and financially independent from the person(s) conducting the asbestos abatement project;

(b) Before final air clearance sampling is performed the following must be completed:

(A) All visible asbestos-containing material and asbestos-containing waste material must be removed according to the requirements of this section;

(B) The air and surfaces within the containment must be sprayed with an encapsulant;

(C) Air sampling may commence when the encapsulant has settled sufficiently so that the filter of the sample is not clogged by airborne encapsulant;

(D) Air filtration units must remain on during the air-monitoring period.

(c) Air clearance sampling inside containment areas must be aggressive and comply with the following procedures:

(A) Immediately before starting the sampling pumps, direct exhaust from a minimum one horse power forced air blower against all walls, ceilings, floors, ledges, and other surfaces in the containment;

(B) Then place stationary fans in locations that will not interfere with air monitoring equipment and then directed toward the ceiling. Use one fan per 10,000 cubic feet of room space;

(C) Start sampling pumps and sample an adequate volume of air to detect concentrations of 0.01 fibers of asbestos per cubic centimeter according to NIOSH 7400 method;

(D) When sampling is completed turn off the pump and then the fan(s);

(E) As an alternative to meeting the requirements of paragraphs (A) through (D) of this subsection, air clearance sample analysis may be performed according to Transmission Electron Microscopy Analytical Methods prescribed by **40 CFR 763, Appendix A to Subpart E (Interim Transmission Electron Microscopy Analytical Methods)**.

(d) The person performing asbestos abatement projects requiring air clearance sampling must submit the clearance results to the Department on a Department form. The clearance results must be received by the Department within 30 days after the completion date of the asbestos abatement project.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.745

Hist.: DEQ 96, f. 9-2-75, ef. 9-25-75; DEQ 22-1982, f. & ef. 10-21-82; DEQ 9-1988, f. 5-19-88, ef. 6-1-88 (and corrected 6-3-88); DEQ 18-1991, f. & cert. ef. 10-7-91; Renumbered from 340-025-0465(6) - (12); DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 18-1993, f. & cert. ef. 11-4-93; Renumbered from 340-025-0468; DEQ 15-1995, f. & cert. ef. 6-16-95; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-032-5640; DEQ 1-2002, f. & cert. ef. 2-4-02; DEQ 19-2002(Temp), f. & cert. ef. 12-23-02 thru 6-21-03; DEQ 9-2003, f. 5-21-03, cert. ef. 6-21-03

## 340-248-0275

### Asbestos Standards for Air Cleaning, Spraying, Molded Insulation, and Fabricating

The following methods must be employed for air cleaning, fabricating, and sprayed-on and molded insulation applications:

(1) Options for Air Cleaning. Rather than meet the no visible emissions requirements of OAR 340-248-0210(1) and (3), owners and operators may elect to use methods specified in Section (2).

(2) Air Cleaning. All persons electing to use air cleaning methods rather than comply with the no visible emission requirements must meet one of the provisions of subsections (a) through (d) of this section and all of the requirements specified in subsections (e) and (f) of this section:

(a) Fabric filter collection devices must be used, except as provided in subsections (b) and (c) of this section. Such devices must be operated at a pressure drop of no more than four inches (10.16 cm) water gauge as measured across the filter fabric. The air flow permeability, as determined by ASTM Method D737-75, must not exceed 30 ft.<sup>3</sup>/min./ft.<sup>2</sup> (9 m<sup>3</sup>/min./m<sup>2</sup>) for woven fabrics or 35 ft.<sup>3</sup>/min./ft.<sup>2</sup> (11 m<sup>3</sup>/min./m<sup>2</sup>) for felted fabrics with the exception that airflow permeability of 40 ft.<sup>3</sup>/min./ft.<sup>2</sup> (12 m<sup>3</sup>/min./m<sup>2</sup>) for woven and 45 ft.<sup>3</sup>/min./ft.<sup>2</sup> (14 m<sup>3</sup>/min./m<sup>2</sup>) for felted fabrics must be allowed for filtering air emissions from asbestos ore dryers. Each square yard of felted fabric must weigh at least 14 ounces (475 grams per square meter) and be at least 1/16 inch (1.6 mm) thick throughout. Any synthetic fabrics used must not contain fill yarn other than that which is spun;

(b) If the use of fabric filters creates a fire or explosion hazard, the department may authorize the use of wet collectors designed to operate with a unit contacting energy of at least 40 inches (101.6 cm) of water gauge pressure;

(c) If High Efficiency Particulate Air (HEPA) filters are used to control emissions the certified efficiency must be at least 99.97 percent for particles 0.3 microns or greater;

(d) The Department may authorize the use of filtering equipment other than that described in subsection (a), (b), or (c) of this rule if such filtering equipment is satisfactorily demonstrated to provide filtering of asbestos material equivalent to that of the described equipment;

(e) All air cleaning devices authorized by this section must be properly installed, operated, and maintained. Devices to bypass the air cleaning equipment may be used only during upset and emergency conditions, and then only for such time as is necessary to shut down the operation generating the particulate asbestos material;

(f) Fabric filters collection devices installed after January 10, 1989 must be easily inspected for faulty bags.

(3) Spraying:

(a) No person may cause or allow to be discharged into the atmosphere any visible emissions from any spray-on application of materials containing more than one percent asbestos on a dry weight basis used to insulate or fireproof equipment or machinery, except as provided in section (2) of this rule. Spray-on materials used to insulate or fireproof buildings, structures, pipes, and conduits must contain less than one-percent asbestos on a dry weight basis. If any city or area of local jurisdiction has ordinances or regulations for spray application materials more stringent than those in this section, the provisions of such ordinances or regulations apply;

(b) Any person intending to spray asbestos materials to insulate or fireproof buildings, structures, pipes, conduits, equipment, or machinery must notify the Department in writing 20 days before the spraying operation begins. The notification must contain the following:

(A) Name and address of person intending to conduct the spraying operation;

(B) Address or location of the spraying operation;

(C) The name and address of the owner of the facility being sprayed.

(c) The spray-on application of materials in which the asbestos fibers are encapsulated with a bituminous or resinous binder during spraying and which are not friable after drying is exempted from the requirements of subsections (a) and (b) of this section.

(4) Fabricating. Except as provided in section (2) of this rule no person may cause or allow to be discharged into the atmosphere any visible emissions, including fugitive emissions, from fabricating operations including the following:

(a) Applicability. This section applies to fabricating operations using commercial asbestos:

(A) The fabrication of cement building products;

(B) The fabrication of friction products, except those operations that primarily install asbestos friction materials on motor vehicles;

(C) The fabrication of cement or silicate board for ventilation hoods; ovens; electrical panels; laboratory furniture; bulkheads, partitions and ceilings for marine construction; and flow control devices for the molten metal industry.

(b) The owner or operator of a fabricating operation must monitor each potential source of asbestos emissions from any part of the fabricating facility, including air cleaning devices and process equipment for material processing and handling, at least once each day, during daylight hours, for visible emissions to the outside air during periods of operation. The monitoring must be by visual observation of at least 15 seconds duration per source of emissions.

(c) The owner or operator of a fabricating operation must inspect each air cleaning device at least once each week for proper operation and for changes that signal the potential for malfunctions, including to the maximum extent possible without dismantling other than opening the device, the presence of tears, holes, and abrasions in filter bags and for dust deposits on the clean side of bags. For air cleaning devices that cannot be inspected on a weekly basis according to this subsection, submit to the department, revise as necessary, and implement a written maintenance plan to include, at a minimum, a maintenance schedule and recordkeeping plan.

(d) The owner or operator of a fabricating operation must maintain records of the results of visible emission monitoring and air cleaning device inspections using a format approved by the Department that includes the following information:

(A) Date and time of each inspection;

(B) Presence or absence of visible emissions;

(C) Condition of fabric filters, including presence of any tears, holes, and abrasions;

(D) Presence of dust deposits on clean side of fabric filters;

(E) Brief description of corrective actions taken, including date and time;

(F) Daily hours of operation for each air cleaning device.

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(e) The owner or operator of a fabricating operation must furnish upon request and make available at the affected facility during normal business hours for inspection by the Department, all records required under this section.

(f) The owner or operator of a fabricating operation must retain a copy of all monitoring and inspection records for at least two years.

(g) The owner or operator of a fabricating operation must submit a copy of the visible emission monitoring records to the Department quarterly. The quarterly report must be postmarked by the 30th day following the end of the calendar quarter.

(5) Insulation. No owner or operator of a facility may install or re-install on a facility component any insulating materials that contain commercial asbestos if the materials are either molded and friable or wet-applied and friable after drying. The provisions of this section do not apply to insulating materials regulated under section (3) of this rule.

Stat. Auth.: ORS 468.020, ORS 468A.025, ORS 468A.135 & ORS 468A.745  
Stats. Implemented: ORS 468A.700 - ORS 468A.760  
Hist.: DEQ 1-2002, f. & cert. ef. 2-4-02; DEQ 19-2002(Temp), f. & cert. ef. 12-23-02 thru 6-21-03; DEQ 9-2003, f. 5-21-03, cert. ef. 6-21-03

## 340-248-0280

### Friable Asbestos Disposal Requirements

Work practices and procedures for packaging, storing, transporting, and disposing of friable asbestos-containing waste material: The owner or operator of a facility or an activity covered under the provisions of OAR 340-248-0205 through 340-248-0280 or any other source of friable asbestos-containing waste material must meet the following standards:

(1) There may be no visible emissions to the atmosphere during the collection; processing; packaging; transporting; or deposition of any asbestos-containing waste material that is generated by a facility.

(2) All asbestos-containing waste materials must be adequately wetted to ensure that they remain wet until delivered to an authorized landfill, and:

(a) Processed into nonfriable pellets or other shapes; or

(b) Packaged in leak-tight containers such as two plastic bags each with a minimum thickness of 6 mil., or fiber or metal drum. Containers must be labeled as follows:

(A) The name of the asbestos waste generator and the location where the waste was generated; and

(B)(i) A warning label that states:

**DANGER**  
**Contains Asbestos Fibers**  
**Avoid Creating Dust**  
**Cancer and Lung Disease Hazard**  
**Avoid Breathing Airborne**  
**Asbestos Fibers**

(ii) Alternatively, warning labels specified by 29 CFR 1926.1101(k)(7) (1994) may be used.

(3) If the asbestos-containing materials are not removed from a facility before demolition as described in OAR 340-248-0270(5), adequately wet the asbestos-containing waste material at all times after demolition and keep it wet during handling and loading for transport to a disposal site. Such asbestos-containing waste materials must be transported in lined and covered containers for bulk disposal.

(4) The interim storage of asbestos-containing waste material must protect the waste from dispersal into the environment and provide physical security from tampering by unauthorized persons. The interim storage of asbestos-containing waste material is the sole responsibility of the contractor, owner or operator performing the asbestos abatement project.

(5) All asbestos-containing waste material must be deposited as soon as possible by the asbestos waste generator at:

(a) A waste disposal site authorized by the Department and operated in accordance with this rule; or

(b) A Department approved site that converts asbestos-containing waste material into nonasbestos (asbestos-free) material according to the provisions of OAR 340-248-0230 Asbestos to Nonasbestos Conversion Operations.

(6) Persons disposing of asbestos-containing waste material must notify the landfill operator of the type and volume of the waste material and obtain the approval of the landfill operator before bringing the waste to the disposal site.

(7) For each waste shipment the following information must be recorded on a Department form:

(a) Waste Generation:

(A) The name, address, and telephone number of the asbestos waste generator.

(B) The number and type of asbestos-containing waste material containers and volume in cubic yards.

(C) A certification that the contents of this consignment are carefully and accurately described by proper shipping name and are classified, packed, marked, and labeled, and are in all respects in proper condition for transport by highways according to applicable regulations.

(b) Waste Transportation:

(A) The date transported.

(B) The name, address, and telephone number of the transporter(s).

(c) Waste Disposal:

(A) The name and telephone number of the disposal site operator.

(B) The name and address or location of the waste disposal site.

(C) The quantity of the asbestos-containing waste material in cubic yards.

(D) The presence of improperly enclosed or uncovered waste, or any asbestos-containing waste material not sealed in leak-tight containers.

(E) The date asbestos-containing waste is received at disposal site.

(8) For the transportation of asbestos-containing waste material:

(a) The asbestos waste generator must:

(A) Maintain the asbestos waste shipment records for at least two years and ensure that all the information requested on the Department form regarding waste generation and transportation has been supplied.

(B) Limit access into loading and unloading area to authorized personnel.

(C)(i) Mark vehicles, while loading and unloading asbestos-containing waste, with signs (20 in. x 14 in.) that state:

**DANGER**  
**ASBESTOS DUST HAZARD**  
**CANCER AND LUNG DISEASE HAZARD**  
**Authorized Personnel Only**

(ii) Alternatively, language that conforms to the requirements of 29 CFR 1926.1101(k)(6) (1994) may be used.

(b) The waste transporter must:

(A) Immediately notify the landfill operator upon arrival of the waste at the disposal site.

(B) Provide a copy of the asbestos waste shipment record to the disposal site owners or operators when the asbestos-containing waste material is delivered to the disposal site.

(9) After initial transport of asbestos-containing waste material the asbestos waste generator must:

(a) Receive a copy of the completed asbestos waste shipment record within 35 days, or determine the status of the waste shipment. A completed asbestos waste shipment record must include the signature of the owner or operator of the designated disposal site.

(b) Receive a copy of the completed asbestos waste shipment record within 45 days, or submit to the Department a written report including:

(A) A copy of the asbestos waste shipment record when a confirmation of delivery was not received; and

(B) A cover letter signed by the asbestos waste generator explaining the efforts taken to locate the asbestos waste shipment and the results of those efforts.

(c) Keep asbestos waste shipment records, including a copy signed by the owner or operator of the designated waste disposal site, for at least three years. Make all disposal records available upon request to the Department. For an asbestos abatement project conducted by a contractor licensed under OAR 340-248-0120, the records must be retained by the licensed contractor. For any other asbestos abatement project, the records must be retained by the facility owner.

(10) Each owner or operator of an active asbestos-containing waste disposal site must meet the following standards:

(a) For all asbestos-containing waste material received:

(A) Ensure that off-loading of asbestos-containing waste material is done under the direction and supervision of the landfill operator or their authorized agent, and that it is accomplished in a manner that prevents the leak-tight transfer containers from rupturing and prevents the release of visible emissions to the air.

(B) Ensure that off-loading of asbestos-containing waste material occurs at the immediate location where the waste will be buried and restrict public access to off-loading area until waste is covered in accordance with paragraph (H), of this subsection.

(C) Maintain asbestos waste shipment records for at least two years and ensure that all information requested on the Department form regarding waste disposal has been supplied.

(D) Immediately notify the Department by telephone, followed by a written report to the Department the following working day, of the presence of improperly enclosed or uncovered waste. Submit a copy of the asbestos waste shipment record along with the report.

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(E) As soon as possible, and no more than 30 days after receiving the waste, send a copy of the signed asbestos waste shipment record to the asbestos waste generator.

(F) Upon discovering a discrepancy between the quantity of waste designated on the asbestos waste shipment records and the quantity actually received, attempt to reconcile the discrepancy with the asbestos waste generator. Report in writing to the Department any discrepancy between the quantity of waste designated on the asbestos waste shipment records and the quantity actually received that cannot be reconciled between the asbestos waste generator and the waste disposal site within 15 days after receiving the waste. Describe the discrepancy and attempts to reconcile it, and submit a copy of the asbestos waste shipment record along with the report. Include the Department assigned asbestos project number in the discrepancy report.

(G) Select the waste burial site in an area of minimal work activity that is not subject to future excavation.

(H) Cover all asbestos-containing waste material deposited at the disposal site with at least 12 inches of soil or six inches of soil plus 12 inches of other waste before running compacting equipment over it but no later than the end of the operating day.

(b) Maintain, until site closure, record of the location, depth and area, and quantity in cubic yards of asbestos-containing waste material within the disposal site on a map or diagram of the disposal area.

(c) Excavation or disturbance of asbestos-containing waste material that has been deposited at a waste disposal site and is covered is considered an asbestos abatement project. The notification for any such project must be submitted as specified in OAR 340-248-0260 except as follows:

(A) Submit the project notification and project notification fee to the Department at least 45 days before beginning any excavation or disturbance of asbestos-containing waste disposal site.

(B) State the reason for disturbing the waste.

(C) Explain the procedures for controlling emissions during the excavation, storage, transport and ultimate disposal of the excavated asbestos-containing waste material. The Department may require changes in the proposed emission control procedures.

(D) State the location of any temporary storage site and the final disposal site.

(d) Upon closure of an active asbestos-containing waste disposal site, each owner or operator must:

(A) Comply with all the provisions for inactive asbestos-containing waste disposal sites.

(B) Submit to the Department a copy of records of asbestos waste disposal locations and quantities.

(C) Make available during normal business hours and furnish upon request all records required under this section for inspection by the Department.

(11) The owner or operator of an inactive asbestos-containing waste disposal site must meet the following standards:

(a) Maintain a cover of at least two feet of soil or one foot of soil plus one foot of other waste.

(b) Grow and maintain a cover of vegetation on the area to prevent erosion of the non asbestos-containing cover of soil or other waste materials. In desert areas where vegetation would be difficult to maintain, a layer of at least three inches of well-graded, nonasbestos crushed rock may be placed and maintained on top of the final cover instead of vegetation.

(c) For inactive asbestos waste disposal sites for asbestos-containing tailings, a resinous or petroleum-based dust suppression agent that effectively binds dust to control surface air emissions may be used and maintained to achieve the requirements of subsections (a) and (b) of this section, provided prior written approval of the Department is obtained.

(d) Excavation or disturbance at any inactive asbestos-containing waste disposal site is an asbestos abatement project. The notification for any such project must be submitted as specified in OAR 340-248-0260, except as follows:

(A) Submit the project notification and project notification fee to the Department at least 45 days before beginning any excavation or disturbance of asbestos-containing waste disposal site.

(B) State the reason for disturbing the waste.

(C) Explain the procedures to be used to control emissions during the excavation, storage, transport and ultimate disposal of the excavated asbestos-containing waste material. The Department may require changes in the proposed emission control procedures to be used.

(D) State the location of any temporary storage site and the final disposal site.

(e) Within 60 days of a site's becoming inactive, request in writing that the Commission issue an environmental hazard notice for the site. This envi-

ronmental hazard notice will notify in perpetuity any potential purchaser of the property that:

(A) The land has been used for the disposal of asbestos-containing waste material;

(B) The survey plot and record of the location and quantity of asbestos-containing waste disposed of within the disposal site required for active asbestos disposal sites have been filed with the Department; and

(C) The site is subject to the provisions of OAR 340-248-0205 through 340-248-0290.

(12) Rather than meet the requirements of this rule, an owner or operator may use alternative packaging, storage, transport, or disposal methods after receiving written approval by the Department.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468.020 & ORS 468A.025

Hist.: DEQ 96, f. 9-2-75, ef. 9-25-75; DEQ 22-1982, f. & ef. 10-21-82; DEQ 9-1988, f. 5-19-88 (and corrected 6-3-88), ef. 6-1-88; DEQ 4-1990, f. & cert. ef. 2-7-90 (and corrected 5-21-90 & 7-8-91); DEQ 8-1990, f. 3-13-90, cert. ef. 4-23-90; DEQ 18-1991, f. & cert. ef. 10-7-91; Renumbered from 340-025-0465(13) - (15); DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 18-1993, f. & cert. ef. 11-4-93; Renumbered from 340-025-0469; DEQ 15-1995, f. & cert. ef. 6-16-95; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-032-5650; DEQ 1-2002, f. & cert. ef. 2-4-02; DEQ 19-2002(Temp), f. & cert. ef. 12-23-02 thru 6-21-03; DEQ 9-2003, f. 5-21-03, cert. ef. 6-21-03

## 340-248-0290

### Nonfriable Asbestos Disposal Requirements

Work practices and procedures for packaging, storing, transporting, and disposal of nonfriable asbestos-containing waste material: The owner or operator of a facility or an activity covered under the provisions of OAR 340-248-0205 through 340-248-0290 and any other source of nonfriable asbestos-containing waste material must meet the following standard:

(1) Any waste that contains nonfriable asbestos material must be handled and disposed of using methods that will prevent the release of airborne asbestos-containing material.

(2) Rather than meet the requirements of this rule, an owner or operator may use alternative packaging, storage, transport, or disposal methods after receiving written approval from the Department.

Stat. Auth.: ORS 468.020, ORS 468A.025, ORS 468A.135 & ORS 468A.745

Stats. Implemented: ORS 468A.700 - ORS 468A.760

Hist.: DEQ 1-2002, f. & cert. ef. 2-4-02; DEQ 19-2002(Temp), f. & cert. ef. 12-23-02 thru 6-21-03; DEQ 9-2003, f. 5-21-03, cert. ef. 6-21-03

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**Rules Repealed:** 340-015-0005, 340-015-0010, 340-015-0015, 340-015-0020, 340-015-0025, 340-015-0030, 340-015-0035, 340-053-0005, 340-053-0010, 340-053-0015, 340-053-0020, 340-053-0025, 340-053-0027, 340-053-0030, 340-053-0035, 340-054-0080

**Subject: Amended Clean Water Revolving Loan Fund (CWSRF) rules, OAR Chapter 340, Division 054,** governing the state revolving loan program, which provides loans to public agencies for water pollution control projects. The amendments:

- Make new projects eligible for CWSRF finding, including community loans for on-site system improvements, emergency and urgent repair of wastewater treatment facilities, and security improvements for those facilities;

- Revise the criteria used in ranking proposed projects for loans to better address both point and nonpoint source projects;

- Increase flexibility in the terms and interest rates for loans;• Simplify and increase the flexibility of the application process;

- Reduce the administrative fee for loans; and

- Reduce requirements for planning loans.

**Repealed Surety Bond Requirements, OAR Chapter 340, Division 015,** which required surety bonds or equivalent financial secu-



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rity during the construction, operation, and maintenance of certain wastewater treatment facilities.

**Repealed Construction Grants program, OAR Chapter 340, Division 053**, which established procedures for developing a priority list of projects eligible for funding under the state's former Construction Grants Program.

**Amended State Agency Coordination Program, OAR Chapter 340, Division 018**, to delete references to construction grants provisions that were repealed and to amend the definition of "Total Maximum Daily Load (TMDL)" to conform to the Department's new TMDL rules.

**Rules Coordinator:** Rachel Sakata—(503) 229-5659

## 340-018-0020

### Definitions

As used in these rules:

(1) "Acknowledged Comprehensive Plan" means a city or county comprehensive land use plan that has been approved by the Land Conservation and Development Commission.

(2) "Affected Local Government" means a city or county government that has land use planning jurisdiction.

(3) "Commission" means the Environmental Quality Commission.

(4) "Department" means the Department of Environmental Quality.

(5) "Director" means the Director of the Department of Environmental Quality.

(6) "DLCDD" means the Department of Land Conservation and Development.

(7) "Land Use Action" means a Department rule, program or activity which has been determined to affect land use as defined by OAR 660-030-0005.

(8) "Land Use Dispute" means a difference of opinion between the Department and local government as to the compatibility of a Department land use action with the provisions of an acknowledged comprehensive plan.

(9) "Local Government" means an incorporated city or county.

(10) "LUBA" means the Land Use Board of Appeals.

(11) "LUCS" means a land use compatibility statement.

(12) "NPDES" means a wastewater discharge permit issued in accordance with requirements and procedures of the National Pollutant Discharge Elimination System.

(13) "SAC Program Document" means the Department's State Agency Coordination Program document developed pursuant to ORS 197.180.

(14) "Statewide Goals" means Oregon's Statewide Planning Goals adopted by the Land Conservation and Development Commission pursuant to ORS 197.222.

(15) "TMDL" means Total Maximum Daily Load, as defined in OAR 340-042-0030(15).

(16) "WPCF" means a state Water Pollution Control Facilities Permit.

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 197.180

Hist.: DEQ 36-1990, f. & cert. ef. 8-28-90; DEQ 10-2003, f. & cert. ef. 5-27-03

## 340-018-0030

### Applicability

The provisions of this rule, OAR 340-018-0000 through 340-018-0200 apply to Department programs and actions subsequently determined to have significant effects on land use pursuant to ORS 197.180 and OAR 660-030-0075. Department land use actions are identified below:

(1) Air Quality Division:

(a) Approval of Noise Impact Boundaries for Motor Racing Facilities;

(b) Approval of Airport Noise Abatement Program and Noise Impact Boundaries;

(c) Approval of Notice of Construction;

(d) Issuance of Air Contaminant Discharge Permit;

(e) Issuance of Indirect Source Construction Permit;

(f) Approval of Parking and Traffic Circulation Plan.

(g) Employee Commute Options

(2) Environmental Cleanup Division: Issuance of Environmental Hazard Notice.

(3) Hazardous and Solid Waste Division:

(a) Issuance of Solid Waste Disposal Permit;

(b) Issuance of Waste Tire Storage Permit; and

(c) Issuance of Hazardous Waste and PCB Storage, Treatment and Disposal Permit.

(4) Management Services Division: Approval of Pollution Control Bond Fund Application.

(5) Water Quality Division:

(a) Approval of Wastewater System and Facility Plans;

(b) Approval of State Revolving Loan Application;

(c) Issuance of On-site Sewer Permit;

(d) Issuance of NPDES and WPCF Permits;

(e) Development of Water Quality Wetland Protection Criteria;

(f) Requirement of an Implementation Plan to Meet Restrictions for Waste Load Allocations on Water Quality Limited Waterways (TMDLS);

(g) Certification of Water Quality Standards for Federal Permits, Licenses;

(h) Development of Action Plan for Declared Ground Water Management Area;

(i) Development of Nonpoint Source Management Plan;

(j) Development of Estuary Plans;

(k) Development of Oil Spill Regulations.

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 197.180

Hist.: DEQ 36-1990, f. & cert. ef. 8-28-90; DEQ 14-1996, f. & cert. ef. 8-14-96; DEQ 5-1997(Temp), f. & cert. ef. 3-3-97; DEQ 10-2003, f. & cert. ef. 5-27-03

## 340-054-0005

### Purpose

(1) These rules establish procedures the Department will follow to make funding through the Water Pollution Control Revolving Fund, called the Clean Water State Revolving Fund (CWSRF), available to public agencies to plan, design and construct sewage facilities, nonpoint source control and estuary management projects.

(2) These rules are intended to do the following:

(a) Provide loans to projects that enhance or protect water quality;

(b) Ensure that loans are made to public agencies capable of repaying such loans;

(c) Establish an interest rate below market rate so that the loans are affordable;

(d) Provide loans to communities of all sizes needing to finance projects; and

(e) Specify the types of projects for which loans may be made.

Stat. Auth.: ORS 468

Stats. Implemented: ORS 468.425

Hist.: DEQ 2-1989, f. & cert. ef. 3-10-89; DEQ 3-1995, f. & cert. ef. 1-23-95; DEQ 10-2003, f. & cert. ef. 5-27-03

## 340-054-0010

### Definitions

The following definitions apply to this division unless a different meaning is required by context:

(1) "Allocation Cycle" means the funding cycle as determined by the Department.

(2) "Applicant" means an eligible Clean Water State Revolving Fund (CWSRF) applicant.

(3) "Available CWSRF" means the amount in the Clean Water State Revolving Fund minus monies for the Clean Water State Revolving Fund administration and prior obligations.

(4) "Borrower" means a CWSRF loan recipient.

(5) "Change Order" means a written order and supporting information from the Borrower to the Borrower's contractor authorizing an addition, deletion or revision in the work within the scope of the contract documents, including any required adjustment in contract price or time.

(6) "Checklist of Exhibits and Requirements" means the most recent version of the list of all the exhibits and required documents that must be submitted in conjunction with the CWSRF application and then be reviewed and approved by the Department before a loan agreement is executed.

(7) "Clean Water Act" means the federal Clean Water Act, 33 USC §1251 - §1387.

(8) "Clean Water State Revolving Fund" or CWSRF means the Water Pollution Control Revolving Fund established under ORS 468.427.

(9) "Collector Sewer" means that portion of the public sewerage system that is installed primarily to receive wastewater directly from individual residences and other individual public or private structures.

(10) "Combined Sewer" means a sewer that is designed as both a sanitary and a storm water sewer.

(11) "Comprehensive Conservation Management Plan" (CCMP) means a plan developed for a designated National Estuary, pursuant to 33 USC § 1330 of the Clean Water Act.

(12) "Construction" means the erection, installation, expansion or improvement of sewage facilities, nonpoint source control and estuary management projects.

(13) "Default" means nonpayment by the Borrower of the principal or interest amount of a CWSRF loan on the payment's due date, failure to com-

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ply with the terms or conditions of the CWSRF loan, a formal bankruptcy filing or other written admission of inability to pay CWSRF obligations.

(14) "Department" means the Oregon Department of Environmental Quality.

(15) "Director" means the Director of the Oregon Department of Environmental Quality.

(16) "Documented Health Hazard" means an area-wide failure of on-site sewage disposal systems or other sewage disposal practices resulting in discharge of inadequately treated wastes to the environment as demonstrated by sanitary surveys or other data collection methods and confirmed by the Oregon Office of Public Health Services, within the Department of Human Services pursuant to ORS 222.850 to 222.915, or 431.705 to 431.760, by the Department pursuant to OAR 340-071-0130(3), by either agency pursuant to OAR 660-011-0060, or by county health officials pursuant to applicable local ordinances.

(17) "Documented Water Quality Problem" means a violation of statutes, rules or permit conditions or an exceedance of water quality standards documented by data and confirmed by the Department.

(18) "Emergency Conditions" means conditions caused by fire, flood, storm, earthquake, vandalism, sabotage or other events that could not have been reasonably foreseen or prevented that require immediate repairs to a sewage facility to prevent significant environmental degradation or a threat to public health.

(19) "EPA" means the U.S. Environmental Protection Agency.

(20) "Estuary Management" means the implementation of actions identified in a Comprehensive Conservation Management Plan.

(21) "Federal Capitalization Grant" means federal dollars allocated to the State of Oregon for a federal fiscal year from funds appropriated by U. S. Congress for the State Revolving Fund under Title VI of the Clean Water Act.

(22) "Ground Water Management Area" means an area in which contaminants in the groundwater have exceeded the levels established under ORS 468B.165 and the affected area is subject to a declaration under ORS 468B.180.

(23) "Implementing Partner" means any individual or organization that has entered into a contract with a public agency to implement a water resource activity within the sponsorship option of a construction loan.

(24) "Infiltration" means the intrusion of groundwater into a collector sewer or interceptor sewer.

(25) "Inflow" means a direct flow of water other than wastewater or groundwater into a collector sewer or interceptor sewer.

(26) "Initiation of Operation" means the date that a facility funded by a CWSRF loan is operationally complete and ready for the purposes for which it was planned, designed and built.

(27) "Intended Use Plan (IUP)" means a document submitted at least annually by the Department to the EPA identifying proposed uses of the CWSRF.

(28) "Interceptor Sewer" means a sewer primarily intended to receive wastewater from collector sewers or other interceptor sewers.

(29) "Local Community Loan" means a loan to a public agency that will then be used by the public agency to establish a local financial program to address estuary management efforts or nonpoint source control activities.

(30) "Maintenance" means regularly scheduled work that is performed to repair, replace or upgrade equipment in a facility, or to prevent or correct a failure or a malfunction of a sewage facility, nonpoint source control or estuary management project.

(31) "Major Sewer Replacement and Rehabilitation" means the repair or replacement of interceptor or collector sewers.

(32) "Nonpoint Source Control" means the implementation of a nonpoint source pollution management activity under section 319 of the Clean Water Act and 40 CFR § 35.3115(b) and included in the most recent edition of the Oregon Nonpoint Source Control Program Plan.

(33) "Nonpoint Source" means diffuse or unconfined sources of pollution where wastes can either enter into or be conveyed by the movement of water to public waters, including individual on-site sewage disposal systems and any other source of pollution of waters of the state not subject to regulation under ORS 468B.050.

(34) "On-site system" has the meaning given in OAR 340-071-0100(90).

(35) "Operation" means the control of sewage collection system pumping stations and treatment unit processes within a sewage facility. Operation also means the control of equipment and processes of nonpoint source control and estuary management projects. Furthermore, operation means the financial and personnel management, records, laboratory control,

process control, safety, and emergency planning for these same facilities and projects.

(36) "Operation and Maintenance Manual" means a procedural and guidance document for operating and maintaining a sewage collection system or sewage treatment facility as required by OAR chapter 340, division 052.

(37) "Persistent Bioaccumulative Toxics" means mercury, PCBs, dioxins, furans, benzo(a) pyrene, aldrin, dieldrin, chlordane, DDT, DDE, DDD, hexachlorobenzene, mirex or toxaphene.

(38) "Planning" means monitoring, data collection and measurement, evaluation, analysis, security evaluations, report preparation, environmental review, public education and review process and any other activity leading to a written plan for the provision of sewage facilities, nonpoint source control and estuary management projects intended to remediate an existing or anticipated water pollution problem, but excluding the preparation of detailed bid documents for construction.

(39) "Point Source" means any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation or vessel or other floating craft, from which pollutants are or may be discharged.

(40) "Proactive Proposals" means a proposed project that does not address ongoing violations of effluent limits in permits, water quality standards in OAR chapter 340, division 41, or unpermitted discharges.

(41) "Project" means the activities or tasks identified in the application or the loan agreement for which the Borrower may expend or obligate funds.

(42) "Replacement" means expenditures for obtaining and installing equipment, accessories or appurtenances necessary for the ongoing operation during the design or useful life, if longer, of a sewage facility, nonpoint source control or estuary management project to maintain the facility or project for the purpose for which it was designed and constructed. Replacement does not mean the replacement of the facility or project at the end of its useful life.

(43) "Reserve Capacity" means that portion of the sewage collection system or sewage treatment facility that was incorporated into the design to handle future increases in sewage flows and loading. Reserve capacity must have been identified at the time of design and must be based on demand generated from future development that is consistent with acknowledged local comprehensive plans and land use regulations.

(44) "Security Measure" means the evaluation, planning, design, purchase and installation of equipment and facilities intended to prevent unauthorized physical and electronic intrusion into, or willful damage of, sewage facilities, nonpoint source control or estuary management projects.

(45) "Sewage Collection System" means publicly owned pipelines, conduits, pumping stations, force mains and any other related structures, devices or equipment used to convey wastewater to a sewage treatment facility.

(46) "Sewage Facility" means a sewage collection system or sewage treatment facility.

(47) "Sewage Treatment Facility" means any publicly owned device, structure or equipment used to treat, neutralize, stabilize, reuse or dispose of wastewater and treatment residuals.

(48) "Small Community" means a public agency serving a population of 5,000 or less.

(49) "Special Status Water Body" means the following water bodies of the state: federally designated Wild and Scenic Rivers, State Scenic Waterways, federally designated Sole Source Aquifers, the federally designated Lower Columbia River and Tillamook Bay estuaries, the Clackamas, North Santiam and McKenzie River sub basins of the Three Basin Rule (OAR 340-041-0470) and locally designated "significant" water bodies or wetlands as related to the Department of Land Conservation and Development Goal 5.

(50) "Sponsoring Community" means a public agency with the authority to finance and implement both a sewage facility project and water resource activity through the sponsorship option of a construction loan.

(51) "Sponsorship Option" means the Department's financing mechanism that allows a public agency's sewage collection system or sewage treatment facility project and a qualifying water resource activity to be financed through a single CWSRF loan. The Department, as an incentive to the public agency (referred to in OAR 340-054-0024(3) as a sponsoring community), discounts the interest rate on the resulting loan. The intention of this type of financing is to provide restoration or protection to a local water resource in conjunction with a traditional project without significantly increasing utility rates.

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(52) "Storm water" means water derived from rainfall, snowmelt or other storm events that flows across the ground's surface rather than infiltrating the ground.

(53) "Surface Water" means streams, lakes, reservoirs, estuaries and the topographical features that define their volume.

(54) "Urgent Repair" means the immediate stabilization of equipment and facilities pertaining to a sewage collection system or sewage treatment facility that have failed unexpectedly or are in imminent threat of failure as the result of age or wear, and the failure poses an immediate and significant threat to environmental quality or public health.

(55) "Value Engineering" means a specialized cost control technique specifically applicable to the design of sewage treatment facilities that identifies cost savings that can be made without sacrificing the reliability or efficiency of the project.

(56) "Wastewater" means waters carrying wastes from individual public or private structures combined with infiltration and inflow.

(57) "Wastewater Reuse" means a project that reuses treated effluent from a sewage treatment system, commercial, or industrial process and, as a result of treatment, is suitable for a direct beneficial purpose or a controlled use that could not otherwise occur.

(58) "Water Pollution Control Revolving Fund" means the "CWSRF".

(59) "Water Quality Standards" means the standards established in OAR chapter 340, division 41 for surface waters and the minimum protection requirements established in OAR chapter 340, division 40 for groundwater.

(60) "Water Resource Activity" means a nonpoint source control or an estuary management activity funded through the sponsorship option in OAR 340-054-0024(3). These activities include the protecting or restoring of riparian habitat to prevent loss of biological diversity or ecological health, establishing conservation easements, acquiring riparian lands or wetlands and other activities.

(61) "Waters of the State" means the same as defined in ORS 468B.005(8).

(62) "Wellhead Protection Area" has the meaning provided in OAR 340-040-0150(13).

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 468.423 - ORS 468.440

Stats. Implemented: ORS 468.423

Hist.: DEQ 2-1989, f. & cert. ef. 3-10-89; DEQ 30-1990, f. & cert. ef. 8-1-90; DEQ 1-1993, f. & cert. ef. 1-22-93; DEQ 3-1995, f. & cert. ef. 1-23-95; DEQ 10-2003, f. & cert. ef. 5-27-03

## 340-054-0015

### Project Eligibility

(1) A public agency may apply for a CWSRF loan for up to 100% of the cost of the following types of projects and project related costs:

(a) Planning for sewage facilities, nonpoint source control or estuary management projects including supplements or updates;

(b) Secondary sewage treatment facilities;

(c) Advanced sewage treatment facilities, if required to comply with Department water quality statutes and rules;

(d) Reserve capacity for a sewage treatment or disposal facility that serves a population not to exceed a 20-year population projection, and for a sewage collection system, or any portion thereof, not to exceed a 50-year population projection;

(e) Facilities related to biosolids disposal and management;

(f) Interceptors, force mains and pumping stations;

(g) Identification and correction of infiltration and inflow;

(h) Major sewer replacement and rehabilitation necessary to maintain the structural integrity and function of the sewer;

(i) Combined sewer overflow correction, if required to protect sensitive estuarine waters or to comply with Department water quality statutes, rules or permits, provided the project is the most cost effective alternative;

(j) New collector sewers required to alleviate documented water quality problems or to serve an area with a documented health hazard;

(k) Storm water control facilities intended to reduce infiltration or inflow to a sanitary sewer system.

(l) Storm water management measures identified in Oregon's Nonpoint Source Control Program Plan that address environmental quality directly related to water quality.

(m) Estuary management efforts that address environmental quality directly related to water quality.

(n) Nonpoint source control activities that address environmental quality directly related to water quality.

(o) Funding of local community loans through public agencies to address nonpoint source control activities or estuary management efforts.

(p) Wastewater reuse projects.

(2) Conditions on the use of CWSRF loan proceeds.

(a) Projects funded in whole or in part from by the CWSRF loan program must be consistent with plans developed under sections 208, 303(e), 319 and 320 of the Clean Water Act.

(b) Loans may be used only for projects on the project priority list, described in OAR 340-054-0025(4).

(c) CWSRF loans will not be used for refinancing long-term loans.

(d) The CWSRF loans may be used to refinance interim loans or self-generated funds used to pay Department approved project costs if the public agency satisfies the following conditions:

(A) provides the Department with a written notice of the intent to apply for long-term financing;

(B) is willing to proceed with the project using interim loans or self-generated funds; or

(C) agrees to proceed at its own risk without regard to whether CWSRF financing is ultimately available to provide the long-term financing.

(e) The Applicant must agree to comply with project review and approval requirements established in OAR chapter 340, division 052; Department permit requirements as established in OAR chapter 340, division 045; and requirements of Title VI of the Clean Water Act, as applicable.

(3) Short-term, Construction Financing Exception. Notwithstanding other provisions of this rule, short-term, construction period financing may be provided to qualified projects if all of the following conditions are met:

(a) Liquidity of the CWSRF Fund is sufficient to provide the financing without adversely affecting the amount and timing of disbursements needed by prior obligations;

(b) The Borrower has a legally enforceable obligation for long-term financing of the project satisfactory to the Department; and

(c) The loan agreement for interim financing will stipulate that the Department is not obligated to provide long-term financing for this project.

Stat. Auth.: ORS 468.423 - ORS 468.440

Stats. Implemented: ORS 468.423 - ORS 468.440

Hist.: DEQ 2-1989, f. & cert. ef. 3-10-89; DEQ 30-1990, f. & cert. ef. 8-1-90; DEQ 1-1993, f. & cert. ef. 1-22-93; DEQ 3-1995, f. & cert. ef. 1-23-95; DEQ 10-2003, f. & cert. ef. 5-27-03

## 340-054-0020

### Uses of the Fund

The CWSRF may be used only for the following purposes:

(1) To make loans, fund reserves for CWSRF loans, purchase bonds or acquire other debt obligations.

(2) To pay CWSRF program administration costs to the extent allowed by federal law.

(3) To earn interest on fund accounts.

(4) To establish reserves for bonds issued by the state for use by the fund.

(5) To pay principal and interest of bond obligations sold to benefit the fund.

Stat. Auth.: ORS 468.423 - ORS 468.440

Stats. Implemented: ORS 468.429 & ORS 468.431

Hist.: DEQ 2-1989, f. & cert. ef. 3-10-89; DEQ 30-1990, f. & cert. ef. 8-1-90; DEQ 3-1995, f. & cert. ef. 1-23-95; DEQ 10-2003, f. & cert. ef. 5-27-03

## 340-054-0021

### Expedited Loans

The Department will administer two categories of expedited loans: emergency loans and urgent repair loans.

(1) General Requirements and Provisions.

(a) Applications will be accepted by the Department at any time.

(b) All applicants for expedited loans must submit:

(A) A completed application on a form provided by the Department;

(B) Evidence that the Applicant has authority to undertake the project;

(C) Audited financial statements for the previous three years and the Applicant's current budget (unless waived by the Department in its discretion);

(D) A Land Use Compatibility Statement (LUCS) in accordance with OAR 340-018-0030(5); and

(E) Any other information requested by the Department.

(c) The requirements of OAR 340-054-0065 are applicable to expedited loans except as specifically modified in this rule.

(d) Facilities subject to design review under OAR chapter 340, division 052 are not exempted from such review by this rule.

(2) Emergency Loans. The Department will administer loans for the remediation of emergency conditions. This loan is intended for the immediate stabilization of damages resulting from unforeseen emergency conditions.

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(a) In addition to the requirements in section (1) of this rule, applications for emergency loans must include:

(A) A letter from a professional engineer or other appropriately qualified individual summarizing the nature of the emergency, the proposed remediation and estimated project cost; and

(B) A letter from the Water Quality Manager of the appropriate Department regional office corroborating the emergency condition and concurring with the appropriateness of the proposed project and the estimated cost.

(b) Emergency loans have the following terms and conditions:

(A) Maximum loan amounts must be in accordance with OAR 340-054-0025(6)(c)(A);

(B) The interest rate and corresponding loan terms must be in accordance with OAR 340-054-0065(5)(f);

(C) Construction contracts funded through this loan must be awarded to a contractor(s) within 12 months of the loan agreement execution unless the Department expressly exempts the loan from this requirement;

(D) Loan repayment (as defined in the loan agreement) must begin on any outstanding principal and interest in accordance with OAR 340-054-0065(9); and

(E) The annual loan fee will be imposed in accordance with OAR 340-054-0065(7).

(c) The Department may consider requests for emergency loans in excess of the maximum loan amount defined in OAR 340-054-0025(6)(c)(A) for funding, or refer them to a CWSRF construction loan for additional funding.

(3) Urgent Repair Loans. The Department will administer loans for the urgent repair of sewage collection systems or sewage treatment facilities.

(a) In addition to the requirements in section (1) of this rule, applications for urgent repair loans must include:

(A) A letter from a professional engineer or other appropriately qualified individual documenting the need for the urgent repair, the proposed repair and estimated project cost; and

(B) A letter from the Water Quality Manager of the appropriate Department regional office corroborating the urgent need for repair and concurring in the appropriateness of the proposed project and the estimated cost.

(b) Urgent repair loans have the following terms and conditions:

(A) Maximum loan amount must be in accordance with OAR 340-054-0025(6)(c)(A);

(B) The maximum loan term must be in accordance with OAR 340-054-0065(10)(c);

(C) Construction contracts funded by this loan must be awarded to a contractor(s) within 12 months of the execution of the loan agreement;

(D) Loan repayment (as defined in the loan agreement) must begin on any outstanding principal and interest in accordance with OAR 340-054-0065(9);

(E) The annual loan fee will be imposed in accordance with OAR 340-054-0065(7); and

(F) The interest rate must be the base rate as established in OAR 340-054-0065(5)(d).

Stat. Auth.: ORS 468.423 - ORS 468.440

Stats. Implemented: ORS 468.429 & ORS 468.439

Hist.: DEQ 10-2003, f. & cert.ef. 5-27-03

## 340-054-0022

### Local Community Loans

The Department will administer local community loans with public agencies for the financing of estuary management efforts and nonpoint source control activities. Applications may be submitted in response to the Department's annual solicitation or at anytime during the program year.

(1) General Requirements and Provisions. Applicants applying for CWSRF financing for local community loans must submit:

(a) A fully executed and complete application on a form provided by the Department;

(b) A project narrative, as defined by the Department, describing how the project will implement an estuary management effort or a nonpoint source control activity;

(c) A completed Checklist of Exhibits and Requirements and associated documents;

(d) Audited financial statements for the previous three years and the Applicant's current budget (unless waived by the Department, in its discretion);

(e) A Land Use Compatibility Statement (LUCS) in accordance with OAR 340-018-0030(5);

(f) Evidence that the Applicant has the authority to undertake the project;

(g) A projected program cash flow based on the anticipated number of local loans, their repayment schedule, the amount and timing of Department disbursements and the amount and timing of repayments to the Department; and

(h) Any other information requested by the Department.

(2) Terms and Conditions. Local community loans have the following terms and conditions:

(a) The maximum loan amount must be in accordance with OAR 340-054-0025(6);

(b) The maximum loan term must be in accordance with OAR 340-054-0065(10)(b);

(c) The interest rate must be as indicated in OAR 340-054-0065(5)(c);

(d) Loan repayment (as defined in the loan agreement) must begin on any outstanding principal and interest in accordance with OAR 340-054-0065(9); and

(e) The annual loan fee must be imposed on any unpaid balance in accordance with OAR 340-054-0065(7).

Stat. Auth.: ORS 468.423 - ORS 468.440

Stats. Implemented: ORS 468.429 & ORS 468.439

Hist.: DEQ 10-2003, f. & cert.ef. 5-27-03

## 340-054-0023

### Planning Loans

The Department will administer loans for planning. The Department will administer loans for activities that result in a written plan to upgrade a facility to address an existing or anticipated water pollution problem.

(1) General Requirements and Provisions. All applicants for planning loans must submit:

(a) A completed planning loan application using a form provided by the Department;

(b) Evidence that the Applicant has authority to undertake the project;

(c) Audited financial statements for the previous three years and the Applicant's current budget (unless waived by the Department in its discretion); and

(d) Any other information requested by the Department.

(2) Terms and conditions. Planning loans have the following terms and conditions:

(a) The maximum loan amount will be determined by the Department, but may not exceed funds available in the reserve as per OAR 340-054-0025(6)(c)(C);

(b) The maximum loan term must be in accordance with OAR 340-054-0065(10)(a);

(c) The loan repayment period (as defined in the loan agreement) will begin on any outstanding principal and interest in accordance with OAR 340-054-0065(9);

(d) The interest rate for planning loans must be in accordance with OAR 340-054-0065(5)(b); and

(e) Planning loans are exempt from the annual loan fee described in OAR 340-054-0065(7).

Stat. Auth.: ORS 468.423 - ORS 468.440

Stats. Implemented: ORS 468.429 & ORS 468.439

Hist.: DEQ 10-2003, f. & cert.ef. 5-27-03

## 340-054-0024

### Design Loans and Construction Loans

The Department will administer design loans or construction loans to address point source or nonpoint source pollution. Applications may be submitted in response to the Department's annual solicitation or at anytime during the program year. The Department may require different application forms for point source projects and nonpoint source projects.

(1) General Requirements and Provisions. Applicants applying for CWSRF financing for design loans or construction loans must submit:

(a) A fully executed and complete application on a form provided by the Department;

(b) A completed Checklist of Exhibits and Requirements and associated documents;

(c) Evidence that the Applicant has the authority to undertake the project;

(d) Audited financial statements for the previous three years and the Applicant's current budget (unless waived by the Department in its discretion);

(e) All pertinent requirements listed in OAR 340-054-0035; and

(f) Any other information requested by the Department.

(2) Design Loans and Construction Loans. The Department will administer loans for activities that result in the design or construction of sewage facilities, nonpoint source control or estuary management projects. When approved by the Department, security measures intended to prevent

# ADMINISTRATIVE RULES

intrusion or damage to such facilities or projects, or interruption of a facility or project's processes are eligible design or construction costs. Design loans and construction loans have the following terms and conditions:

(a) The maximum loan amount must be in accordance with OAR 340-054-0025(6);

(b) If not implementing a sponsorship option, the interest rate and corresponding loan terms for design and construction loans must be in accordance with OAR 340-054-0065(5)(f), or OAR 340-054-0065(5)(g).

(c) The loan repayment period (as defined in the loan agreement) must begin on the outstanding principal and interest balance in accordance with OAR 340-054-0065(9); and

(d) The annual loan fee must be imposed on any unpaid balance in accordance with OAR 340-054-0065(7).

(3) Sponsorship Option for protection or restoration of water resources.

(a) A public agency (sponsoring community) may apply to the Department for a CWSRF loan to finance a sewage collection system or sewage treatment facility project combined with a water resource activity. Within this sponsorship option, the CWSRF program may fund both projects under a single CWSRF loan if the Department determines that the water resource activity meets program eligibility, funds are available, and the ranking of the sewage project allows its funding.

(b) The interest rate for the consolidated financing will be reduced whenever possible to a rate resulting in the semi-annual payment for the joint project being equal to the expected semi-annual payment with a traditional CWSRF loan for the sewage collection system or sewage treatment facility project only.

(c) A public agency that participates in this sponsorship option may either implement the water resource activity itself or may enter into a sponsorship agreement with an implementing partner who will implement the water resource activity. The sponsoring community remains responsible, however, for both the successful completion of the water resource activity and for the repayment of the CWSRF loan. The implementing partner will not be responsible for any repayment to the CWSRF program.

(d) All applicants for the sponsorship option must submit:

(A) A completed sponsorship application and project description using a form provided by the Department;

(B) Evidence that the sponsoring community and implementing partner (if an implementing partner is involved) have authority to undertake the water resource activity;

(C) An executed copy of the sponsorship agreement entered into with the implementing partner, if applicable; and

(D) Any other information requested by the Department.

(e) Financial terms of the sponsorship option will be as follows:

(A) The interest rate for the sponsorship option must be in accordance with OAR 340-054-0065(5)(h); and

(B) The requirements of OAR 340-054-0065 will be applicable to the sponsorship option except as specifically modified in this rule.

(f) The Department will determine the total amount of CWSRF funds to be allocated at the reduced interest rate through the sponsorship option in each program year.

Stat. Auth.: ORS 468.423 - ORS 468.440

Stats. Implemented: ORS 468.429 & ORS 468.439

Hist.: DEQ 10-2003, f. & cert. eff. 5-27-03

## 340-054-0025

### Application Process; Project Priority List; Intended Use Plan; Allocation of Funds

The Department will periodically, but not less than annually, develop and submit an Intended Use Plan (IUP) to EPA as described in section 606 of the CWA and 40 CFR § 35.3150. The IUP will describe the proposed uses of the CWSRF and will include a project priority list numerically ranking all eligible applications received. The Department will develop the IUP using the following processes in this rule.

(1) Notice: The Department will notify interested parties at least annually of the opportunity to submit applications. Interested parties include, but are not limited to, watershed councils, counties, soil and water conservation districts, special districts and all of the incorporated cities listed in the current edition of the Oregon Blue Book.

(2) Applications: For a project to be considered for the project priority list, an Applicant must submit a completed application; the application must address an imminent, actual or threatened water quality problem; and the project must be eligible for funding under OAR 340-054-0015.

(3) Timing: In addition to applications received in response to the solicitation for applications indicated in OAR 340-054-0025(1), the Department will accept applications at any time.

(4) Project Priority List Ranking:

(a) The Department will develop a project priority list by ranking all eligible proposed projects using the criteria in **Table 1** of this rule. Projects will be numerically ranked based on the sum of the points awarded each proposed project. A maximum of one hundred (100) points is available for a proposed project.

(b) The Department will update the project priority list and the IUP every four months or upon receipt by the Department of five eligible applications, whichever timeframe is shorter. If no eligible applications are received during a four month period, the project priority list will not be updated.

#### TABLE 1

##### CWSRF Project Ranking Criteria

**Category 1:** Proposed Project's anticipated benefit for water quality or public health

**1A**—(0 or 8 points)—Project addresses water quality or public health issue within a "special status" water body

**1B**—(0-6 points)—Project addresses noncompliance with water quality standards, a public health issue or effluent limits related to surface waters

**1C**—(0-6 points)—Project addresses noncompliance with water quality standards or a public health issue related to groundwater

**1D**—(0-12 points)—Project ensures that a source already in compliance maintains that compliance.

**1E**—(0-8 points)—Project improves or sustains aquatic habitat supporting state or federally threatened or endangered species

**1F**—(0-12 points)—Project incorporates wastewater reuse or a water quality-related conservation process

**1G**—(0-7 points)—Project improves water quality by mitigating any of the following pollutants: temperature, dissolved oxygen, contaminated sediments, toxics on the EPA Priority Pollutants List, bacteria or nutrients

**1H**—(0-5 points)—Project supports the implementation of a Total Maximum Daily Load (TMDL) allocation or action plan for a Ground Water Management Area

**1I**—(0-6 points)—Project addresses a water quality or public health issue involving "Persistent Bioaccumulative Toxics" (PBT's)

**Category 2:** Potential water quality or public health consequences of not funding the proposed project

**2A**—(0-5 points)—If the proposed project is not implemented, water quality standards are likely to be exceeded or existing exceedances are likely to worsen

**2B**—(0-5 points)—If the proposed project is not implemented, the resulting impact is likely to cause a public health problem

**2C**—(0-5 points)—A unique opportunity to implement the proposed project currently exists due to timing, finances or other limitations that would not allow this project to be implemented in the future

##### Category 3: Other considerations

**3A**—(0-3 points)—Project has significant educational or outreach component

**3B**—(0-3 points)—Project demonstrates innovative technology which is transferable

**3C**—(0-3 points)—Project is a partnership with other group(s), incorporating self-help, financial or in-kind support

**3D**—(0-5 points)—Project incorporates monitoring, reporting or adaptive management

**3E**—(0 or 1 point)—Project addresses or includes risk management, safety or security measures

**3F**—(0-minus 5 points)—Applicant's past performance with previous Department loans or grants such as, but not limited to, failure to satisfy match requirements of a grant, failure to complete the project or failure to submit any other required deliverable in a timely manner.

(5) Draft Intended Use Plan, Public Notice and Review:

(a) The Department will update the IUP whenever changes are made to the PPL.

(b) With each update the Department will notify all applicants whose projects are included within the draft IUP of their ranking on the PPL.

(c) The Department will provide notice and an opportunity for the public to comment on proposed changes to the IUP, and will make the draft IUP available to the public.

(d) Except for revisions to the IUP resulting from applications for expedited loans, the Department will provide at least 30 days for public comments on the draft IUP. The Department will provide at least 5 days for comment on changes to the IUP resulting from new applications for expedited loans.

(e) During the comment period, any Applicant may request the Department to reevaluate a project's rank on the proposed project priority list or to make other changes to the IUP.

(f) The Department will consider all comments submitted during the comment period before finalizing the IUP.

(6) Allocation of Funds:

(a) During any Department program year (July 1 through June 30), no Borrower on the project priority list (including either loan increases or new project loans) may be allocated more than the greater of \$2.5 million or 15% of the total available funds as reported in the initial IUP for that program year. If CWSRF moneys are available after allocating this limit to each eligible Applicant, additional funds may be allocated above this limit.

(b) The Department will establish the following funding categories within the CWSRF: Expedited Loan Reserve, Small Community Reserve, Planning Reserve, and general fund. The Department will first allocate annual funds to the three reserves in accordance with the criteria in sections

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(6)(c)(A), (6)(c)(B) and (6)(c)(C). Funds not allocated to one of the reserves will be allocated to the CWSRF general fund.

(c) The Department will assign projects on the priority list to an appropriate reserve or to the CWSRF general fund. Requests for increases to existing loans will be awarded first. Increases will be awarded from the appropriate reserve or the general fund. Following any allocations for increases, the Department will award loans to projects within each reserve and the general fund for new projects as described in sections (6)(c)(A), (6)(c)(B), (6)(c)(C) and (6)(c)(D).

(A) **Expedited Loans Reserve.** A reserve of \$2 million will be established to fund expedited loans. The Director may increase the cap on this reserve. Individual urgent repair loans are limited to \$150,000. The maximum amount available for a single emergency loan is \$1.85 million. Emergency loans and urgent repair loans will be awarded in rank order. Unused funds still remaining in the expedited loan reserve on May 31 of the program year can be reallocated to the CWSRF general fund.

(B) **Small Community Reserve.** A maximum of 15% of the total CWSRF monies will be available in each program year for allocation to small community loans. Local community, design and construction projects eligible within this reserve will be awarded loans in rank order.

(i) Each project allocation from this reserve will be for not more than the greater of \$750,000 or 25% of the reserve, until all eligible small community requests have been allocated funds. If reserve funds still remain on March 1st of the program year, these remaining funds may be allocated to any unfunded portions of a small community loan request in the order the loan agreements were executed;

(ii) After reallocating as directed in OAR 340-054-0025(6)(c)(B)(i) above, any funds still remaining in the small community reserve can be moved to the CWSRF general fund.

(C) **Planning Loan Reserve.** A maximum of \$3 million of the total CWSRF will be available in each program year for allocation to planning loans. Projects will be selected from the project priority list in rank order for this reserve.

(i) Each individual allocation from the planning loan reserve will initially not exceed \$150,000. If reserve funds still remain on March 1st of the program year, these remaining funds may be reallocated to any unfunded portions of planning loan requests in the order the loan agreements were executed;

(ii) After reallocating as directed in OAR 340-054-0025(6)(c)(C)(i) above, any funds still remaining in the planning reserve can be moved to the CWSRF general fund.

(D) **General Fund.** All new design or construction project loans not funded from a reserve will be allocated from the general fund. Any remaining emergency or urgent repair, small community or planning projects not already allocated funds from their respective reserves, or allocated less than the total loan amount requested, may be awarded funding in rank order subject to available funds and the maximum loan amount for the program year.

(E) **Loan Increases.** Upon request, the Department may increase the funding for previously financed projects up to the maximum loan amount defined for each borrower in section 6(a) of this rule. These loan increases may be offered by either providing an additional loan at the current interest rate or increasing the amount of the existing loan. Awards for loan increases will be awarded in rank order.

## (7) Project Priority List Modification:

(a) The following conditions apply to projects on the project priority list.

(A) Ranked projects may remain on the project priority list for up to 36 months while pursuing funding. After 36 months, the Department will notify the Applicant in writing that the project is being removed from the list.

(B) Applicants whose projects are removed from the project priority list because they have exceeded the 36 month limit may resubmit their projects to the program for ranking and incorporation into the next update of the IUP.

(C) The Department may provide one six-month extension to applicants requesting to remain on the list beyond the 36 month limit. Applicants requesting an extension must submit a progress report indicating the status of their effort in pursuing CWSRF financing and an updated time frame indicating when they expect to have completed all requirements necessary to be awarded funding.

(D) The Department may remove a project from the project priority list upon written notice to the applicant at any time the Department determines that the project does not meet eligibility requirements, the Borrower no longer requires CWSRF financing or the Applicant requests removal.

Stat. Auth.: ORS 468.423 - ORS 468.440

Stats. Implemented: ORS 468.433 & ORS 468.437

Hist.: DEQ 2-1989, f. & cert. ef. 3-10-89; DEQ 30-1990, f. & cert. ef. 8-1-90; DEQ 1-1993, f. & cert. ef. 1-22-93; DEQ 3-1995, f. & cert. ef. 1-23-95; DEQ 10-2003, f. & cert. ef. 5-27-03

## 340-054-0035

### Final Stage of Application Process for Design Loans or Construction Loans

The Department will administer loans for design and construction of both point source and nonpoint source projects.

(1) In addition to the loan application and items specified in OAR 340-054-0024(1), applicants applying for a CWSRF loan for a design or construction project must submit the following documents to be considered for loan approval:

(a) A planning document that the Department determines adequately documents the efficacy and appropriateness of the proposed project to remediate the identified water pollution control problem. For sewage collection systems or sewage treatment facilities, the planning document must meet the requirements of the Department's CWSRF Procedures Manual and other planning guidance in effect at the time of submittal

(b) In accordance with OAR 340-018-0050, a Land Use Compatibility Statement (LUCS) from the appropriate planning jurisdiction demonstrating compliance with the Department of Land Conservation and Development's (DLCD) acknowledged comprehensive land use plan and statewide land use planning goals.

(c) An environmental review prepared in accordance with the requirements of the EPA approved alternative State Environmental Review Process (SERP) described in the CWSRF Procedures Manual, May 1, 2003. At its discretion, the Department may execute a loan agreement prior to receipt of an environmental review; however no loan disbursements may be processed without an approved environmental review.

(d) Any other information requested by the Department.

(2) In addition to the requirements of section (1) of this rule, applicants for a CWSRF loan for the design or construction of sewage collection systems or sewage treatment projects must submit the following documents to be considered for loan approval:

(a) A Department approved sewer use ordinance adopted by all municipalities and service districts serviced by this project that meets the provisions of this section. The sewer use ordinances must prohibit any new connections from inflow sources into the sewage collection system; and require that no wastewater introduced into the sewage collection system contain toxics or other pollutants in amounts or concentrations that have the potential of endangering public safety or adversely affecting the project or precluding the selection of the most cost-effective alternative for the project.

(b) A demonstration that the Applicant has adopted a user charge system that meets the requirements of the User Charge System section of the CWSRF Procedures Manual, May 1, 2003.

(c) For projects serving two or more municipalities, the Applicant must submit the executed inter-municipal agreements, contracts or other legally binding instruments necessary for the financing, building and operation of the proposed sewage collection system or sewage treatment facility.

(d) In accordance with OAR Chapter 340, division 052, Applicants for construction-only loans must submit Department approved plans and specifications for the project as applicable.

(e) For projects with estimated costs in excess of \$10 million, the Applicant must submit a value engineering study prepared in accordance with the requirements of the CWSRF Procedures Manual.

Stat. Auth.: ORS 468.423 - ORS 468.440

Stats. Implemented: ORS 468.433 & ORS 468.437

Hist.: DEQ 2-1989, f. & cert. ef. 3-10-89; DEQ 1-1993, f. & cert. ef. 1-22-93; DEQ 3-1995, f. & cert. ef. 1-23-95; Administrative correction 10-29-98; DEQ 10-2003, f. & cert. ef. 5-27-03

## 340-054-0055

### Loan Approval and Review Criteria

(1) Loan Approval. A loan is approved when the Department signs a loan agreement.

(2) Loan Review Criteria. To obtain loan approval, the following criteria must be met:

(a) The proposed project must be eligible for funds under this Division.

(b) The Applicant must submit a completed loan application including all applicable information, approvals and associated requirements of OAR 340-054-0021; 340-054-0022; 340-054-0023; 340-054-0024 and 340-054-0035.

(c) The Applicant must demonstrate to the Department's satisfaction its ability to repay a loan and, where applicable, its ability to ensure ongoing operation and maintenance of the proposed sewage facility, nonpoint source control or estuary management project. In addition, for revenue-

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secured loans described under OAR 340-054-0065(2), the Department may require the following criteria to be met:

(A) The existing sewage facility, nonpoint source control or estuary management project is free of any operational and maintenance problems that could materially impede the proposed system's function or affect the Applicant's ability to repay the loan from user fees;

(B) The Borrower's revenue stream is not at risk from undue dependence upon a limited portion of the system's customer base or a pattern of delinquent payment from that portion of the system's customer base; and

(C) The Borrower must have the ability to collect from non-paying customers.

(d) CWSRF funds must be available to finance the loan.

(e) To meet the requirements of ORS 468.425, the Department may establish other loan criteria and require other documentation as appropriate, including, but not limited to, an opinion of legal counsel that the loan agreement is enforceable under the Borrower's legal structure.

Stat. Auth.: ORS 468.423 - ORS 468.440

Stats. Implemented: ORS 468.433 & ORS 468.437

Hist.: DEQ 2-1989, f. & cert. ef. 3-10-89; DEQ 31-1989(Temp), f. & cert. ef. 12-14-89; DEQ 30-1990, f. & cert. ef. 8-1-90; DEQ 1-1993, f. & cert. ef. 1-22-93; DEQ 10-2003, f. & cert. ef. 5-27-03

## 340-054-0060

### Loan Agreement and Conditions

Each loan agreement will include conditions applicable to the type of project being financed, which include, but are not limited to, the following:

(1) Accounting. The Borrower must maintain all CWSRF project accounts as separate accounts and must use accounting, audit and fiscal procedures that conform to Generally Accepted Governmental Accounting Standards and the requirements of the Governmental Accounting Standards Board.

(2) Records. The Borrower must retain project files and records for at least three years after performance certification or project completion as determined by the Department. Financial files and records must be retained until the loan is repaid in full.

(3) Wage Rates. The Applicant must ensure compliance with applicable federal or state wage rates, if any, for construction projects.

(4) Operation and Maintenance Manual. For the construction of a sewage collection system or a sewage treatment facility subject to OAR chapter 340, division 052, the Borrower must submit a draft and final facility operation and maintenance manual at the time and in a format specified by the Department.

(5) Plans and Specifications. For the construction of a sewage collection system or a sewage treatment facility subject to OAR chapter 340, division 052, the Borrower must obtain the Department's approval of project plans and specifications before commencement of construction.

(6) Inspections and Progress Reports.

(a) During the construction phase of a sewage collection system or a sewage treatment facility subject to OAR chapter 340, division 052, the Borrower must provide on-going inspections to ensure the project complies with approved plans and specifications. These inspections must be conducted by qualified inspectors under the direction of a registered civil, mechanical or electrical engineer, whichever is appropriate. The Department or its representative may enter property owned or controlled by the Borrower to conduct interim inspections and require progress reports sufficient to determine compliance with approved plans and specifications and with other provisions of the loan agreement.

(b) For projects not subject to Department review under OAR chapter 340, division 052, the Department may seek the review and analysis of construction plans from relevant agencies or offices to ensure those plans support the successful implementation and completion of the project. During implementation of the project, the Borrower must allow inspections by appropriately qualified persons to ensure that the project as constructed conforms to project plans and other provisions of the loan agreement.

(7) Loan Amendments. Changes in project work that are consistent with the objectives of the project and within the scope and funding level of the loan do not require the execution of a formal loan amendment. A loan amendment will be required in the following situations:

(a) The Borrower receives an increase in the original approved loan amount at any time during the project. The Department may approve loan increases if funds are available, and the Borrower demonstrates both the legal authority to borrow and the financial capability to repay the increased loan amount.

(b) The Borrower requests a decrease in the original loan amount at any time during the project or completes the project and does not request disbursement of all loan proceeds.

(8) Change Orders. The Borrower must submit Change Orders to the Department for engineering and financial review. The Department will approve or reject the Change Orders based on the loan eligibility of the project modifications and on its engineering value in accordance with OAR 340-052-0015.

(9) Project Performance Certification for a sewage collection system or sewage treatment facility. The Borrower must submit to the Department a Project Performance Certification that meets the requirements of the CWSRF Procedures Manual within the time frame specified by the Department.

(10) Eligible Construction Costs. Loan disbursements for construction costs will be limited to work that complies with plans, specifications, change orders and addenda approved by the Department.

(11) Adjustments. The Department may, at any time, review and audit requests for payment and make adjustments for eligibility, math errors, items not built or bought, unacceptable construction and other discrepancies.

(12) Contract and Bid Documents. The Borrower must submit a copy of the awarded contract and bid documents to the Department, including a tabulation of all bids received.

(13) Audit. Borrowers may satisfy audit requirements in one of the following two ways:

(a) An External Audit. Within one year after Performance Certification, the Borrower must submit an audit of the project expenditures consistent with Generally Accepted Accounting Principles conducted by a certified auditor. The Borrower will pay for this audit.

(b) Internal documentation. The Borrower must submit to the Department:

(A) A complete accounting of project costs incurred by the Borrower including documentation to support each cost element; and

(B) One copy of the Borrower's annual audited financial report each year until the loan is repaid. Audit compliance with OMB A-133 is required if federal funds are disbursed as loan proceeds.

(14) Operation and Maintenance. The Borrower must provide the necessary resources for adequate operation, maintenance and replacement of a sewage facility, nonpoint source control or estuary management project and retain sufficient operating personnel to operate the facility.

(15) Default Remedies. Upon default by a Borrower, the Department may:

(a) Pursue any remedy available at law or in equity.

(b) Appoint a receiver at the expense of the Borrower to operate the facility that produces the pledged revenues.

(c) Set and collect utility rates and charges.

(d) Withhold any amounts otherwise due to the Borrower from the State of Oregon and direct that such funds be applied to the debt service and fees due on the CWSRF loan. If the Department finds that the loan to the Borrower is otherwise adequately secured, the Department may waive this right to withhold state revenue due to the Borrower.

(16) Release. The Borrower shall release and discharge the Department, its officers, agents and employees from all liabilities, obligations and claims arising out of the project work or under the loan, subject only to exceptions previously agreed upon in a written contract between the Department and the Borrower.

(17) Effect of Approval or Certification of Documents. Review and approval of facilities plans, design drawings and specifications, or any other documents by or for the Department does not relieve the Borrower of responsibility to properly plan, design, build and effectively operate and maintain a sewage facility, nonpoint source control or estuary management project as required by law, regulations, permits and good management practices. The Department is not responsible for any project costs or any losses or damages resulting from defects in the plans, design drawings and specifications, or other sub-agreement documents. The Department is not responsible for verifying cost-effectiveness, cost comparisons or adherence to state procurement regulations.

(18) Reservation of Rights:

(a) Nothing in this rule prohibits a Borrower from requiring more assurances, guarantees, indemnity or other contractual requirements from any party performing project work; and

(b) Nothing in the rule affects the Department's right to take remedial action, including, but not limited to, administrative enforcement action and actions for breach of contract against a Borrower that fails to carry out its obligations under OAR Chapter 340.

(19) Other Provisions. CWSRF loan agreements will contain such other provisions as the Department may reasonably require to meet the goals of the Clean Water Act and ORS 468.423 to 468.440.

Stat. Auth.: ORS 468.423 - ORS 468.440

Stats. Implemented: ORS 468.433 & ORS 468.437

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Hist.: DEQ 2-1989, f. & cert. ef. 3-10-89; DEQ 31-1989(Temp), f. & cert. ef. 12-14-89; DEQ 30-1990, f. & cert. ef. 8-1-90; DEQ 1-1993, f. & cert. ef. 1-22-93; DEQ 3-1995, f. & cert. ef. 1-23-95; Administrative Correction; DEQ 10-2003, f. & cert. ef. 5-27-03

## 340-054-0065

### Loan Terms and Interest Rates

As required by ORS 468.440, the following loan terms and interest rates are established:

(1) Types of Loans. A CWSRF loan must be one of the following types of loans:

(a) A loan secured by a general obligation bond or other full faith and credit obligation of the Borrower, which is supported by the Borrower's unlimited ad valorem taxing power.

(b) A loan secured by a bond or other obligation of the Borrower that is not subject to appropriation and has been rated Investment Grade by Moody's Investor Services, Standard and Poor's Corporation or another national rating service acceptable to the Department.

(c) A Revenue Secured Loan that complies with section (2) of this rule.

(d) An Alternative Loan that complies with section (3) of this rule.

(e) A Discretionary Loan that complies with section (4) of this rule.

(2) Revenue Secured Loans. These loans must:

(a) Be represented by a properly executed loan agreement, bonds or other unconditional obligations to pay from specified revenues that are pledged to the Borrower; the obligation to pay may not be subject to the appropriation of funds.

(b) Include a rate provision that requires the Borrower to impose and collect revenues sufficient to pay:

(A) All expenses of operation, maintenance and replacement of a sewage facility, nonpoint source control or estuary management projects.

(B) All debt service.

(C) All other financial obligations (such as contributions to reserve accounts) imposed in connection with prior lien obligations.

(D) An amount equal to the coverage requirements of the loan. This requirement is the product of the coverage factor times the debt service due in that year on the CWSRF loan. The coverage factor used must correspond to the coverage factor and reserve percentage set selected by the Borrower from subsection (d) of this section.

(E) Amounts required to provide coverage on prior lien obligations or new lien obligations the Borrower may incur that the Department determines are inadequately secured or otherwise may adversely affect the ability of the Borrower to repay the CWSRF loan.

(c) Contain a reserve provision requiring the Borrower to maintain a pledged reserve that is dedicated to the payment of the CWSRF loan and meets the following requirements:

(A) The loan reserve must be maintained in an amount that is at least equal to the product of the reserve percentage shown in subsection (d) of this section times one half the average annual debt service during the repayment period based on the repayment schedule or revised repayment schedule in the loan agreement. The reserve percentage selected from subsection (d) of this section must correspond to the coverage factor selected for the CWSRF loan.

(B) Loan reserves may be funded with cash of the Borrower, a letter of credit, repayment guaranty or other third party commitment to advance funds that is satisfactory to the Department. If the Department determines that funding of the reserve as described above imposes an undue hardship on the Borrower, the Department may allow reserves to be funded with CWSRF loan proceeds.

(d) Comply with the one of the following sets of coverage factors and reserve percentages:

Coverage Factor\*—Reserve Percentage\*\*

Option 1: 1.05:1—100%

Option 2: 1.15:1—75%

Option 3: 1.25:1—50%

Option 4: 1.35:1—25%

\*Net Income to Debt Service

\*\*Percentage of 1/2 the Average Annual Debt Service

(e) Include a requirement for periodic rate review and adjustment of rates, if necessary, to ensure estimated revenues in subsequent years are sufficient.

(f) Include a requirement that if revenues fail to achieve the required rate level, the Borrower must promptly adjust rates and charges to assure future compliance with the rate requirements. The Department may determine that failure to adjust rates does not constitute a default if the Borrower transfers unencumbered resources in an amount equal to the revenue deficiency to the utility system that produces the revenues.

(g) Include a requirement that if the reserve account is depleted for any reason, the Borrower must take prompt action to restore the reserve to the required minimum amount.

(h) Include a requirement restricting additional debt appropriate to the financial condition of the Borrower.

(i) Prohibit the Borrower from selling, transferring or encumbering any financial or fixed asset of the utility system that produces the pledged revenues if the Borrower is in violation of any CWSRF loan requirements, or if such sale, transfer or encumbrance may cause a violation of any CWSRF loan requirements.

(3) Alternative Loans. The Department may authorize Alternative Loans for reasonable alternative methods of financing if the Borrower demonstrates to the satisfaction of the Department that:

(a) It may be unduly burdensome or costly to the Borrower to borrow money from the CWSRF through general obligation bonds, revenue bonds or a revenue-secured loan, as described in subsection (1)(a), (b) or (c) of this rule.

(b) The Alternative Loan has a credit quality that is substantially equal to, or better than, the credit quality of a Revenue Secured Loan to that Borrower. In determining whether an Alternative Loan meets the requirement, the Department may consult with a financial advisor and may charge the Applicant the reasonable costs of such consultation.

(4) Discretionary Loan. The Department will make a Discretionary Loan only to a small community that the Department determines cannot practically comply with the requirements of subsection (1)(a), (b), (c) or (d) of this rule. Discretionary Loans must comply with section (5) of this rule and otherwise be on terms approved by the Department. No new Discretionary Loans may be made at any time that the total principal amount of Discretionary Loans outstanding exceeds 5% of the total assets of the Fund.

(5) Interest Rates:

(a) Base rate. The base rate used in computing the interest rates on all direct loans for a quarter will be based on the average of the weekly state and local government bond interest rates for the preceding quarter. This base rate will be the "state and local bonds" entry reported in "Federal Statistical Release, H.15." This entry is quoted by the Federal Reserve from the "Bond Buyer Index" for general obligation bonds (20 years to maturity, mixed quality).

(b) Planning Loans. The interest rate for planning loans will be equal to 25% of the base rate.

(c) Local Community Loans. The interest rate for local community loans will be equal to 50% of the base rate.

(d) Urgent Repair Loans. The interest rate for urgent repair loans will be equal to the base rate.

(e) Discretionary Loans. The interest rate for discretionary loans funded under section (4) of this rule will be equal to 50% of the base rate.

(f) Proactive Design and Construction Loans (including qualifying wastewater reuse projects). Loans for proactive design or construction projects will be made at one of the following interest rates:

(A) 45% of the base rate (with a maximum repayment period of 10 years);

(B) 55% of the base rate (with a maximum repayment period of 20 years);

(g) All Other Direct Loans. Except as provided in OAR 340-54-0065(12), all other CWSRF Loans will be made at one of the following interest rates:

(A) 25% of the base rate (with a maximum repayment period of 5 years);

(B) 55% of the base rate (with a maximum repayment period of 10 years);

(C) 60% of the base rate (with a maximum repayment period of 15 years);

(D) 65% of the base rate (with a maximum repayment period of 20 years).

(h) Sponsorship option. When the sponsorship option is implemented in conjunction with a construction loan, the resulting reduced interest rate is defined as a rate calculated to approximate the semi-annual payment for a loan obtained to construct the sewage collection system or sewage treatment facility by itself, or a one percent interest rate, whichever is higher.

(i) Bond proceeds that are matching funds for federal capitalization grants may be used to fund direct loans at the interest rates listed in this section. This subsection will not be affected by any change in the source of repayment for matching bonds.

(6) Interest Accrual and Payment Periods. Interest accrual begins at the time of each loan disbursement from the CWSRF to the Borrower. All outstanding accrued interest will be included with each loan repayment.

(7) Annual Fee. The Borrower must pay the necessary and reasonable costs of administering the fund through the loan's Annual Fee. An annual fee



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of 0.5% of the unpaid balance will be charged on each loan, except planning loans, during the repayment period. This fee is due and payable in addition to the payments identified in the loan agreement's payment schedule.

(8) Review of interest rates and fees. The interest rates on CWSRF loans described in OAR 340-054-0065(5) of this rule will be effective for all loan agreements executed on or after June 1, 2003.

(9) Commencement of Loan Repayment. Principal and interest repayments on loans will begin within one year of the date of Initiation of Operations or project completion, as determined by the Department.

(10) Loan Term. All loans must be fully repaid within 20 years of the date of Initiation of Operations or project completion, in accordance with a schedule determined by the Department. Generally, the loan repayment term will be no longer than the useful life of the assets financed and will be based on the Borrower's ability to pay.

- (a) The loan term for planning loans will not exceed five years.
- (b) The loan term for local community loans will not exceed ten years.
- (c) The loan term for urgent repair loans will not exceed ten years.
- (d) The loan term for discretionary loans will not exceed twenty years
- (e) Loan terms for emergency loans, design loans or construction loans are described in OAR 340-054-0065(5)(g).

(f) Loan terms for proactive design loans or construction loans are described in OAR 340-054-0065(5)(f). Prepayments will be allowed at any time without penalty on all CWSRF loans except as provided for in OAR 340-054-0065(12) of this rule.

(11) Minor Variations in Loan Terms. The Department may allow minor variations in the financial terms of loans described in this section to facilitate administration and repayment of loans.

(12) Leveraged Loans. The Department may:

(a) Increase the size of the fund by selling state bonds to be repaid and secured by CWSRF loan repayments, reserves and reserve interest earnings.

(b) Fund loans with bond proceeds as a part of a leveraged loan program with the following terms and conditions:

(A) Selling bonds to leverage the CWSRF program will increase the Department's ability to provide loan assistance to help public agencies comply with the Department's mandates.

(B) Interest rates on leveraged loans will be less than the interest rate paid by the state on bonds sold to fund the leveraged loans. Rates will be fixed at 65% of the base rate.

(C) Loan fees for leveraged loans will not exceed the amount charged for direct loans of the same size and repayment period.

(D) Costs of bond issuance and related transaction costs will be paid out of bond proceeds to the extent permitted by law.

(E) Notwithstanding other provisions of this rule, the Department may make changes to the terms and conditions of leveraged CWSRF loans to make them marketable. To the maximum extent practicable, the terms and conditions will be the same as for direct loans.

Stat. Auth.: ORS 468.423 - ORS 468.440  
Stats. Implemented: ORS 468.433 & ORS 468.437  
Hist.: DEQ 2-1989, f. & cert. ef. 3-10-89; DEQ 31-1989(Temp), f. & cert. ef. 12-14-89; DEQ 30-1990, f. & cert. ef. 8-1-90; DEQ 1-1993, f. & cert. ef. 1-22-93; DEQ 3-1995, f. & cert. ef. 1-23-95; DEQ 10-2003, f. & cert. ef. 5-27-03

## 340-054-0085

### Wastewater Hardship Grant Program

(1) OAR 340-054-0087 through OAR 340-054-0097 implement the Wastewater Hardship Grant Program under ORS 468.423 through 468.440, the Water Pollution Control Revolving Fund. Grants are only available when EPA allocates hardship grant funds to the Department.

(2) When such funds are made available, wastewater hardship grants may be awarded to public agencies in combination with Clean Water State Revolving Fund loans for sewage treatment facility improvements in low income, high unemployment, rural communities. Technical assistance is also an option of the program for eligible communities.

Stat. Auth.: ORS 468.423 - ORS 468.440  
Stats. Implemented: ORS 468.425  
Hist.: DEQ 19-1997, f. & cert. ef. 9-22-97; DEQ 10-2003, f. & cert. ef. 5-27-03

## 340-054-0087

### Definitions

As used in 340-054-0085 through 340-054-0097, the following definitions apply:

- (1) "Community" is a group of more than one household.
- (2) "EPOC" means the Environmental Partnerships for Oregon Communities Program of the Department.
- (3) "Rural" means a community that is not, in whole or in part, within the limits of a city with a population of more than 3,000.

(4) "Self-help approach" means implementation of the program using a community's own human, material and financial resources to reduce the cost of the project.

Stat. Auth.: ORS 468-423 - ORS 468.440  
Stats. Implemented: ORS 468.423  
Hist.: DEQ 19-1997, f. & cert. ef. 9-22-97; DEQ 10-2003, f. & cert. ef. 5-27-03

## 340-054-0090

### Applicant Eligibility

An applicant for Wastewater Hardship Grants must be a public agency that meets the following criteria:

- (1) Is eligible for a CWSRF loan;
- (2) Has a project on the program's project priority list in the current IUP;

(3) Is a rural community with a population of 3,000 or less;

(4) Has a per capita income of the residents served by the project equal to or less than 80% of the national per capita income of the United States during the same period, based on the last census report or a more recent survey acceptable to the Department;

(5) Has an unemployment rate of one or more percentage points above the annual unemployment rate for the United States, based on the last census report or a more recent survey acceptable to the Department; and

(6) Is without a centralized sewer collection or treatment system, or need improvements to on-site systems.

Stat. Auth.: ORS 468.423 - ORS 468.440  
Stats. Implemented: ORS 468.437  
Hist.: DEQ 19-1997, f. & cert. ef. 9-22-97; DEQ 10-2003, f. & cert. ef. 5-27-03

## 340-054-0093

### Uses of Grant Funds

Grant funds may be awarded to public agencies that meet the eligibility requirements in OAR 340-054-0090 for the following projects that either improve public health or reduce an environmental risk.

(1) Grant funds may be used for the planning, design and construction of publicly owned treatment works and alternative wastewater systems. Grant-funded project costs must be eligible costs of wastewater system projects under the CWSRF program.

(2) Grant funds may be used for training, technical assistance and education programs relating to the operation and maintenance of wastewater systems. The primary purpose of technical seminars and other training must be to train eligible communities.

Stat. Auth.: ORS 468.423 - ORS 468.440  
Stats. Implemented: ORS 468.429  
Hist.: DEQ 19-1997, f. & cert. ef. 9-22-97; DEQ 10-2003, f. & cert. ef. 5-27-03

## 340-054-0095

### Selection of Grantees

The Department will consider the following factors when awarding hardship grants.

- (1) Total amount of grant funds available;
- (2) Number of eligible applicants and the cost of proposed projects;
- (3) Current economic status of the applicant community;
- (4) Availability of other funding for the project, and affordability of the project without Wastewater Hardship Grant funds;
- (5) Ability of the community to financially support the long-term operation, maintenance, and replacement costs of the project when completed;
- (6) Use of the self-help approach to leverage the project;
- (7) Community support for and involvement in the project;
- (8) Technical assistance received from the Department through the Environmental Partnerships for Oregon Communities (EPOC) Program or through a comparable program that helps communities assess and prioritize multiple environmental mandates;
- (9) Relative ranking of the project on the CWSRF Intended Use Plan's project priority list;

(10) Water quality benefits of the project, including receiving water body health, applicable watershed plans, applicable Total Maximum Daily Load allocations, salmon recovery efforts in the area, threatened and endangered species habitat in the area, groundwater management areas, and other environmental concerns; and

(11) Public health benefits of the project.  
Stat. Auth.: ORS 468.423 - ORS 468.440  
Stats. Implemented: ORS 468.437  
Hist.: DEQ 19-1997, f. & cert. ef. 9-22-97; DEQ 10-2003, f. & cert. ef. 5-27-03

## 340-054-0097

### Coordination with Clean Water State Revolving Fund Loans

(1) A CWSRF loan for at least 15% of the total grant and loan amount must be executed and loan funds disbursed in coordination with the grant moneys.

# ADMINISTRATIVE RULES

(2) The Department may award Wastewater Hardship grants without following the ranking on the PPL described in OAR 340-054-0025(4).

(3) The Department will determine the grant and loan funding split for a project based upon the grant funds available and the amount of grant assistance necessary to make the CWSRF loan affordable.

(4) The CWSRF loan annual fee will be assessed on only the loan portion of the grant and loan package. No annual fee will be assessed on the grant.

(5) The Department will maintain moneys for the Wastewater Hardship Grant program in accounts separate from the Clean Water State Revolving Fund.

Stat. Auth.: ORS 468.423 - ORS 468.440

Stats. Implemented: ORS 468.433

Hist.: DEQ 19-1997, f. & cert. ef. 9-22-97; DEQ 10-2003, f. & cert. ef. 5-27-03

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## Department of Fish and Wildlife Chapter 635

**Adm. Order No.:** DFW 42-2003

**Filed with Sec. of State:** 5-16-2003

**Certified to be Effective:** 5-16-03

**Notice Publication Date:** 3-1-03

**Rules Amended:** 635-017-0090

**Subject:** Amend rules to establish a lamprey harvest season in the Willamette River.

**Rules Coordinator:** Mike Lueck—(503) 872-5272, ext. 5447

### 635-017-0090

#### Inclusions and Modifications

(1) The **2003 Oregon Sport Fishing Regulations** as posted on the Department's web page [www.dfw.state.or.us](http://www.dfw.state.or.us) provide requirements for the Willamette Zone. The Willamette Zone is described in OAR 635-017-0100. However, additional regulations may be adopted from time to time, and, to the extent of any inconsistency, they supersede the **2003 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 for 2003 are available from ODFW, 17330 SE Evelyn Street, Clackamas, OR 97015;

(b) Open fishing period is June 1, 2003 through July 31, 2003 from sunrise to sunset or until the Department projects that a quota of 6,000 lamprey have been harvested whichever comes first; personal use harvest is permitted Saturday through Monday each week. All harvest is prohibited Tuesday through Friday;

(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 tool only;

(e) Catch must be reported to ODFW by August 31, 2003 on a form provided by the Department. Harvesters must allow sampling or enumeration of catches by ODFW personnel at fishing site.

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

Stats. Implemented: ORS 496.162 & ORS 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; FWC 19-1998, f. & cert. ef. 3-12-98; FWC 28-1998(Temp), f. & cert. ef. 4-9-98 thru 4-24-98; FWC 31-1998(Temp), f. & cert. ef. 4-24-98 thru 7-31-98; FWC 33-1998(Temp), f. & cert. ef. 4-30-98 thru 5-15-98; FWC 34-1998, f. & cert. ef. 5-4-98; FWC 35-1998(Temp), f. & cert. ef. 5-10-98 thru 5-15-98; FWC 37-1998(Temp), f. & cert. ef. 5-15-98 thru 7-31-98; FWC 100-1998, f. 12-23-98, cert. ef. 1-1-99; FWC 15-1999, f. & cert. ef. 3-9-99; FWC 16-1999(Temp), f. & cert. ef. 3-10-99 thru 3-19-99; FWC 19-1999(Temp), f. & cert. ef. 3-19-99 thru 4-15-99; FWC 27-1999(Temp), f. & cert. ef. 4-23-99 thru 10-20-99; FWC 30-1999(Temp), f. & cert. ef. 4-27-99 thru 5-12-99; FWC 35-1999(Temp), f. & cert. ef. 5-13-99 thru 7-31-99; FWC 39-1999(Temp), f. 5-26-99, cert. ef. 5-27-99 thru 7-31-99; FWC 78-1999, f. & cert. ef. 10-4-99; FWC 88-1999(Temp), f. 11-5-99, cert. ef. 11-6-99 thru 11-30-99; administrative correction 11-17-99; FWC 96-1999, f. 12-27-99, cert. ef. 1-1-00; FWC 13-2000, f. & cert. ef. 3-20-00; FWC 22-2000, f. 4-14-00, cert. ef. 4-16-00 thru 7-31-00; FWC 23-2000(Temp), f. 4-19-00, cert. ef. 4-22-00 thru 7-31-00; FWC 58-2000(Temp), f. & cert. ef. 9-1-00 thru 12-31-00; FWC 83-2000(Temp), f. 12-28-00, cert. ef. 1-1-01 thru 1-31-01; FWC 1-2001, f. 1-25-01, cert. ef. 2-1-01; FWC 6-2001, f. & cert. ef. 3-1-01; FWC 23-2001(Temp), f. & cert. ef. 4-23-01 thru 10-19-01; FWC 28-2001, f. & cert. ef. 5-1-01; FWC 40-2001(Temp), f. & cert. ef. 5-24-01 thru 11-20-01; FWC 46-2001(Temp), f. 6-8-01, cert. ef. 6-16-01 thru 12-13-01; FWC 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

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**Adm. Order No.:** DFW 43-2003(Temp)

**Filed with Sec. of State:** 5-21-2003

**Certified to be Effective:** 5-22-03 thru 10-1-03

**Notice Publication Date:**

**Rules Amended:** 635-041-0067

**Subject:** Adopt a Treaty Indian Commercial salmon fishery in Zone 6 of the Columbia River.

**Rules Coordinator:** Mike Lueck—(503) 872-5272, ext. 5447

### 635-041-0067

#### Spring Salmon Season

(1) Salmon, steelhead, walleye, and shad may be taken for commercial purposes in the Columbia River above Bonneville Dam from 6 a.m., April 24, 2003 to 6 p.m. April 26, 2003, and from 6 a.m. May 22, 2003 to 6 p.m. May 24, 2003.

(a) Closed areas are set forth in OAR 635-041-0045, except the Spring Creek sanctuary.

(b) Sturgeon may not be sold, but sturgeon between 4 and 5 feet in length may be kept for subsistence use.

(2) Salmon, steelhead, shad, walleye, and carp may be taken for commercial purposes from mainstem Columbia River waters open to subsistence fishing (see OAR 635-041-0015) beginning 6 a.m. April 24, 2003 through 6 p.m. May 31, 2003. Subsistence catch from Drano Lake, Wind River, Klickitat River, and White Salmon River may also be sold during this time period. Sturgeon may not be sold, but sturgeon between 4 and 5 feet in length may be kept for subsistence use.

(a) Gear is restricted to subsistence fishing gear including dipnets, hoopnets, setbag nets, and hook-and-line with bait and lures allowed;

(b) Fish taken using subsistence gear from these open subsistence areas may be sold to licensed fish dealers and directly to members of the general public during this open commercial period;

(c) Subsistence areas in Drano Lake, Wind River, Klickitat River, and White Salmon River are open to commercial fishing as enacted by the State of Washington.

Stat. Auth.: ORS 496.118 & ORS 506.119

Stats Implemented: ORS 506.109, ORS 506.129 & ORS 507.030

Hist.: DFW 20-2001(Temp), f. 4-16-01, cert. ef. 4-17-01 thru 4-19-01; DFW 22-2001(Temp), f. & cert. ef. 4-20-01 thru 5-31-01; DFW 26-2001(Temp), f. 4-24-01, cert. ef. 4-26-01 thru 5-31-01; DFW 33-2001(Temp), f. 5-3-01, cert. ef. 5-4-01 thru 10-31-01; DFW 36-2001(Temp), f. & cert. ef. 5-10-01 thru 11-6-01; DFW 43-2001(Temp), f. 5-23-01, cert. ef. 5-24-01 thru 11-20-01; DFW 38-2002(Temp), f. 4-24-02, cert. ef. 4-25-02 thru 5-31-02; DFW 41-2002(Temp), f. & cert. ef. 5-1-02 thru 5-31-02; DFW 47-2002(Temp), f. 5-8-02 & cert. ef. 5-9-02 thru 5-31-02; DFW 49-2002(Temp), f. 5-16-02, cert. ef. 5-17-02 thru 5-31-02; DFW 51-2002(Temp), f. & cert. ef. 5-22-02 thru 9-1-02; DFW 33-2003(Temp), f. 4-23-03, cert. ef. 4-24-03 thru 10-1-03; DFW 43-2003(Temp), f. 5-21-03, cert. ef. 5-22-03 thru 10-1-03

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**Adm. Order No.:** DFW 44-2003(Temp)

**Filed with Sec. of State:** 5-23-2003

**Certified to be Effective:** 5-28-03 thru 7-1-03

**Notice Publication Date:**

**Rules Amended:** 635-019-0090

**Subject:** Amend rules to close the Umatilla River to angling for spring chinook salmon.

**Rules Coordinator:** Mike Lueck—(503) 872-5272, ext. 5447

### 635-019-0090

#### Inclusions and Modifications

(1) The **2003 Oregon Sport Fishing Regulations** as posted on the Department's web page [www.dfw.state.or.us](http://www.dfw.state.or.us) provide requirements for the Northeast Zone. However, additional regulations may be adopted from time to time, and, to the extent of any inconsistency, they supersede the **2003 Oregon Sport Fishing Regulations**.

(2) The Umatilla River, from the Highway 730 Bridge upstream to the reservation boundary located upstream from the Highway 11 bridge at Pendleton, is closed to angling for spring chinook salmon effective May 28, 2003.

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

# ADMINISTRATIVE RULES

Stats. Implemented: ORS 496.162 & ORS 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. 1-1-94; 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

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**Adm. Order No.:** DFW 45-2003(Temp)

**Filed with Sec. of State:** 5-28-2003

**Certified to be Effective:** 5-29-03 thru 10-1-03

**Notice Publication Date:**

**Rules Amended:** 635-041-0067

**Subject:** Adopt a Treaty Indian commercial salmon fishery in Zone 6 of the Columbia River.

**Rules Coordinator:** Mike Lueck—(503) 872-5272, ext. 5447

## 635-041-0067

### Spring Salmon Season

(1) Salmon, steelhead, walleye, and shad may be taken for commercial purposes in the Columbia River above Bonneville Dam from 6 a.m., April 24, 2003 to 6 p.m. April 26, 2003, from 6 a.m. May 22, 2003 to 6 p.m. May 24, 2003, and from 6 a.m. May 29, 2003 to 6 p.m. May 31, 2003.

(a) Closed areas are set forth in OAR 635-041-0045, except the Spring Creek sanctuary.

(b) Sturgeon may not be sold, but sturgeon between 4 and 5 feet in length may be kept for subsistence use.

(2) Salmon, steelhead, shad, walleye, and carp may be taken for commercial purposes from mainstem Columbia River waters open to subsistence fishing (see OAR 635-041-0015) beginning 6 a.m. April 24, 2003 through 6 p.m. May 31, 2003. Subsistence catch from Drano Lake, Wind River, Klickitat River, and White Salmon River may also be sold during this time period. Sturgeon may not be sold, but sturgeon between 4 and 5 feet in length may be kept for subsistence use.

(a) Gear is restricted to subsistence fishing gear including dipnets, hoopnets, setbag nets, and hook-and-line with bait and lures allowed;

(b) Fish taken using subsistence gear from these open subsistence areas may be sold to licensed fish dealers and directly to members of the general public during this open commercial period;

(c) Subsistence areas in Drano Lake, Wind River, Klickitat River, and White Salmon River are open to commercial fishing as enacted by the State of Washington.

Stat. Auth.: ORS 496.118 & ORS 506.119  
Stats Implemented: ORS 506.109, ORS 506.129 & ORS 507.030  
Hist.: DFW 20-2001(Temp), f. 4-16-01, cert. ef. 4-17-01 thru 4-19-01; DFW 22-2001(Temp), f. & cert. ef. 4-20-01 thru 5-31-01; DFW 26-2001(Temp), f. 4-24-01, cert. ef. 4-26-01 thru 5-31-01; DFW 33-2001(Temp), f. 5-3-01, cert. ef. 5-4-01 thru 10-31-01; DFW 36-2001(Temp), f. & cert. ef. 5-10-01 thru 11-6-01; DFW 43-2001(Temp), f. 5-23-01, cert. ef. 5-24-01 thru 11-20-01; DFW 38-2002(Temp), f. 4-24-02, cert. ef. 4-25-02 thru 5-31-02; DFW 41-2002(Temp), f. & cert. ef. 5-1-02 thru 5-31-02; DFW 47-2002(Temp), f. 5-8-02 & cert. ef. 5-9-02 thru 5-31-02; DFW 49-2002(Temp), f. 5-16-02, cert. ef. 5-17-02 thru 5-31-02; DFW 51-2002(Temp), f. & cert. ef. 5-22-02 thru 9-1-02; DFW 33-2003(Temp), f. 4-23-03, cert. ef. 4-24-03 thru 10-1-03; DFW 43-2003(Temp), f. 5-21-03, cert. ef. 5-22-03 thru 10-1-03; DFW 45-2003(Temp), f. 5-28-03, cert. ef. 5-29-03 thru 10-1-03

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**Adm. Order No.:** DFW 46-2003(Temp)

**Filed with Sec. of State:** 5-28-2003

**Certified to be Effective:** 5-30-03 thru 10-1-03

**Notice Publication Date:**

**Rules Amended:** 635-023-0090

**Subject:** Amend rules to allow the retention of adipose fin-clipped adult summer chinook salmon in a portion of the Columbia River from June 16, 2003 to July 31, 2003.

**Rules Coordinator:** Mike Lueck—(503) 872-5272, ext. 5447

## 635-023-0090

### Inclusions and Modifications

(1) The **2003 Oregon Sport Fishing Regulations** as posted on the Department's web page [www.dfw.state.or.us](http://www.dfw.state.or.us) provide requirements for the Columbia River Zone and the Snake River Zone. However, additional regulations may be adopted from time to time, and, to the extent of any inconsistency, they supersede the **2003 Oregon Sport Fishing Regulations**.

(2) The Columbia River is closed to angling for salmon, steelhead, and shad from the I-5 Bridge upstream to Bonneville Dam effective April 6, 2003 through May 15, 2003. The Columbia River from the mouth at Buoy 10 upstream to the I-5 Bridge is closed to angling for salmon, steelhead, and shad on Sundays, Mondays, and Tuesdays, effective April 6, 2003 through May 15, 2003. Effective May 4, 2003, the Columbia River from Tower Island power lines upstream to McNary Dam plus the Oregon bank between Bonneville Dam and the Tower Island power lines is open four days per week (Wednesday through Saturday) and closed three days per week (Sunday through Tuesday) with the following restrictions:

(a) Adipose fin-clipped chinook salmon, adipose fin-clipped steelhead, and shad may be retained; all nonadipose fin-clipped chinook salmon and steelhead must be released immediately unharmed;

(b) Catch limits of two adult salmon or steelhead and five jacks per day are in effect as per printed regulation pamphlet.

(3) The Columbia River is closed to the retention of sturgeon from the Wauna powerlines (River Mile 40) upstream to Bonneville Dam from March 24, 2003 through June 30, 2003. Catch and release of sturgeon is allowed to continue; however, all sturgeon must be released immediately and unharmed.

(4) The Columbia River from the Tongue Point/Rocky Point line upstream to the Oregon/Washington border upstream of McNary Dam is open from June 16, 2003 to July 31, 2003 to the retention of adipose fin-clipped adult summer chinook salmon.

Stat. Auth.: ORS 496.138, ORS 496.146 & ORS 506.119  
Stats. Implemented: ORS 496.162 & ORS 506.129

Hist.: FWC 82-1993, f. 12-22-93, cert. ef. 1-1-94; FWC 19-1994(Temp), f. 3-31-94, cert. ef. 4-1-94; FWC 31-1994, f. 5-26-94, cert. ef. 6-20-94; FWC 46-1994(Temp), f. 7-29-94, cert. ef. 8-1-94; FWC 52-1994(Temp), f. 8-24-94, cert. ef. 8-27-94; FWC 62-1994(Temp), f. 9-12-94, cert. ef. 9-16-94; FWC 65-1994(Temp), f. 9-15-94, cert. ef. 9-17-94; FWC 72-1994(Temp), f. 10-7-94, cert. ef. 10-8-94; FWC 8-1995, f. 2-1-95, cert. ef. 2-6-95; FWC 11-1995, f. & cert. ef. 2-9-95; FWC 14-1995(Temp), f. 2-15-95, cert. ef. 2-16-95; FWC 31-1995(Temp), f. 4-21-95, cert. ef. 4-24-95; FWC 34-1995, f. & cert. ef. 5-1-95; FWC 61-1995(Temp), f. 7-24-95, cert. ef. 8-1-95; FWC 67-1995(Temp), f. 8-25-95, cert. ef. 8-27-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 8-1995, f. 2-28-96, cert. ef. 3-1-96; FWC 12-1996(Temp), f. 3-26-96, cert. ef. 4-1-96; FWC 14-1996, f. 3-29-96, cert. ef. 4-1-96; FWC 49-1996(Temp), f. & cert. ef. 8-30-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 77-1997(Temp), f. 2-6-97, cert. ef. 3-11-97; FWC 10-1997, f. & cert. ef. 2-28-97; FWC 11-1997(Temp), f. 2-27-97, cert. ef. 3-1-97; FWC 22-1997(Temp), f. 4-2-97, cert. ef. 4-5-97; FWC 28-1997(Temp), f. 5-2-97, cert. ef. 5-5-97; FWC 50-1997(Temp), f. 8-26-97, cert. ef. 9-2-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 12-1998(Temp), f. & cert. ef. 2-24-98 thru 4-24-98; DFW 29-1998(Temp), f. 4-16-98, cert. ef. 4-20-98 thru 4-28-98; DFW 32-1998(Temp), f. & cert. ef. 4-24-98 thru 10-15-98; DFW 34-1998, f. & cert. ef. 5-4-98; DFW 46-1998, f. & cert. ef. 6-9-98; DFW 78-1998(Temp), f. 9-18-98, cert. ef. 9-21-98 thru 9-25-98; DFW 81-1998(Temp), f. 10-6-98, cert. ef. 10-7-98 thru 10-23-98; DFW 85-1998(Temp), f. & cert. ef. 10-26-98 thru 12-31-98; DFW 88-1998(Temp), f. & cert. ef. 11-23-98 thru 12-31-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 13-1999(Temp), f. 3-2-99, cert. ef. 3-11-99 thru 6-15-99; DFW 23-1999(Temp), f. 4-9-99, cert. ef. 4-17-99 thru 4-23-99; DFW 25-1999, f. & cert. ef. 4-16-99 thru 4-23-99; DFW 29-1999(Temp), f. & cert. ef. 4-23-99 thru 10-20-99; DFW 31-1999, f. & cert. ef. 5-3-99; DFW 42-1999(Temp), f. 6-9-99, cert. ef. 6-12-99 thru 10-20-99; DFW 50-1999(Temp), f. & cert. ef. 7-16-99 thru 12-9-99; DFW 60-1999(Temp), f. 8-27-99, cert. ef. 8-30-99 thru 9-17-99; DFW 64-1999(Temp), f. 9-13-99, cert. ef. 9-14-99 thru 9-17-99; DFW 67-1999(Temp), f. & cert. ef. 9-17-99 thru 12-31-99; DFW 73-1999(Temp), f. 9-28-99 & cert. ef. 9-29-99 thru 10-22-99; DFW 77-1999(Temp), f. & cert. ef. 10-1-99 thru 12-31-99; DFW 78-1999, f. & cert. ef. 10-4-99; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 11-2000(Temp), f. 3-14-00, cert. ef. 3-16-00 thru 3-31-00; DFW 13-2000, f. & cert. ef. 3-20-00; DFW 18-2000(Temp), f. 4-6-00, cert. ef. 4-8-00 thru 10-5-00; DFW 24-2000, f. 4-28-00, cert. ef. 5-1-00; DFW 32-2000(Temp), f. 6-14-00, cert. ef. 6-19-00 thru 10-5-00; DFW 35-2000(Temp), f. 6-27-00, cert. ef. 6-28-00 thru 7-31-00; DFW 53-2000(Temp), f. 8-25-00, cert. ef. 8-28-00 thru 12-31-00; DFW 57-2000(Temp), f. 8-31-00, cert. ef. 9-1-00 thru 10-5-00; DFW 58-2000(Temp), f. & cert. ef. 9-1-00 thru 12-31-00; DFW 83-2000(Temp), f. 12-28-00, cert. ef. 1-1-01 thru 1-31-01; DFW 1-2001, f. 1-25-01, cert. ef. 2-1-01; DFW 7-2001(Temp), f. & cert. ef. 2-26-01 thru 4-30-01; DFW 17-2001(Temp), f. 4-4-01, cert. ef. 4-9-01 thru 10-6-01; DFW 18-2001(Temp), f. & cert. ef. 4-12-01 thru 4-30-01; DFW 19-2001(Temp), f. 4-17-01, cert. ef. 4-21-01 thru 8-5-01; DFW 25-2001(Temp), f. 4-24-01, cert. ef. 4-25-01 thru 4-29-01; DFW 28-2001, f. & cert. ef. 5-1-01; DFW 35-2001(Temp), f. & cert. ef. 5-4-01 thru 5-8-01; DFW 37-2001(Temp), f. & cert. ef. 5-11-01 thru 7-31-01; DFW 40-2001(Temp), f. & cert. ef. 5-24-01 thru 11-20-01; DFW 64-2001(Temp), f. & cert. ef. 7-24-01 thru 12-31-01; DFW 71-2001(Temp), f. 8-10-01, cert. ef. 9-1-01 thru 12-31-01; DFW 82-2001(Temp), f. 8-29-01, cert. ef. 8-30-01 thru 12-31-01; DFW 85-2001(Temp), f. & cert. ef. 8-30-01 thru 12-31-01; DFW 88-2001(Temp), f. 9-15-01 thru 12-31-01; DFW 123-2001, f. 12-31-01, cert. ef. 1-1-02; DFW 15-2002(Temp), f. & cert. ef. 2-20-02 thru 8-18-02; DFW 16-2002(Temp), f. 3-1-02 thru 8-28-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 29-2002(Temp), f. 4-4-02, cert. ef. 4-6-02 thru 10-3-02; DFW 40-2002(Temp), f. 4-25-02, cert. ef. 4-28-02 thru 10-3-02; DFW 43-2002(Temp), f. &

# ADMINISTRATIVE RULES

cert. ef. 5-3-02 thru 10-3-02; DFW 45-2002(Temp), f. 5-7-02, cert. ef. 5-8-02 thru 10-3-02; DFW 46-2002(Temp), f. 5-7-02, cert. ef. 5-8-02 thru 10-3-02; DFW 64-2002(Temp), f. 6-27-02, cert. ef. 6-28-02 thru 12-20-02; DFW 69-2002(Temp), f. 7-10-02 cert. ef. 7-11-02 thru 12-31-02; DFW 71-2002(Temp), f. 7-10-02 cert. ef. 7-13-02 thru 12-31-02; DFW 79-2002(Temp), f. 7-29-02, cert. ef. 8-5-02 thru 12-31-02; DFW 91-2002(Temp) f. 8-19-02, cert. ef. 8-20-02 thru 11-1-02 (Suspended by DFW 101-2002(Temp), f. & cert. ef. 10-3-02 thru 11-1-02); DFW 94-2002(Temp), f. 8-22-02, cert. ef. 8-24-02 thru 12-31-02; DFW 105-2002(Temp), f. 9-20-02, cert. ef. 9-23-02 thru 12-31-02; DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 12-2003, f. & cert. ef. 2-14-03; DFW 16-2003(Temp), f. 2-27-03, cert. ef. 3-1-03 thru 7-1-03; DFW 28-2003(Temp), f. & cert. ef. 4-3-03 thru 7-1-03; DFW 35-2003, f. 4-30-03, cert. ef. 5-1-03; DFW 36-2003, f. 4-30-03, cert. ef. 5-1-03 thru 10-1-03; DFW 46-2003(Temp), f. 5-29-03, cert. ef. 5-30-03 thru 10-1-03

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**Adm. Order No.:** DFW 47-2003(Temp)

**Filed with Sec. of State:** 6-5-2003

**Certified to be Effective:** 6-6-03 thru 6-30-03

**Notice Publication Date:**

**Rules Amended:** 635-003-0004

**Subject:** Close the troll salmon season in waters north of Cape Falcon after June 6, 2003

**Rules Coordinator:** Mike Lueck — (503) 872-5272, ext. 5447

## 635-003-0004

### Inclusions and Modifications

(1) OAR 635-003-0005 through 635-003-0076 modify or are in addition to provisions contained in **Code of Federal Regulations, Title 50, Part 660, Subpart H.**

(2) The **Code of Federal Regulations (CFR), Title 50, Part 660, Subpart H**, provides requirements for commercial salmon fishing in the Pacific Ocean off the Oregon coast. However, additional regulations may be promulgated subsequently, and these supersede, to the extent of any inconsistency, the Code of Federal Regulations.

(3) This rule contains requirements which modify commercial salmon fishing regulations off the Oregon coast. The following modifications are organized in sections that apply to the ocean commercial salmon fishery in general and within management zones established by the Pacific Fishery Management Council and enacted by **Federal Regulations (CFR, Title 50, Part 660, Subpart H).**

(4) General Requirements, Definitions, Restrictions or Exceptions: Vessels prevented by unsafe weather conditions or mechanical problems from meeting management area landing restrictions, must notify the U.S. Coast Guard and receive acknowledgement of such notification prior to leaving the area. Notification shall include the vessel name, port where delivery will be made, approximate number of salmon (by species) on board, and estimated time of arrival.

(5) South of Cape Falcon to Humbug Mountain:

(a) Open for all salmon except coho March 15-April 30;

(b) It is *unlawful* to take chinook salmon less than 26 inches in length;

(c) It is *unlawful* to retain incidentally caught halibut during the March/April salmon season;

(d) It is *unlawful* to fish with gear having more than four spreads per wire, and only single point, single shank barbless hooks are allowed;

(e) A triangular area offshore is open to the retention of all chinook salmon consistent with seasons adopted by the Pacific Fishery Management Council in adjacent waters, except that prior to August 1 only fin-clipped chinook salmon may be retained in this area. This triangular area extends from the green buoy approximately one-half mile offshore from the mouth of Tillamook Bay to points about three-quarter mile north of the north jetty and approximately one and one-quarter miles south of the south jetty.

(6) Humbug Mountain, Oregon, to Humboldt South Jetty: When the fishery is closed north of the Oregon/California border and open to the south, vessels with fish on board taken in the open area may request authorization to temporarily moor in Brookings, Oregon, prior to landing in California. Such vessels shall first notify the Chetco River Coast Guard Station via VHF Channel 22A between the hours of 0500 and 2200. Proper notification shall include the vessel name, number of fish on board, and estimated time of arrival.

(7) North of Cape Falcon to the Oregon/Washington border is closed to the commercial take of all salmon effective 11:59 p.m. June 6, 2003.

[Publications referenced are available from the agency.]

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

Stats. Implemented: ORS 506.129

Hist.: FWC 29-1989, f. 4-28-89, cert. ef. 5-1-89; FWC 42-1991, f. 4-29-91, cert. ef. 5-1-91; FWC 25-1994, f. & cert. ef. 5-2-94; FWC 83-1994(Temp), f. 10-28-94, cert. ef. 11-1-94; FWC 34-1995, f. & cert. ef. 5-1-95; FWC 40-1995(Temp), f. & cert. ef. 5-18-95; FWC 62-1995(Temp), f. 7-27-95, cert. ef. 7-28-95; FWC 20-1996, f. & cert. ef. 4-29-96; FWC 26-1996(Temp), f. 5-16-96, cert. ef. 5-17-96; FWC 31-1996(Temp), f. & cert. ef. 6-4-96; FWC 19-1997(Temp), f. 3-17-97, cert. ef. 4-15-97; FWC 30-1997, f. & cert. ef. 5-5-97; FWC 33-1997(Temp), f. & cert. ef. 5-28-97; FWC 44-1997(Temp), f. & cert. ef. 8-13-97; DFW 34-

1998, f. & cert. ef. 5-4-98; DFW 36-1998(Temp), f. 5-12-98, cert. ef. 5-13-98 thru 5-15-98; DFW 38-1998(Temp), f. & cert. ef. 5-15-98 thru 6-15-98; DFW 39-1998(Temp), f. 5-19-98, cert. ef. 5-20-98 thru 5-23-98; DFW 44-1998(Temp), f. 6-1-98, cert. ef. 6-2-98 thru 6-4-98; DFW 64-1998(Temp), f. 8-14-98, cert. ef. 8-15-98 thru 8-21-98; DFW 65-1998(Temp), f. & cert. ef. 8-21-98 thru 8-31-98; DFW 20-1999(Temp), f. 3-29-99, cert. ef. 4-1-99 thru 4-30-99; DFW 31-1999, f. & cert. ef. 5-3-99; DFW 16-2000(Temp), f. 3-31-00, cert. ef. 4-1-00 thru 4-30-00; DFW 24-2000, f. 4-28-00, cert. ef. 5-1-00; DFW 45-2000(Temp), f. 8-10-00, cert. ef. 8-11-00 thru 8-31-00; DFW 46-2000(Temp), f. 8-10-00, cert. ef. 8-10-00 thru 9-30-00; DFW 49-2000(Temp), f. 8-17-00, cert. ef. 8-18-00 thru 9-30-00; DFW 56-2000(Temp), f. 8-31-00, cert. ef. 9-1-00 thru 9-30-00; DFW 59-2000(Temp), f. & cert. ef. 9-6-00 thru 9-30-00; DFW 73-2000(Temp), f. 10-26-00, cert. ef. 10-28-00 thru 11-1-00; DFW 28-2001, f. & cert. ef. 5-1-01; DFW 48-2001(Temp), f. 6-14-01, cert. ef. 6-15-01 thru 6-30-01; DFW 58-2001(Temp), f. 7-18-01, cert. ef. 7-20-01 thru 9-30-01; DFW 67-2001(Temp), f. 8-2-01, cert. ef. 8-3-01 thru 9-30-01; DFW 69-2001(Temp), f. & cert. ef. 8-8-01 thru 9-30-01; DFW 74-2001(Temp), f. & cert. ef. 8-17-01 thru 9-30-01; DFW 83-2001(Temp), f. 8-30-01, cert. ef. 8-31-01 thru 9-30-01; DFW 22-2002(Temp), f. 3-19-02, cert. ef. 3-20-02 thru 4-30-02; DFW 37-2002, f. & cert. ef. 4-23-02; DFW 58-2002(Temp), f. 6-6-02, cert. ef. 6-7-02 thru 6-30-02; DFW 65-2002(Temp), 6-27-02, cert. ef. 7-1-02 thru 12-27-02; DFW 72-2002(Temp), f. 7-11-02 cert. ef. 7-12-02 thru 12-31-02; DFW 76-2002(Temp), f. 7-25-02, cert. ef. 7-26-02 thru 12-31-02; DFW 77-2002(Temp), f. & cert. ef. 7-26-02 thru 12-31-02; DFW 84-2002(Temp), f. 8-8-02, cert. ef. 8-9-02 thru 12-31-02; DFW 86-2002(Temp), f. & cert. ef. 8-9-02 thru 12-31-02; DFW 92-2002(Temp), f. & cert. ef. 8-22-02 thru 12-31-02; DFW 101-2002(Temp), f. & cert. ef. 9-9-02 thru 12-31-02; DFW 111-2002(Temp), f. 10-8-02, cert. ef. 10-14-02 thru 12-31-02; DFW 18-2003(Temp) f. 2-28-03, cert. ef. 3-1-03 thru 4-30-03; DFW 35-2003, f. 4-30-03, cert. ef. 5-1-03; DFW 47-2003(Temp), f. 6-5-03, cert. ef. 6-6-03 thru 6-30-03

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**Adm. Order No.:** DFW 48-2003(Temp)

**Filed with Sec. of State:** 6-5-2003

**Certified to be Effective:** 6-5-03 thru 7-1-03

**Notice Publication Date:**

**Rules Amended:** 635-019-0090

**Subject:** Amends rules to open spring chinook fishery on the Imnaha River.

**Rules Coordinator:** Mike Lueck — (503) 872-5272, ext. 5447

## 635-019-0090

### Inclusions and Modifications

(1) The **2003 Oregon Sport Fishing Regulations** as posted on the Department's web page [www.dfw.state.or.us](http://www.dfw.state.or.us) provide requirements for the Northeast Zone. However, additional regulations may be adopted from time to time, and, to the extent of any inconsistency, they supersede the **2003 Oregon Sport Fishing Regulations.**

(2) The Umatilla River, from the Highway 730 Bridge upstream to the reservation boundary located upstream from the Highway 11 bridge at Pendleton, is closed to angling for spring chinook salmon effective May 28, 2003.

(3) The Imnaha River from the mouth upstream to Summit Creek Bridge is open for hatchery spring chinook June 7, 2003 through July 1, 2003:

(a) The daily catch limit is two adipose fin-clipped spring chinook salmon, including jacks;

(b) All nonadipose fin-clipped chinook salmon must be released unharmed;

(c) All other rules remain unchanged from the 2003 Oregon Sport Fishing Regulations pamphlet.

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

Stats. Implemented: ORS 496.162 & ORS 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

# ADMINISTRATIVE RULES

**Adm. Order No.:** DFW 49-2003(Temp)

**Filed with Sec. of State:** 6-5-2003

**Certified to be Effective:** 6-5-03 thru 9-1-03

**Notice Publication Date:**

**Rules Amended:** 635-041-0063

**Subject:** Amends rules adopted a Treaty Indian sturgeon setline fishery.

**Rules Coordinator:** Mike Lueck—(503) 872-5272, ext. 5447

## 635-041-0063

### Sturgeon Setline Fishery

(1) Sturgeon may be taken by setline for commercial purposes from:

(a) From 12 Noon January 1 through 12 Noon January 31;

(b) From 6 a.m. June 9, 2003 through 6 p.m. August 23, 2003 between Bonneville Dam and The Dalles Dam and between John Day Dam and McNary Dam.

(2) Closed areas are set forth under OAR 635-041-0045.

(3) During the sturgeon setline season it shall be unlawful to:

(a) Operate any fishing gear other than setlines except as provided in OAR 635-041-0060;

(b) Operate any setline having more than 100 hooks;

(c) Use other than single hooks size 9/0 or larger;

(d) Operate any setline on which the buoy or marker does not have the tribal identification number of the individual operating the line clearly marked on it and which is attached in a manner that will not allow it to float visibly on the surface at all times.

(4) Notwithstanding OAR 635-041-0045(6)-(11), it is lawful during the open season to fish for sturgeon by means of set lines in the Columbia River within areas at and adjacent to the mouths of rivers.

Stat. Auth.: ORS 183.325 & ORS 506.119

Stats. Implemented: ORS 506.129 & ORS 507.030

Hist.: FWC 89, f. & ef. 1-28-77; FWC 2-1978, f. & ef. 1-31-78; FWC 7-1978, f. & ef. 2-21-78; FWC 2-1979, f. & ef. 1-25-79, Renumbered from 635-035-0063; FWC 6-1980, f. & ef. 1-28-80; FWC 12-1980, f. & ef. 2-29-80; FWC 64-1980(Temp), f. & ef. 11-7-80; FWC 1-1981, f. & ef. 1-19-81; FWC 6-1982, f. & ef. 1-28-82; FWC 2-1983, f. 1-21-83, ef. 2-1-83; FWC 9-1983(Temp), f. & ef. 3-1-83; FWC 4-1984, f. & ef. 1-31-84; FWC 2-1985, f. & ef. 1-30-85; FWC 4-1986(Temp), f. & ef. 1-28-86; FWC 79-1986(Temp), f. & ef. 12-22-86; FWC 2-1987, f. & ef. 1-23-87; FWC 10-1988, f. & cert. ef. 3-4-88; FWC 48-1988, f. & cert. ef. 6-21-88; FWC 5-1989, f. 2-6-89, cert. ef. 2-7-89; FWC 12-1989(Temp), f. & cert. ef. 3-21-89; FWC 54-1989(Temp), f. & cert. ef. 8-7-89; FWC 9-1991, f. & cert. ef. 1-31-91; FWC 37-1991(Temp), f. & cert. ef. 4-3-91; FWC 4-1992, f. 1-30-92, cert. ef. 2-1-92; FWC 13-1992(Temp), f. & cert. ef. 3-5-92; FWC 41-1992(Temp), f. 6-30-92, cert. ef. 7-1-92; FWC 107-1992(Temp), f. & cert. ef. 10-9-92; FWC 7-1993, f. & cert. ef. 2-1-93; FWC 15-1996(Temp), f. & cert. ef. 4-1-96; FWC 25-1996(Temp), f. 5-14-96, cert. ef. 5-15-96; FWC 23-1997(Temp), f. 4-4-97, cert. ef. 4-7-97; FWC 35-1997(Temp), f. & cert. ef. 6-13-97; FWC 40-1997(Temp), f. 6-20-97, cert. ef. 6-23-97; DFW 23-1998(Temp), f. & cert. ef. 3-20-98 thru 6-30-98; DFW 50-1998(Temp), f. 6-25-98, cert. ef. 6-26-98 thru 7-24-98; DFW 57-1998(Temp), f. & cert. ef. 7-24-98 thru 12-31-98; DFW 22-1999(Temp), f. & cert. ef. 4-1-99 thru 4-23-99; DFW 28-1999(Temp), f. & cert. ef. 4-23-99 thru 7-31-99; DFW 41-1999(Temp), f. & cert. ef. 6-7-99 thru 7-31-99; DFW 79-1999(Temp), f. 10-8-99, cert. ef. 10-11-99 thru 12-31-99; DFW 14-2000(Temp), f. 3-17-00, cert. ef. 3-20-00 thru 7-31-00; DFW 31-2000(Temp), f. 6-9-00, cert. ef. 6-10-00 thru 7-31-00; DMV 43-2000(Temp), f. 8-7-00, cert. ef. 8-8-00 thru 8-20-00; DFW 66-2000, f. 9-29-00, cert. ef. 10-2-00 thru 12-31-00; DFW 43-2001(Temp), f. 5-23-01, cert. ef. 5-24-01 thru 11-20-01; DFW 65-2001(Temp), f. & cert. ef. 7-24-01 thru 12-31-01; DFW 94-2001(Temp), f. 9-26-01, cert. ef. 9-27-01 thru 12-31-01; DFW 114-2001(Temp), f. & cert. ef. 12-13-01 thru 12-31-01; DFW 51-2002(Temp), f. & cert. ef. 5-22-02 thru 9-1-02; DFW 104-2002(Temp), f. & cert. ef. 9-19-02 thru 12-31-02; DFW 121-2002(Temp), f. 10-24-02, cert. ef. 10-27-02 thru 12-31-02; DFW 49-2003(Temp), f. & cert. ef. 6-5-03 thru 9-1-03

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**Adm. Order No.:** DFW 50-2003

**Filed with Sec. of State:** 6-13-2003

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**Rules Amended:** 635-065-0765, 635-067-0000, 635-068-0000, 635-069-0000, 635-069-0010, 635-070-0000, 635-071-0000, 635-073-0000, 635-073-0070

**Subject:** Established 2003 controlled hunt tag numbers for the hunting of pronghorn antelope, bighorn sheep, Rocky Mountain goat, deer, and elk. Change bag limits from one buck to one deer in certain eastern Oregon units in the general archery season consistent with Oregon's Mule Deer Management Plan. Establish rules for evidence of sex requirements and importation of hunter killed cervids for 2003-04 seasons.

**Rules Coordinator:** Mike Lueck—(503) 872-5272, ext. 5447

## 635-065-0765

### Tagging, Possession, Transportation and Evidence of Sex

(1) When the owner of any game mammal tag kills a game mammal for which a tag is issued, the owner shall immediately remove in its entirety only the month and day of kill and attach the tag in plain sight securely to the game mammal. The tag shall be kept attached to the carcass or parts until processed or until replaced by a tag or seal of the department.

(2) It is unlawful to have in possession any game mammal tag from which all or part of any date has been removed or mutilated except when the tag is legally validated and attached to a game mammal.

(3) It is unlawful to possess the meat or carcass of any pronghorn antelope, bighorn sheep, or Rocky Mountain goat without the animal's scalp while in the field, forest, or in transit on any of the highways or premises open to the public in Oregon, except processed or cut and wrapped meat. The scalp shall include the attached eyes and ears, if the animal is female; or ears, antlers, and eyes if the animal is male.

(4) It is unlawful to possess the meat or carcass of any deer or elk without evidence of sex while in the field, forest, or in transit on any of the highways or premises open to the public in Oregon, except processed or cut and wrapped meat. Evidence of sex for deer and elk is:

(a) Evidence of sex for deer and elk which will be taken out of Oregon is:

(i) For Bucks and Bulls: Either the head with antlers naturally attached to at least one quarter of the carcass or testicles, scrotum, or penis naturally attached to one quarter of the carcass or to another major portion of meat. For hunts with antler restrictions, if the head is not attached to the carcass, in addition to leaving the testicles, scrotum, or penis naturally attached to one quarter of the carcass or to another major portion of meat, the head or skull plate with both antlers naturally attached shall accompany the carcass or major portions of meat while in the field, forest, or in transit on any of the highways or premises open to the public in Oregon, except processed or cut and wrapped meat.

(ii) For Does and Cows: Either the head naturally attached to at least one quarter of the carcass or vulva or udder (mammary) naturally attached to one quarter of the carcass or to another major portion of meat.

(iii) For Either Sex Hunts: Either the head naturally attached to at least one quarter of the carcass or reproductive organs (testicles, scrotum, penis, vulva, udder) naturally attached to one quarter of the carcass or to another major portion of meat. For bucks or bulls killed in either sex hunts with antler restrictions, if the head is not attached to the carcass, in addition to leaving the testicles, scrotum, or penis naturally attached to one quarter of the carcass or to another major portion of meat, the head or skull plate with both antlers naturally attached shall accompany the carcass or major portions of meat while in the field, forest, or in transit on any of the highways or premises open to the public in Oregon, except processed or cut and wrapped meat.

(iv) For hunts where only white-tailed deer are legal: in addition to evidence of sex, either the head or tail shall remain naturally attached to one quarter of the carcass or to another major portion of meat as evidence of the species taken while in the field, forest, or in transit on any of the highways or premises open to the public in Oregon, except processed or cut and wrapped meat.

(b) Evidence of sex for deer and elk which will not be taken out of Oregon is either:

(A) The animal's scalp while in the field, forest, or in transit on any of the highways or premises open to the public in Oregon, except processed or cut and wrapped meat. The scalp shall include the attached eyes and ears, if the animal is female; or ears, antlers, and eyes if the animal is male; or

(B) The head naturally attached to at least one quarter of the carcass or reproductive organs naturally attached to one quarter of the carcass or to another major portion of meat as described in (4)(a)(i)-(iv) above.

(5) When any game mammal or part thereof is transferred to the possession of another person, a written record describing the game mammal or part being transferred indicating the name and address of the person whose tag was originally attached to the carcass and the number of that tag shall accompany such transfer and shall remain with such game mammal or part so long as the same is preserved or until replaced by a tag or seal of the department.

(6) All game mammals in possession in the field or forest or in transit more than 48 hours after the close of the open season for such mammal must be tagged with a tag or metal seal by the department or by the Oregon State Police.

(7) All game mammals or portions thereof shipped by commercial carrier shall be tagged with a tag or metal seal provided by the department or by the Oregon State Police.

# ADMINISTRATIVE RULES

(8) It is unlawful to receive or have in possession any game mammal or part thereof which:

- (a) Is not properly tagged;
- (b) Was taken in violation of any wildlife laws or regulations; or
- (c) Was taken by any person who is or may be exempt from the jurisdiction of such laws or regulations.

(9) No person shall possess any game mammal or part thereof which has been illegally killed, found or killed for humane reasons, except shed antlers, unless he has notified and received permission from the department or personnel of the Oregon State Police prior to transporting.

(10) No person shall possess the horns of bighorn sheep or Rocky Mountain goat that were not taken legally during an authorized season. Any horns of bighorn sheep or Rocky Mountain goat obtained by the department may be made available to scientific and educational institutions and for ceremonial purposes.

(11) Except for the following parts, importation of a cervid carcass or parts of a cervid carcass is prohibited if the cervid was killed in a state or province with a documented case of Chronic Wasting Disease:

- (a) Meat that is cut and wrapped commercially or privately;
- (b) Meat that has been boned out;
- (c) Quarters or other portions of meat with no part of the spinal column or head attached;
- (d) Hides and/or capes with no head attached;
- (e) Skull plates with antlers attached that have been cleaned of all meat and brain tissue;
- (f) Antlers with no tissue attached;
- (g) Upper canine teeth (buglers, whistlers, ivories);
- (h) Finished taxidermy heads.

(12) For the purposes of the parts and carcass import ban in subsection (11), the states or provinces with a documented case of Chronic Wasting Disease (CWD) are Alberta, Colorado, Illinois, Kansas, Minnesota, Montana, Nebraska, New Mexico, Oklahoma, South Dakota, Wisconsin, Wyoming, and Saskatchewan. The Department shall add by temporary rule any additional states or provinces when any new cases of CWD arise.

(13) The parts and carcass import ban in subsection (11) does not apply to parts or carcasses shipped to the National Fish and Wildlife Forensics Laboratory (Ashland, Oregon) for the purpose of law enforcement investigations and also does not apply to parts or carcasses of reindeer/caribou.

Stat. Auth.: ORS 496.012, ORS 496.138, ORS 496.146 & ORS 496.162  
Stats. Implemented: ORS 496.012, ORS 496.138, ORS 496.146 & ORS 496.162  
Hist.: FWC 123, f. & ef. 6-9-77; FWC 33-1978, f. & ef. 6-30-78; FWC 28-1979, f. & ef. 8-2-79; FWC 33-1980, f. & ef. 6-30-80; FWC 6-1981, f. & ef. 1-23-81; FWC 11-1981, f. & ef. 3-31-81; FWC 20-1981, f. & ef. 6-19-81; FWC 37-1982, f. & ef. 6-25-82; FWC 34-1984, f. & ef. 7-24-84; FWC 43-1988, f. & ef. 8-22-85; FWC 35-1986, f. & ef. 8-7-86; FWC 11-1987, f. & ef. 3-6-87; FWC 41-1987, f. & ef. 7-6-87; FWC 13-1988, f. & cert. ef. 3-10-88; FWC 63-1989, f. & cert. ef. 8-15-89; FWC 24-1990, f. & cert. ef. 3-21-90; FWC 9-1997, f. & cert. ef. 2-27-97; DFW 49-1998, f. & cert. ef. 6-22-98; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 92-1999, f. 12-8-99, cert. ef. 1-1-00; DFW 82-2000, f. 12-21-00, cert. ef. 1-1-01; DFW 90-2002(Temp), f. & cert. ef. 8-16-02 thru 2-11-03; DFW 114-2002(Temp), f. & cert. ef. 10-18-02 thru 2-11-03; DFW 126-2002, f. & cert. ef. 11-12-02; DFW 127-2002(Temp), f. & cert. ef. 11-14-02 thru 2-11-03; DFW 2-2003, f. & cert. ef. 1-17-03; DFW 50-2003, f. & cert. ef. 6-13-03

## 635-067-0000

### Purpose and General Information

(1) The purpose of these rules is to establish season dates, bag limits, areas, methods, and other restrictions for hunting pronghorn antelope, cougar, bighorn sheep, and Rocky Mountain goat pursuant to ORS Chapter 496.

(2) OAR chapter 635, division 067 incorporates, by reference, the requirements for hunting pronghorn antelope, cougar, bighorn sheep, and Rocky Mountain goat set out in the document entitled "2003 Oregon Big Game Regulations," into Oregon Administrative Rules. Therefore, persons must consult the "2003 Oregon Big Game Regulations" in addition to OAR chapter 635, to determine all applicable requirements for hunting pronghorn antelope, cougar, bighorn sheep, and Rocky Mountain goat. The annual Oregon Big Game Regulations are available at authorized license agents and regional, district and headquarters offices of the Oregon Department of Fish and Wildlife.

(3) Controlled hunt tags shall be issued by a controlled hunt drawing following the procedures established in OAR chapter 635, division 060. Permitted arms and ammunition are established in OAR chapter 635, division 065. Controlled hunt tag numbers for 2003 are listed in Tables 1, 2, and 3 and are adopted and incorporated into OAR chapter 635, division 067 by reference

[ED. NOTE: Tables & Publications referenced are available from the agency.]  
Stat. Auth.: ORS 496.012, ORS 496.138, ORS 496.146 & ORS 496.162

Stats. Implemented: ORS 496.012, ORS 496.138, ORS 496.146 & ORS 496.162  
Hist.: FWC 65-1989, f. & cert. ef. 8-15-89; FWC 35-1996, f. & cert. ef. 6-7-96; FWC 9-1997, f. & cert. ef. 2-27-97; FWC 38-1997, f. & cert. ef. 6-17-97; FWC 71-1997, f. & cert. ef. 12-29-97; DFW 49-1998, f. & cert. ef. 6-22-98; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 47-1999, f. & cert. ef. 6-16-99; DFW 92-1999, f. 12-8-99, cert. ef. 1-1-00; DFW 30-2000, f. & cert. ef. 6-14-00; DFW 82-2000, f. 12-21-00, cert. ef. 1-1-01; DFW 47-2001, f. & cert. ef. 6-13-01; DFW 121-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 59-2002, f. & cert. ef. 6-11-02; DFW 2-2003, f. & cert. ef. 1-17-03; DFW 50-2003, f. & cert. ef. 6-13-03

## 635-068-0000

### Purpose and General Information

(1) The purpose of these rules is to establish season dates, bag limits, areas, methods and other restrictions for hunting western Oregon deer pursuant to ORS Chapter 496.

(2) Controlled hunt tag numbers for 2003 are listed in Tables 1 and 2 and are adopted and incorporated into OAR chapter 635, division 068 by reference.

(3) OAR chapter 635, division 068 incorporates, by reference, the requirements for hunting western Oregon deer set out in the document entitled "2003 Oregon Big Game Regulations," into Oregon Administrative Rules. Therefore, persons must consult the "2003 Oregon Big Game Regulations" in addition to OAR chapter 635, to determine all applicable requirements for hunting western Oregon deer. The annual Oregon Big Game Regulations are available at authorized license agents and regional, district, and headquarters offices of the Oregon Department of Fish and Wildlife.

[ED. NOTE: Tables referenced are available from the agency.]  
[Publications: Publications referenced are available from the agency.]  
Stat. Auth.: ORS 496.012, ORS 496.138, ORS 496.146 & ORS 496.162  
Stats. Implemented: ORS 496.012, ORS 496.138, ORS 496.146 & ORS 496.162  
Hist.: FWC 39-1988, f. & cert. ef. 6-13-88; FWC 35-1996, f. & cert. ef. 6-7-96; FWC 9-1997, f. & cert. ef. 2-27-97; FWC 38-1997, f. & cert. ef. 6-17-97; FWC 71-1997, f. & cert. ef. 12-29-97; DFW 49-1998, f. & cert. ef. 6-22-98; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 47-1999, f. & cert. ef. 6-16-99; DFW 92-1999, f. 12-8-99, cert. ef. 1-1-00; DFW 30-2000, f. & cert. ef. 6-14-00; DFW 82-2000, f. 12-21-00, cert. ef. 1-1-01; DFW 47-2001, f. & cert. ef. 6-13-01; DFW 121-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 59-2002, f. & cert. ef. 6-11-02; DFW 3-2003, f. 1-17-03, cert. ef. 1-20-03; DFW 50-2003, f. & cert. ef. 6-13-03

## 635-069-0000

### Purpose and General Information

(1) The purpose of these rules is to establish season dates, bag limits, areas, methods and other restrictions for hunting eastern Oregon deer pursuant to ORS Chapter 496.

(2) Controlled hunt tag numbers for 2003 are listed in Tables 1 and 2 and are adopted and incorporated into OAR chapter 635, division 069 by reference.

(3) OAR chapter 635, division 069 incorporates, by reference, the requirements for hunting eastern Oregon deer set out in the document entitled "2003 Oregon Big Game Regulations," into Oregon Administrative Rules. Therefore, persons must consult the "2003 Oregon Big Game Regulations" in addition to OAR chapter 635, to determine all applicable requirements for hunting eastern Oregon deer. The annual Oregon Big Game Regulations are available at hunting license agents and regional, district and headquarters offices of the Oregon Department of Fish and Wildlife.

[ED. NOTE: Tables referenced are available from the agency.]  
[Publications: Publications referenced are available from the agency.]  
Stat. Auth.: ORS 496.012, ORS 496.138, ORS 496.146 & ORS 496.162  
Stats. Implemented: ORS 496.012, ORS 496.138, ORS 496.146 & ORS 496.162  
Hist.: FWC 40-1988, f. & cert. ef. 6-13-88; FWC 35-1996, f. & cert. ef. 6-7-96; FWC 9-1997, f. & cert. ef. 2-27-97; FWC 38-1997, f. & cert. ef. 6-17-97; FWC 71-1997, f. & cert. ef. 12-29-97; DFW 49-1998, f. & cert. ef. 6-22-98; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 32-1999(Temp), f. & cert. ef. 5-4-99 thru 10-31-99; DFW 34-1999(Temp), f. & cert. ef. 5-12-99 thru 10-31-99; DFW 47-1999, f. & cert. ef. 6-16-99; DFW 92-1999, f. 12-8-99, cert. ef. 1-1-00; DFW 20-2000(Temp), f. 4-12-00, cert. ef. 4-12-00 thru 6-30-00; DFW 30-2000, f. & cert. ef. 6-14-00; DFW 82-2000, f. 12-21-00, cert. ef. 1-1-01; DFW 47-2001, f. & cert. ef. 6-13-01; DFW 121-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 59-2002, f. & cert. ef. 6-11-02; DFW 7-2003, f. 1-17-03, cert. ef. 2-1-03; DFW 50-2003, f. & cert. ef. 6-13-03

## 635-069-0010

### Controlled Antlerless Deer Hunts

Stat. Auth.: ORS 496.012, ORS 496.138, ORS 496.146 & ORS 496.162  
Stats. Implemented: ORS 496.012, ORS 496.138, ORS 496.146 & ORS 496.162  
Hist.: FWC 37-1982, f. & ef. 6-25-82; FWC 28-1983, f. & ef. 7-8-83; FWC 34-1984, f. & ef. 7-24-84; FWC 43-1985, f. & ef. 8-22-85; FWC 35-1986, f. & ef. 8-7-86; FWC 43-1987, f. & ef. 7-6-87; FWC 40-1988, f. & cert. ef. 6-13-88; FWC 67-1989, f. & cert. ef. 8-15-89; FWC 59-1990, f. & cert. ef. 6-21-90; FWC 62-1991, f. & cert. ef. 6-24-91; FWC 114-1991, f. & cert. ef. 9-30-91; FWC 47-1992, f. & cert. ef. 7-15-92; FWC 36-1993, f. & cert. ef. 6-14-93; FWC 46-1993, f. & cert. ef. 8-4-93; FWC 18-1994, f. 3-30-94, cert. ef. 5-1-94; FWC 40-1994, f. & cert. ef. 6-28-94; FWC 6-1995, f. 1-23-95, cert. ef. 4-1-95; FWC 54-1995, f. & cert. ef. 6-20-95; FWC 17-1996, f. 4-10-96, cert. ef. 4-15-96; FWC 35-1996, f. & cert. ef. 6-7-96; FWC 9-1997, f. & cert. ef. 2-27-97; DFW 32-1999(Temp), f. & cert. ef. 5-4-99 thru 10-31-99; DFW 34-1999(Temp), f. & cert. ef. 5-12-99 thru 10-31-99; DFW 20-2000(Temp), f. 4-12-00, cert. ef. 4-12-00 thru 6-30-00; DFW 30-2000, f. & cert. ef. 6-14-00; DFW 47-2001, f. & cert. ef. 6-13-01; DFW 2-2003, f. & cert. ef. 1-17-03; DFW 50-2003, f. & cert. ef. 6-13-03

# ADMINISTRATIVE RULES

## 635-070-0000

### Purpose and General Information

(1) The purpose of these rules is to establish season dates, bag limits, areas, methods and other restrictions for hunting Cascade and Coast elk pursuant to ORS Chapter 496.

(2) Controlled hunt tag numbers for 2003 are listed in Tables 1 and 2 and are adopted and incorporated into OAR chapter 635, division 070 by reference.

(3) OAR chapter 635, division 070 incorporates, by reference, the requirements for hunting western Oregon elk set out in the document entitled "2003 Oregon Big Game Regulations," into Oregon Administrative Rules. Therefore, persons must consult the "2003 Oregon Big Game Regulations" in addition to OAR Chapter 635, to determine all applicable requirements for hunting western Oregon elk. The annual Oregon Big Game Regulations are available at hunting license agents and regional, district and headquarters offices of the Oregon Department of Fish and Wildlife.

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

Stat. Auth.: ORS 496.012, ORS 496.138, ORS 496.146 & ORS 496.162  
Stats. Implemented: ORS 496.012, ORS 496.138, ORS 496.146 & ORS 496.162  
Hist.: FWC 41-1988, f. & cert. ef. 6-13-88; FWC 35-1996, f. & cert. ef. 6-7-96; FWC 9-1997, f. & cert. ef. 2-27-97; FWC 38-1997, f. & cert. ef. 6-17-97; FWC 71-1997, f. & cert. ef. 12-29-97; DFW 49-1998, f. & cert. ef. 6-22-98; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 47-1999, f. & cert. ef. 6-16-99; DFW 92-1999, f. 12-8-99, cert. ef. 1-1-00; DFW 30-2000, f. & cert. ef. 6-14-00; DFW 82-2000, f. 12-21-00, cert. ef. 1-1-01; DFW 47-2001, f. & cert. ef. 6-13-01; DFW 121-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 59-2002, f. & cert. ef. 6-11-02; DFW 2-2003, f. & cert. ef. 1-17-03; DFW 9-2003(Temp), f. & cert. ef. 1-28-03 thru 6-16-03; DFW 50-2003, f. & cert. ef. 6-13-03

## 635-071-0000

### Purpose and General Information

(1) The purpose of these rules is to establish season dates, bag limits, areas, methods and other restrictions for hunting Rocky Mountain elk pursuant to ORS Chapter 496.

(2) Controlled hunt tag numbers for 2003 are listed in Tables 1 and 2 and are adopted and incorporated into OAR chapter 635, division 071 by reference.

(3) OAR chapter 635, division 071 incorporates, by reference, the requirements for hunting Rocky Mountain elk set out in the document entitled "2003 Oregon Big Game Regulations," into Oregon Administrative Rules. Therefore, persons must consult the "2003 Oregon Big Game Regulations" in addition to OAR chapter 635, to determine all applicable requirements for hunting Rocky Mountain elk. The annual Oregon Big Game Regulations are available at hunting license agents and regional, district and headquarters offices of the Oregon Department of Fish and Wildlife.

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

Stat. Auth.: ORS 496.012, ORS 496.138, ORS 496.146 & ORS 496.162  
Stats. Implemented: ORS 496.012, ORS 496.138, ORS 496.146 & ORS 496.162  
Hist.: FWC 42-1988, f. & cert. ef. 6-13-88; FWC 35-1996, f. & cert. ef. 6-7-96; FWC 9-1997, f. & cert. ef. 2-27-97; FWC 38-1997, f. & cert. ef. 6-17-97; FWC 71-1997, f. & cert. ef. 12-29-97; DFW 49-1998, f. & cert. ef. 6-22-98; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 47-1999, f. & cert. ef. 6-16-99; DFW 92-1999, f. 12-8-99, cert. ef. 1-1-00; DFW 30-2000, f. & cert. ef. 6-14-00; DFW 82-2000, f. 12-21-00, cert. ef. 1-1-01; DFW 47-2001, f. & cert. ef. 6-13-01; DFW 121-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 59-2002, f. & cert. ef. 6-11-02; DFW 2-2003, f. & cert. ef. 1-17-03; DFW 9-2003(Temp), f. & cert. ef. 1-28-03 thru 6-16-03; DFW 50-2003, f. & cert. ef. 6-13-03

## 635-073-0000

### Purpose and General Information

(1) The purpose of these rules is to establish season dates, bag limits, areas and other restrictions for bow and muzzleloader hunting and controlled deer and elk youth hunts; pursuant to ORS Chapter 496.

(2) Controlled hunt tag numbers for 2003 for deer and elk bow and muzzleloader hunting and deer and elk youth hunts are listed in Tables 1 and 2 and are adopted and incorporated into OAR chapter 635, division 073 by reference.

(3) OAR Chapter 073 incorporates, by reference, the requirements for bow and muzzleloader hunting and controlled deer and elk youth hunts set out in the document entitled "2003 Oregon Big Game Regulations," into Oregon Administrative Rules. Therefore, persons must consult the "2003 Oregon Big Game Regulations," in addition to OAR chapter 635, to determine all applicable requirements for bow and muzzleloader hunting and controlled deer and elk youth hunts. The annual Oregon Big Game Regulations are available at hunting license agents and regional, district and headquarters offices of the Oregon Department of Fish and Wildlife.

[ED. NOTE: Tables referenced in this rule are available from the agency.]

[Publications: Publications referenced are available from the agency.]  
Stat. Auth.: ORS 496.012, ORS 496.138, ORS 496.146 & ORS 496.162  
Stats. Implemented: ORS 496.012, ORS 496.138, ORS 496.146 & ORS 496.162  
Hist.: FWC 44-1988, f. & cert. ef. 6-13-88; FWC 18-1994, f. 3-30-94, cert. ef. 5-1-94; FWC 17-1996, f. 4-10-96, cert. ef. 4-15-96; FWC 35-1996, f. & cert. ef. 6-7-96; FWC 9-1997, f.

& cert. ef. 2-27-97; FWC 38-1997, f. & cert. ef. 6-17-97; FWC 71-1997, f. & cert. ef. 12-29-97; DFW 49-1998, f. & cert. ef. 6-22-98; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 47-1999, f. & cert. ef. 6-16-99; DFW 92-1999, f. 12-8-99, cert. ef. 1-1-00; DFW 21-2000(Temp), f. 4-12-00, cert. ef. 4-12-00 thru 6-30-00; DFW 30-2000, f. & cert. ef. 6-14-00; DFW 82-2000, f. 12-21-00, cert. ef. 1-1-01; DFW 47-2001, f. & cert. ef. 6-13-01; DFW 121-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 59-2002, f. & cert. ef. 6-11-02; DFW 3-2003, f. 1-17-03, cert. ef. 1-20-03; DFW 50-2003, f. & cert. ef. 6-13-03

## 635-073-0070

### Early Eastern Oregon Bowhunting Seasons

(1) General Bowhunting Seasons — Eastern Oregon.

(a) Bag Limit: One buck deer having a visible antler and one elk;

(b) Open Season: August 30 — September 28, 2003;

(c) Hunt Area: The Grizzly, Metolius, Upper Deschutes, Paulina, Sprague, Fort Rock, Heppner, Keno, Klamath Falls, Interstate, Warner, Wagentire, Juniper, Beatys Butte, Steens Mountain, Owyhee, Malheur River, Silvies, Maury, Ochoco, Murderers Creek, Beulah, Fossil, Northside, Desolation, Ukiah, Starkey, Mt. Emily, Walla Walla, Wenaha, Sled Springs, Chesnimnus, Minam, Catherine Creek, Sumpter, Lookout Mountain, Keating, Pine Creek, Imaha, Snake River, and Whitehorse units and that part of the White River Unit within the Mt. Hood National Forest except that: That part of the Whitehorse Unit south of Whitehorse Ranch Rd. and west of US Hwy 95 (Trout Creek Mts.), is closed to deer bowhunting during the general bowhunting season unless the hunter has a Trout Creek Mts. controlled bow deer tag. Approximately 40 square miles of the Starkey Experimental Forest within the Starkey Unit shall be closed to all bowhunting. The Chesnimnus Unit shall be closed to deer bowhunting during the general bowhunting season unless the hunter also has a Chesnimnus controlled bow elk tag (used or unused). The Chesnimnus Unit shall be closed to all elk bowhunting unless the hunter has a valid, controlled Chesnimnus elk bow tag. The Sled Springs Unit shall be closed to deer bowhunting during the general bowhunting season unless the hunter also has a Sled Springs controlled bow elk tag (used or unused). The Sled Springs Unit shall be closed to all elk bowhunting unless the hunter has a valid, controlled Sled Springs elk bow tag. In the Walla Walla and Mt. Emily units, the bag limit is one antlerless elk or one spike bull elk having at least one antler that is a spike above the ears; in the Wenaha Unit, the bag limit is one spike bull elk only;

(2) General Bowhunting Seasons — Eastern Oregon.

(a) Bag Limit: One deer and one elk;

(b) Open Season: August 30 — September 28, 2003;

(c) Hunt Area: The Hood, Biggs, Silver Lake, Maupin, and Columbia Basin (in those portions of the unit open for bow hunting) units and that part of the White River Unit outside the Mt. Hood National Forest except that: That portion of the Columbia Basin Unit described as follows shall be closed to all bowhunting: Beginning at Heppner, north and west on State Hwy 74 to Lexington; north and east on State Hwy 207 to Butter Creek Junction; south on Butter Creek Road to Hwy 74 at Vinson; west on Hwy 74 to Heppner, point of beginning.

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

Stats. Implemented: ORS 496.012, ORS 496.138, ORS 496.146 & ORS 496.162  
Hist.: FWC 9-1997, f. & cert. ef. 2-27-97; FWC 38-1997, f. & cert. ef. 6-17-97; FWC 71-1997, f. & cert. ef. 12-29-97; DFW 47-1999, f. & cert. ef. 6-16-99; DFW 92-1999, f. 12-8-99, cert. ef. 1-1-00; DFW 57-2001, f. & cert. ef. 7-6-01; DFW 59-2002, f. & cert. ef. 6-11-02; DFW 2-2003, f. & cert. ef. 1-17-03; DFW 50-2003, f. & cert. ef. 6-13-03

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**Adm. Order No.:** DFW 51-2003(Temp)

**Filed with Sec. of State:** 6-13-2003

**Certified to be Effective:** 6-13-03 thru 10-31-03

**Notice Publication Date:**

**Rules Amended:** 635-014-0090

**Subject:** Amend rules to open Three Rivers for fin-clipped spring chinook salmon from May 24 through June 30, 2003; and to close three Rivers from the mouth upstream to the hatchery weir July 1 through September 30, 2003.

**Rules Coordinator:** Mike Lueck—(503) 872-5272, ext. 5447

## 635-014-0090

### Inclusions and Modifications

(1) The 2003 Oregon Sport Fishing Regulations as posted on the Department's web page [www.dfw.state.or.us](http://www.dfw.state.or.us) provide requirements for the Northwest Zone. However, additional regulations may be adopted from time to time, and, to the extent of any inconsistency, they supersede the 2003 Oregon Sport Fishing Regulations.

(2) Big Creek downstream from the suspended cable is open for chinook salmon and adipose fin-clipped steelhead January 1, 2003 through

# ADMINISTRATIVE RULES

March 31, 2003, May 10, 2003 through August 31, 2003, and October 1, 2003 through December 31, 2003.

(3) Gnat Creek upstream from Aldrich Pt. Road Bridge to Barrier Falls which is located 1/4 mile upstream from Hwy. 30 is open for chinook salmon and adipose fin-clipped steelhead January 1, 2003 through March 31, 2003, May 10, 2003 through August 31, 2003, and October 1, 2003 through December 31, 2003.

(4) The Klaskanine River including tidewater, North Fork upstream to hatchery, and South Fork is open to chinook salmon and adipose fin-clipped steelhead January 1, 2003 through March 31, 2003, and May 10, 2003 through December 31, 2003.

(5) The Lewis and Clark River upstream to fish ladder located 200 feet downstream from Warrenton Reservoir Dam is open for adipose fin-clipped steelhead and chinook salmon January 1, 2003 through March 31, 2003, and May 10, 2003 through December 31, 2003.

(6) Youngs River including tidewater is open for adipose fin-clipped steelhead and chinook salmon January 1, 2003 through March 31, 2003, and May 10, 2003 through December 31, 2003.

(7) Effective May 24, 2003, the angling deadline on Three Rivers is approximately 65 feet below the ladder entrance at the Cedar Creek Hatchery weir structure; the deadline is marked with a signed cable crossing the river.

(8) Three Rivers is open for fin-clipped spring chinook salmon May 24, 2003 through June 30, 2003, and closed to all angling from the mouth upstream to the hatchery weir July 1, 2003 through September 30, 2003.

Stat. Auth.: ORS 496.138, ORS 496.146 & ORS 506.119  
Stats. Implemented: ORS 496.162 & ORS 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. 12-11-02 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

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**Adm. Order No.:** DFW 52-2003(Temp)

**Filed with Sec. of State:** 6-13-2003

**Certified to be Effective:** 6-21-03 thru 12-15-03

**Notice Publication Date:**

**Rules Amended:** 635-023-0090

**Subject:** Amend rules to close the Columbia River between The Dalles Dam and John Day Dam to the retention of sturgeon effective June 21, 2003.

**Rules Coordinator:** Mike Lueck—(503) 872-5272, ext. 5447

## 635-023-0090

### Inclusions and Modifications

(1) The **2003 Oregon Sport Fishing Regulations** as posted on the Department's web page [www.dfw.state.or.us](http://www.dfw.state.or.us) provide requirements for the Columbia River Zone and the Snake River Zone. However, additional regulations may be adopted from time to time, and, to the extent of any inconsistency, they supersede the **2003 Oregon Sport Fishing Regulations**.

(2) The Columbia River is closed to angling for salmon, steelhead, and shad from the I-5 Bridge upstream to Bonneville Dam effective April 6, 2003 through May 15, 2003. The Columbia River from the mouth at Buoy 10 upstream to the I-5 Bridge is closed to angling for salmon, steelhead, and shad on Sundays, Mondays, and Tuesdays, effective April 6, 2003 through May 15, 2003. Effective May 4, 2003, the Columbia River from Tower Island power lines upstream to McNary Dam plus the Oregon bank between Bonneville Dam and the Tower Island power lines is open

four days per week (Wednesday through Saturday) and closed three days per week (Sunday through Tuesday) with the following restrictions:

(a) Adipose fin-clipped chinook salmon, adipose fin-clipped steelhead, and shad may be retained; all nonadipose fin-clipped chinook salmon and steelhead must be released immediately unharmed;

(b) Catch limits of two adult salmon or steelhead and five jacks per day are in effect as per printed regulation pamphlet.

(3) The Columbia River is closed to the retention of sturgeon from the Wauna powerlines (River Mile 40) upstream to Bonneville Dam from March 24, 2003 through June 30, 2003. Catch and release of sturgeon is allowed to continue; however, all sturgeon must be released immediately and unharmed.

(4) The Columbia River from the Tongue Point/Rocky Point line upstream to the Oregon/Washington border upstream of McNary Dam is open from June 16, 2003 to July 31, 2003 to the retention of adipose fin-clipped adult summer chinook salmon.

(5) The Columbia River is closed to the retention of sturgeon between The Dalles Dam and John Day Dam effective June 21, 2003. Catch and release of sturgeon is allowed to continue; however, all sturgeon must be released immediately and unharmed.

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

Stats. Implemented: ORS 496.162 & ORS 506.129

Hist.: FWC 82-1993, f. 12-22-93, cert. ef. 1-1-94; FWC 19-1994(Temp), f. 3-31-94, cert. ef. 4-1-94; FWC 31-1994, f. 5-26-94, cert. ef. 6-20-94; FWC 46-1994(Temp), f. 7-29-94, cert. ef. 8-1-94; FWC 52-1994(Temp), f. 8-24-94, cert. ef. 8-27-94; FWC 62-1994(Temp), f. 9-12-94, cert. ef. 9-16-94; FWC 65-1994(Temp), f. 9-15-94, cert. ef. 9-17-94; FWC 72-1994(Temp), f. 10-7-94, cert. ef. 10-8-94; FWC 8-1995, f. 2-1-95, cert. ef. 2-6-95; FWC 11-1995, f. & cert. ef. 2-9-95; FWC 14-1995(Temp), f. 2-15-95, cert. ef. 2-16-95; FWC 31-1995(Temp), f. 4-21-95, cert. ef. 4-24-95; FWC 34-1995, f. & cert. ef. 5-1-95; FWC 61-1995(Temp), f. 7-24-95, cert. ef. 8-1-95; FWC 67-1995(Temp), f. 8-25-95, cert. ef. 8-27-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 8-1995, f. 2-28-96, cert. ef. 3-1-96; FWC 12-1996(Temp), f. 3-26-96, cert. ef. 4-1-96; FWC 14-1996, f. 3-29-96, cert. ef. 4-1-96; FWC 49-1996(Temp), f. & cert. ef. 8-30-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 7-1997(Temp), f. 2-6-97, cert. ef. 3-11-97; FWC 10-1997, f. & cert. ef. 2-28-97; FWC 11-1997(Temp), f. 2-27-97, cert. ef. 3-1-97; FWC 22-1997(Temp), f. 4-2-97, cert. ef. 4-5-97; FWC 28-1997(Temp), f. 5-2-97, cert. ef. 5-5-97; FWC 50-1997(Temp), f. 8-26-97, cert. ef. 9-2-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 12-1998(Temp), f. & cert. ef. 2-24-98 thru 4-24-98; DFW 29-1998(Temp), f. 4-16-98, cert. ef. 4-20-98 thru 4-24-98; DFW 32-1998(Temp), f. & cert. ef. 4-24-98 thru 10-15-98; DFW 34-1998, f. & cert. ef. 5-4-98; DFW 46-1998, f. & cert. ef. 6-9-98; DFW 78-1998(Temp), f. 9-18-98, cert. ef. 9-21-98 thru 9-25-98; DFW 81-1998(Temp), f. 10-6-98, cert. ef. 10-7-98 thru 10-23-98; DFW 85-1998(Temp), f. & cert. ef. 10-26-98 thru 12-31-98; DFW 88-1998(Temp), f. & cert. ef. 11-23-98 thru 12-31-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 13-1999(Temp), f. 3-2-99, cert. ef. 3-11-99 thru 6-15-99; DFW 23-1999(Temp), f. 4-9-99, cert. ef. 4-17-99 thru 4-23-99; DFW 25-1999, f. & cert. ef. 4-16-99 thru 4-23-99; DFW 29-1999(Temp), f. & cert. ef. 4-23-99 thru 10-20-99; DFW 31-1999, f. & cert. ef. 5-3-99; DFW 42-1999(Temp), f. 6-9-99, cert. ef. 6-12-99 thru 10-20-99; DFW 50-1999(Temp), f. & cert. ef. 7-16-99 thru 12-9-99; DFW 60-1999(Temp), f. 8-27-99, cert. ef. 8-30-99 thru 9-17-99; DFW 64-1999(Temp), f. 9-13-99, cert. ef. 9-14-99 thru 9-17-99; DFW 67-1999(Temp), f. & cert. ef. 9-17-99 thru 12-31-99; DFW 73-1999(Temp), f. 9-28-99 & cert. ef. 9-29-99 thru 10-22-99; DFW 77-1999(Temp), f. & cert. ef. 10-1-99 thru 12-31-99; DFW 78-1999, f. & cert. ef. 10-4-99; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 11-2000(Temp), f. 3-14-00, cert. ef. 3-16-00 thru 3-31-00; DFW 13-2000, f. & cert. ef. 3-20-00; DFW 18-2000(Temp), f. 4-6-00, cert. ef. 4-8-00 thru 10-5-00; DFW 24-2000, f. 4-28-00, cert. ef. 5-1-00; DFW 32-2000(Temp), f. 6-14-00, cert. ef. 6-19-00 thru 10-5-00; DFW 35-2000(Temp), f. 6-27-27, cert. ef. 6-28-00 thru 7-31-00; DFW 53-2000(Temp), f. 8-25-00, cert. ef. 8-28-00 thru 12-31-00; DFW 57-2000(Temp), f. 8-31-00, cert. ef. 9-1-00 thru 10-5-00; DFW 58-2000(Temp), f. & cert. ef. 9-1-00 thru 12-31-00; DFW 83-2000(Temp), f. 12-28-00, cert. ef. 1-1-01 thru 1-31-01; DFW 1-2001, f. 1-25-01, cert. ef. 2-1-01; DFW 7-2001(Temp), f. & cert. ef. 2-26-01 thru 4-30-01; DFW 17-2001(Temp), f. 4-4-01, cert. ef. 4-9-01 thru 10-6-01; DFW 18-2001(Temp), f. & cert. ef. 4-12-01 thru 4-30-01; DFW 19-2001(Temp), f. 4-17-01, cert. ef. 4-21-01 thru 8-5-01; DFW 25-2001(Temp), f. 4-24-01, cert. ef. 4-25-01 thru 4-29-01; DFW 28-2001, f. & cert. ef. 5-1-01; DFW 35-2001(Temp), f. & cert. ef. 5-4-01 thru 5-8-01; DFW 37-2001(Temp), f. & cert. ef. 5-11-01 thru 7-31-01; DFW 40-2001(Temp) f. & cert. ef. 5-24-01 thru 11-20-01; DFW 64-2001(Temp), f. & cert. ef. 7-24-01 thru 12-31-01; DFW 71-2001(Temp), f. 8-10-01, cert. ef. 9-1-01 thru 12-31-01; DFW 82-2001(Temp), f. 8-29-01, cert. ef. 8-30-01 thru 12-31-01; DFW 85-2001(Temp), f. & cert. ef. 8-30-01 thru 12-31-01; DFW 88-2001(Temp), f. 9-15-01 thru 12-31-01; DFW 123-2001, f. 12-31-01, cert. ef. 1-1-02; DFW 15-2002(Temp), f. & cert. ef. 2-20-02 thru 8-18-02; DFW 16-2002(Temp), f. 3-1-02 thru 8-28-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 29-2002(Temp), f. 4-4-02, cert. ef. 4-6-02 thru 10-3-02; DFW 40-2002(Temp), f. 4-25-02, cert. ef. 4-28-02 thru 10-3-02; DFW 43-2002(Temp), f. & cert. ef. 5-3-02 thru 10-3-02; DFW 45-2002(Temp), f. 5-7-02, cert. ef. 5-8-02 thru 10-3-02; DFW 46-2002(Temp), f. 5-7-02, cert. ef. 5-8-02 thru 10-3-02; DFW 64 2002(Temp), f. 6-27-02, cert. ef. 6-28-02 thru 12-20-02; DFW 69-2002(Temp), f. 7-10-02 cert. ef. 7-11-02 thru 12-31-02; DFW 71-2002(Temp), f. 7-10-02 cert. ef. 7-13-02 thru 12-31-02; DFW 79-2002(Temp), f. 7-29-02, cert. ef. 8-5-02 thru 12-31-02; DFW 91-2002(Temp) f. 8-19-02, cert. ef. 8-20-02 thru 11-1-02 (Suspended by DFW 101-2002(Temp), f. & cert. ef. 10-3-02 thru 11-1-02); DFW 94-2002(Temp), f. 8-22-02, cert. ef. 8-24-02 thru 12-31-02; DFW 105-2002(Temp), f. 9-20-02, cert. ef. 9-23-02 thru 12-31-02; DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 12-2003, f. & cert. ef. 2-14-03; DFW 16-2003(Temp), f. 2-27-03, cert. ef. 3-1-03 thru 7-1-03; DFW 28-2003(Temp), f. & cert. ef. 4-3-03 thru 7-1-03; DFW 35-2003, f. 4-30-03, cert. ef. 5-1-03; DFW 36-2003, f. 4-30-03, cert. ef. 5-1-03 thru 10-1-03; DFW 46-2003(Temp), f. 5-29-03, cert. ef. 5-30-03 thru 10-1-03; DFW 52-2003(Temp), f. 6-13-03, cert. ef. 6-21-03 thru 12-15-03



# ADMINISTRATIVE RULES

## Department of Human Services, Addiction Services Chapter 415

**Adm. Order No.:** ADS 1-2003

**Filed with Sec. of State:** 6-13-2003

**Certified to be Effective:** 7-1-03

**Notice Publication Date:** 2-1-03

**Rules Adopted:** 415-020-0053, 415-020-0054

**Rules Amended:** 415-020-0000, 415-020-0005, 415-020-0010, 415-020-0015, 415-020-0020, 415-020-0025, 415-020-0030, 415-020-0035, 415-020-0040, 415-020-0050, 415-020-0060, 415-020-0065, 415-020-0070, 415-020-0075, 415-020-0080, 415-020-0085

**Rules Repealed:** 415-020-0045, 415-020-0055

**Subject:** These rules are revised to ensure consistency and compatibility with revised federal rules published in March 2002. These changes also ensure that the standards are made compatible with current research and experience regarding effective treatment practices. Terminology is updated to ensure consistency with nationwide practice and with federal rules. The changes allow providers greater flexibility in making clinical decisions regarding dosage, clinic attendance, and the intensity of treatment services being provided.

**Rules Coordinator:** Robert Miller—(503) 945-6185

### 415-020-0000

#### Purpose and Statutory Authority

Purpose: These rules prescribe standards for the development and operation of Opioid Treatment Programs approved by the Office of Mental Health and Addiction Services, Department of Human Services.

Stat. Auth: ORS 409.410 & 409.420

Stats. Implemented: ORS 430.010(4)(b) & 430.560 - 430.590

Hist.: HR 4-1988, f. & cert. ef. 5-10-88; HR 17-1993, f. & cert. ef. 7-23-93; Renumbered from 410-06-000; ADAP 3-1995, f. 12-1-95, cert. ef. 3-1-96; ADS 1-2003, f. 6-13-03, cert. ef. 7-1-03

### 415-020-0005

#### Definitions

(1) "Accreditation" means the process of review and acceptance by an accreditation body.

(2) "Accreditation body" means an organization that has been approved by the Substance Abuse and Mental Health Services Administration (SAMHSA) to accredit opioid treatment programs that use opioid agonist treatment medications.

(3) "Accredited opioid treatment program" means a program that is the subject of a current, valid accreditation from an accreditation body approved by SAMHSA.

(4) "Community mental health program" means the organization of all services for persons with mental or emotional disturbances, drug abuse problems, mental retardation or other developmental disabilities, and alcoholism and alcohol abuse problems operated by, or contractually affiliated with, a local mental health authority operated in a specific geographic area of the state under an intergovernmental agreement or direct contract with the Department of Human Services.

(5) "Comprehensive maintenance treatment" means opioid agonist medication treatment that includes a broad range of clinically appropriate medical and rehabilitative services.

(6) "County" means the board of county commissioners or its representatives.

(7) "Department" means the Department of Human Services or its designee.

(8) "Medically Supervised Withdrawal" means the administration of an opioid agonist treatment medication in decreasing doses to an individual to alleviate adverse physical or psychological effects incident to withdrawal from the continuous or sustained use of an opioid drug and as a method of bringing the individual to a drug free state.

(9) "Diversion control plan" means a plan implemented by the opioid treatment program that contains specific measures to reduce the possibility of diversion of controlled substances from legitimate treatment use.

(10) "Employee" means an individual who provides a program service or who takes part in a program service and who receives wages, a salary, or is otherwise paid by the program for providing the service.

(11) "Evaluation" means an assessment of an individual to determine the existence of drug abuse or drug dependence, its ancillary or causal factors, and the appropriate treatment and rehabilitation likely to overcome the problem.

(12) "Federal opioid treatment standards" means the standards established by the Secretary of Health and Human Services that are used to determine whether an opioid treatment program is qualified to engage in opioid treatment.

(13) "Interim maintenance treatment" means treatment provided in conjunction with appropriate medical services while a patient is awaiting transfer to a program that provides comprehensive maintenance treatment.

(14) "Long-term medically supervised withdrawal treatment" means treatment for a period of more than 30 days but not exceeding 180 days.

(15) "Maintenance treatment" means the administration of an opioid agonist treatment medication at stable dosage levels for a period longer than 21 days.

(16) "Medical director" means a physician licensed to practice medicine in the State of Oregon who is designated by the opioid treatment program to be responsible for the program's medical services.

(17) "Medical professional" means a medical or osteopathic physician, physician's assistant licensed by the Board of Medical Examiners, or a registered nurse or nurse practitioner licensed by the Board of Nursing.

(18) "Office" means the Office of Mental Health and Addiction Services in the Director's Office of the Department of Human Services.

(19) "Opiate addiction" means a cluster of cognitive, behavioral, and physiological symptoms in which the individual continues use of opiates despite significant opiate-induced problems. Opiate addiction is characterized by repeated self-administration that usually results in tolerance, withdrawal symptoms, and compulsive drug taking.

(20) "Opioid agonist medication" means any drug that is approved by the Food and Drug Administration under Section 505 of Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) for use in the treatment of opiate addiction.

(21) "Opioid treatment program" means a program that dispenses and administers opioid agonist medications in conjunction with appropriate counseling, supportive, and medical services.

(22) "Patient" means any individual who receives services in an opioid treatment program.

(23) "Patient record" means the official legal written file for each patient, containing all the information required to demonstrate compliance with these rules. Information in program records maintained in electronic format must be produced in a contemporaneous printed form, authenticated by signature and date of the person who provided the service, and placed in the patient record.

(24) "Program staff" means:

(a) An employee or person who by contract with the program provides a clinical service and who has the credentials required in this rule to provide the clinical service; and

(b) Any other employee of the program.

(25) "Quality assurance" means the process of objectively and systematically monitoring and evaluating the appropriateness of patient care to identify and resolve identified problems.

(26) "Rehabilitation" means those services, such as vocational rehabilitation or academic education, which assist in overcoming the problems associated with drug abuse or drug dependence and which enable the patient to function at his/her highest potential.

(27) "State Methadone Authority" means the State Methadone Authority designated pursuant to section 409 of Public Law 92-255, the Drug Abuse Office and Treatment Act of 1972, or in lieu thereof, any other State authority designated by the Governor for purposes of exercising the authority under this section. The State Methadone Authority for Oregon is the Office of Mental Health and Addiction Services, Department of Human Services.

(28) "Treatment" means the specific medical and non-medical therapeutic techniques employed to assist the patient in recovering from drug abuse or drug dependence.

(29) "Urinalysis test" means an analytical procedure to identify the presence or absence of specific drugs or metabolites in a urine specimen.

(30) "Volunteer" means an individual who provides a program service or who takes part in a program service and who is not an employee of the program and is not paid for services. The services must be non-clinical unless the individual has the required credentials to provide a clinical service.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 409.410 & ORS 409.420

Stats. Implemented: ORS 430.010(4)(b) & ORS 430.560 - ORS 430.590

Hist.: HR 4-1988, f. & cert. ef. 5-10-88; HR 17-1993, f. & cert. ef. 7-23-93; Renumbered from 410-006-0005; ADAP 3-1995, f. 12-1-95, cert. ef. 3-1-96; ADS 1-2003, f. 6-13-03, cert. ef. 7-1-03

# ADMINISTRATIVE RULES

## 415-020-0010

### Program Approval

(1) Letter of Approval: No person or governmental entity shall operate an Opioid Treatment Program without a letter of approval from the State Methadone Authority in Oregon.

(2) Application: In order to receive a letter of approval under the process set forth in OAR 415-012-0000 to 415-012-0090, Standards for Approval/Licensure of Alcohol and Other Drug Abuse Programs, an Opioid Treatment Program shall:

(a) Meet the standards set forth in these rules and any other administrative rules applicable to the program;

(b) Comply with the federal regulations contained in 21 CFR Part 291 and 42 CFR Part 2; and

(c) Submit documentation of accreditation as an opioid treatment program by an accreditation body approved by SAMHSA under 21 CFR Part 291, Subpart A, Section 8.3.

(d) Specify in the application the identity and financial interest of any person (if the person is a corporation, the name of any stockholder holding stock representing an interest of 5 percent or more) or other legal entity who has an interest of 5 percent or more or 5 percent of a lease agreement for the facility.

(3) Renewal: The renewal of a letter of approval shall be governed by OAR 415-012-0040.

(4) Denial, Revocation, Nonrenewal, Suspension: The denial, revocation, nonrenewal, or suspension of a letter of approval/license for an opioid treatment program may be based on any of the grounds set forth in OAR 415-012-0060.

(5) In addition to the grounds set forth in OAR 415-012-0060, the Administrator may deny, revoke, refuse to renew, or suspend a letter of approval when he or she determines that the issuance or continuation of the letter of approval would be inconsistent with the public interest. In determining the public interest, the Administrator shall consider the following factors, or any one of them, which apply to the applicant, licensee, or any person holding a 5 percent or greater financial interest in the program or which apply to the medical director, clinical supervisor, or staff:

(a) Any convictions under any federal or state law

(b) Furnishing of false or fraudulent material in any application for a letter of approval; or

(c) Any other factors relevant to, and consistent with, the public health or safety.

(6) Federal Protocols: The program shall be responsible for filing and maintaining all necessary protocols and documentation required by the National Institute on Drug Abuse (NIDA), the Substance Abuse and Mental Health Services Administration, and the Drug Enforcement Administration (DEA).

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 409.410 & ORS 409.420

Stats. Implemented: ORS 430.010(4)(b) & ORS 430.560 - ORS 430.590

Hist.: HR 4-1988, f. & cert. ef. 5-10-88; HR 17-1993, f. & cert. ef. 7-23-93; Renumbered from 410-006-0010; ADAP 3-1995, f. 12-1-95, cert. ef. 3-1-96; ADS 1-2003, f. 6-13-03, cert. ef. 7-1-03

## 415-020-0015

### Administrative Requirements

(1) Administrative Rules: An Opioid Treatment Program which obtains reimbursement for publicly funded services shall comply with the public contracting rules including, but not limited to:

(a) OAR 309-013-0020, Audit Guidelines;

(b) OAR 309-013-0075 to 309-013-0105, Fraud and Embezzlement;

(c) OAR 309-014-0000 to 309-014-0040, General Administrative Standards for Mental Health Division Community Mental Health Contractors;

(d) OAR 309-016-0000 to 309-016-0130 (Medicaid Payment for Community Mental Health Standards);

(e) OAR 410-120-1120 through 410-120-1980 (OMAP General Rules); and

(f) OAR 410-140-0000 through 410-141-0860 (OHP Administrative Rules).

(2) Policies and Procedures: An Opioid Treatment Program shall develop and implement written policies and procedures, which describe program operations. This shall include a quality assurance process that ensures that patients receive appropriate treatment services and that the program is in compliance with relevant administrative rules.

(3) Personnel Policies: If two or more staff provide services, the program shall have and implement the following written personnel policies and procedures which are applicable to program staff:

(a) Rules of program staff conduct and standards for ethical practices of treatment program practitioners;

(b) Standards for program staff use and abuse of alcohol and other drugs with procedures for managing incidences of use and abuse that, at a minimum, comply with Drug Free Workplace Standards; and

(c) Compliance with the federal and state personnel regulations including the Civil Rights Act of 1964 as amended in 1972, Equal Pay Act of 1963, the Age Discrimination in Employment Act of 1967, Title I of the Americans with Disabilities Act, Oregon civil rights laws related to employment practices, and any subsequent amendments effective on or before the effective date of these rules. The opioid treatment program shall give individualized consideration to all applicants who, with or without reasonable accommodation, can perform the essential functions of the job position.

(4) Personnel Records: Personnel records for each member of the program's work force, including staff or volunteers shall be kept and shall include:

(a) Resume and/or employment application, and job description;

(b) Documentation of applicable qualification standards as described in OAR 415-020-0075;

(c) For volunteers or interns/students, the record need only include information required by subsections (a) of this rule and the written work plan for such person.

(5) Confidentiality and Retention: Personnel records shall be maintained and utilized in such a way as to ensure program staff confidentiality and shall be retained for a period of three years following the departure of a program staff person.

(6) Disabilities Act: Programs receiving public funds must comply with Title 2 of the Americans with Disabilities Act of 1990, 42 USC § 1231 et.

(7) Insurance: Each program shall maintain malpractice and liability insurance and be able to demonstrate evidence of current compliance with this requirement. If the program is operated by a public body, the program shall demonstrate evidence of insurance or a self-insurance fund pursuant to ORS 30.282.

(8) Prevention of Duplicate Dispensing: Opioid Treatment Programs will participate in any procedures, developed by the Office of Mental Health and Addiction Services in consultation with opioid treatment providers, for preventing simultaneous dispensing of opioid agonist medications to the same patient by more than one program.

(9) Patient Recordkeeping: Each program shall:

(a) Accurately record all information about patients as required by these rules in the permanent patient record;

(b) Maintain each patient record to assure identification, accessibility, uniform organization, and completeness of all components required by these rules and in a manner to protect against damage or separation from the permanent patient or program record;

(c) Keep all documentation current (unless specified otherwise, within seven days of delivering the service or obtaining the information);

(d) Include the signature of the person providing the documentation and service;

(e) Not falsify, alter, or destroy any patient information required by these rules to be maintained in a patient record or program records;

(f) Document all procedures in these rules requiring patient consent and the provision of information to the patient on forms describing what the patient has been asked to consent to or been informed of, and signed and dated by the patient. If the program does not obtain documentation of consent or provision of required information, the reasons must be specified in the patient record and signed by the person responsible for providing the service to the patient;

(g) Require that errors in the permanent record be corrected by lining out the incorrect data with a single line in ink, adding the correct information, and dating and initialing the correction. Errors may not be corrected by removal or obliteration through the use of correction fluid or tape so they cannot be read; and

(h) Permit inspection of patient records upon request by the Office to determine compliance with these rules.

(10) Patient/Fiscal Record Retention: Patient records shall be kept for a minimum of seven years. If a program is taken over or acquired by another program, the original program is responsible for assuring compliance with the requirements of 42 CFR §2.19(a)(1) and/or (b), whichever is applicable. If a program discontinues operations, the program is responsible for:

(a) Transferring fiscal records required to be maintained under section (1) of this rule to the Office of Mental Health and Addiction Services if it

# ADMINISTRATIVE RULES

is a direct contract or to the community mental health program or managed care plan administering the contract, whichever is applicable; and

(b) Destroying patient records or, with patient consent, transferring patient records to another program.

Stat. Auth.: ORS 409.410 & ORS 409.420

Stats. Implemented: ORS 430.010(4)(b) & ORS 430.560 - ORS 430.590

Hist.: HR 4-1988, f. & cert. ef. 5-10-88; HR 17-1993, f. & cert. ef. 7-23-93; Renumbered from 410-006-0015; ADAP 3-1995, f. 12-1-95, cert. ef. 3-1-96; ADS 1-2003, f. 6-13-03, cert. ef. 7-1-03

## 415-020-0020

### Patient Rights

(1) Patient Record Confidentiality: An Opioid Treatment Program shall comply with federal regulations (42 CFR part 2, 45 CFR 205.50) and state statutes (ORS 179.505 and 426.460) pertaining to confidentiality of patient records.

(2) Informed Consent: Participation in an Opioid Treatment Program shall be voluntary. Patients shall be fully informed concerning possible risks and side effects associated with the use of opioid agonist medications, including the effects of alcohol and other drugs taken in combination with these drugs. Programs dispensing both methadone and LAAM will inform patients of the differences between the action of these drugs. The program shall ensure that all relevant facts concerning the use of opioid agonist medications are clearly and adequately explained to the patient and that the patient gives written informed consent to treatment. A copy of the information above, signed by the patient, must be placed in the patient record.

(3) Allowable Restrictions: No person shall be denied services or discriminated against on the basis of age or diagnostic or disability category unless predetermined clinical or program criteria for service restrict the service to specific age or diagnostic groups or disability category.

(4) Policies and Procedures: Each patient shall be assured the same civil and human rights as other persons. Each program shall develop and implement and inform patients of written policies and procedures which protect patients' rights, including:

(a) Protecting patient privacy and dignity;

(b) Assuring confidentiality of records consistent with federal and state laws;

(c) Prohibiting physical punishment or physical abuse;

(d) Prohibiting sexual abuse or sexual contact between patients and staff, including volunteers and interns/students; and

(e) Providing adequate treatment or care.

(5) Services Refusal: The patient shall have the right to refuse service, including any specific procedure. If consequences may result from refusing the service, such as termination from other services or referral to a person having supervisory authority over the patient, that fact must be explained verbally and in writing to the patient.

(6) Access to Records: Access includes the right to obtain a copy of the record within five days of requesting it and making payment for the cost of duplication. The patient shall have the right of access to the patient's own records except:

(a) When the medical director of the program determines that disclosure of records would constitute immediate and grave detriment to the patient's treatment; or

(b) If confidential information has been provided to the program on the basis that the information not be redisclosed.

(7) Informed Participation in Treatment Planning: The patient and others of the patient's choice shall be afforded an opportunity to participate in an informed way in planning the treatment services, including the review of progress toward treatment goals and objectives. Patients shall be free from retaliation for exercising their rights to participate in the treatment planning process.

(8) Informed Consent to Fees for Services: The amount and schedule of any fees or co-payments to be charged must be disclosed in writing and agreed to by the patient. The fee agreement shall include, but is not limited to, a schedule of rates, conditions under which the rates can be changed, and the program's policy on refunds at the time of discharge or departure.

(9) Grievance Policy: The program shall develop, implement, and fully inform patients of policy and procedure regarding grievances, which provides for:

(a) Receipt of written grievances from patients or persons acting on their behalf;

(b) Investigation of the facts supporting or disproving the written grievance;

(c) Initiating action on substantiated grievances within five working days; and

(d) Documentation in the patient's record of the receipt, investigation, and any action taken regarding the written grievance.

(10) Barriers to Treatment: Where there is a barrier to services due to culture, language, illiteracy, or disability, the program shall develop a holistic treatment approach to address or overcome those barriers. This may include:

(a) Making reasonable modifications in policies, practices, and procedures to avoid discrimination (unless the program can demonstrate that doing so would fundamentally alter the nature of the service, program, or activity) such as:

(A) Providing individuals capable of assisting the program in minimizing barriers (such as interpreters);

(B) Translation of written materials to appropriate language or method of communication;

(C) To the degree possible, providing assistive devices which minimize the impact of the barrier; and

(D) To the degree possible, acknowledging cultural and other values, which are important to the patient.

(b) Not charging patients for costs of the measures, such as the provision of interpreters, that are required to provide nondiscriminatory treatment to the patient and

(c) Referring patients to another provider if that patient requires treatment outside of the referring program's area of specialization and if the program would make a similar referral for an individual without a disability.

(11) Patient Work Policy: Any patient labor performed as part of the patient's treatment plan or standard program expectations or in lieu of fees shall be agreed to, in writing, by the patient

(12) Voter Registration: All publicly funded programs primarily engaged in providing services to persons with disabilities must provide onsite voter registration and assistance after January 1, 1995. Program staff providing voter registration services may not seek to influence an applicant's political preference or party registration or display any such political preference or party allegiance, such as buttons, expressing support for a particular political party or candidates for partisan political office. However, such program staff may wear buttons or otherwise display their preference on nonpartisan political matters and issues.

Stat. Auth.: ORS 409.410 & ORS 409.420

Stats. Implemented: ORS 430.010(4)(b) & ORS 430.560 - ORS 430.590.

Hist.: HR 4-1988, f. & cert. ef. 5-10-88; HR 17-1993, f. & cert. ef. 7-23-93; Renumbered from 410-006-0020; ADAP 3-1995, f. 12-1-95, cert. ef. 3-1-96; ADS 1-2003, f. 6-13-03, cert. ef. 7-1-03

## 415-020-0025

### Admission Policies and Procedures

(1) Admission Criteria: The Opioid Treatment Program shall have written criteria for accepting or rejecting admission requests. The criteria shall be available to patients, staff, and the community, and require:

(a) Evidence of current physical dependence on narcotics or opiates as determined by the program physician or medical director;

(b) A one year history, immediately prior to admission, of a continuous physical dependence on narcotics or opiates as documented by medical records, records of arrests for possession of narcotics, and/or records from drug treatment programs; or

(c) Documentation that medically supervised withdrawal or medically supervised withdrawal with acupuncture and counseling has proven ineffective or that a physician licensed by the Oregon State Board of Medical Examiners has documentation in the patient record that there is a medical need to administer opioid agonist medications

(d) Documentation that an effort was made to discover whether the applicant is on probation or parole. For applicants on parole or probation, the program must obtain documentation that the probation and parole officer has provided written approval for admission,

(e) Documentation that an initial urinalysis test has been completed and screened for opiates, methadone, benzodiazepines, barbiturates, cocaine, amphetamines, and THC,

(f) That each patient voluntarily chooses opioid treatment and that all relevant facts concerning the use of an opioid agonist drug have been clearly and adequately explained.

(g) Documentation that the patient has provided written informed consent to treatment.

(2) Admission Criteria Exceptions: If clinically appropriate, the program physician may waive the requirement for a one-year history of opioid addiction for patients who:

(a) Have been released from a corrections facility within the previous six months;

(b) Are pregnant and whose pregnancy has been verified by the program physician; or

(c) Have previously been treated and discharged from opioid treatment programs within the last two years.

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(3) Refusing Admissions: A patient may be refused opioid treatment even if the patient meets admission standards if, in the professional judgment of the medical director, a particular patient would not benefit from opioid treatment. The reasons for the refusal must be documented in the patient file within seven days following the refusal decision.

(4) Minors: No person under 18 years of age may be admitted to an opioid treatment program unless, (a) a parent, legal guardian, or responsible adult designated by the State (e.g., "emancipated minor" laws) provides written consent for treatment; and (b) the program can document two unsuccessful attempts at short-term medically supervised withdrawal or drug free treatment within a 12 month period

(4) Pregnant Patients: Admission and treatment of pregnant patients regardless of age is allowed under the following conditions:

(a) The patient has had a documented narcotic dependency in the past and may be in direct jeopardy of returning to narcotic dependency. For such patients, evidence of current physiological dependence on narcotic drugs is not needed if a program physician certifies the pregnancy and, in his or her reasonable clinical judgment, finds treatment to be medically justified. Evidence of all findings and the criteria used to determine the findings are required to be recorded in the patient's record by the admitting program physician, or by program personnel supervised by the admitting program physician;

(b) The patient undergoes a prenatal exam and health check to verify the pregnancy and identify any health problems;

(c) The patient is given the opportunity for prenatal care either by the program or by referral to appropriate health care providers. If a program cannot provide direct prenatal care for pregnant patients in treatment, the program shall establish a system for informing the patients of the publicly or privately funded prenatal care opportunities available. If there are no publicly funded prenatal referral opportunities and the program cannot provide such services or the patient cannot afford them or refuses them, then the treatment program shall, at a minimum, offer her basic prenatal instruction on maternal, physical, and dietary care as part of its counseling service;

(d) The patient is fully informed concerning risks to herself and her unborn child from the use of methadone and other drugs including alcohol;

(6) Intake Procedures: The program shall utilize a written intake procedure. The procedure shall require:

(a) Documentation that the medical director has:

(A) Examined and approved all admissions;

(B) Recorded in the patient's record the criteria used to determine the patient's current dependence and history of addiction; and

(C) Determined that the opioid treatment program's services are appropriate to the needs of the patient.

(b) A specific time limit within which the initial patient assessment must be completed on each patient prior to the initial dose of a opioid agonist treatment medication;

(c) Documentation that individuals not admitted to the opioid treatment program were referred to appropriate treatment or other services;

(6) Orientation Information: The program shall give to the patient, document the receipt of by the patient, and make available to others written program orientation information:

(a) The program's philosophical approach to treatment;

(b) A description of the program's stages of treatment;

(c) Information on patients rights and responsibilities, including confidentiality, while receiving services,

(d) Information on the rules governing patient behavior and those infractions that may result in discharge or other actions. As a minimum the rules shall state the consequence of alcohol and other drug use, absences from appointments, non-payment of fees, criminal behavior, and failure to participate in the planned treatment program including school, work, or homemaker activities;

(e) Information on the specific hours of service available, methods to accommodate patient needs before and after normal working hours, and emergency services information; and

(f) A schedule of fees and charges.

(7) Patient Record: The following information shall be recorded in each patient's record at the time of admission:

(a) Name, address, and telephone number;

(b) Whom to contact in case of an emergency;

(c) Name of individual completing intake; and

(d) If the patient refuses to provide necessary information, documentation of that fact in the patient file.

(8) Initial Medical Examination Services: Opioid Treatment Programs shall require each patient to undergo a complete, fully documented physi-

cal evaluation by a physician, or an medical professional under the supervision of a physician before admission to the program. The laboratory tests must be completed within 14 days of admission and must include;

(a) A skin test for tuberculosis, followed by a chest x-ray if the test is positive;

(b) A screening test for syphilis; and

(c) Other laboratory tests as clinically indicated by the patient history and physical examination.

Stat. Auth.: ORS 409.410 & ORS 409.420

Stats. Implemented: ORS 430.010(4)(b) & ORS 430.560 - ORS 430.590.

Hist.: HR 4-1988, f. & cert. ef. 5-10-88; HR 17-1993, f. & cert. ef. 7-23-93; Renumbered from 410-006-0025; ADAP 3-1995, f. 12-1-95, cert. ef. 3-1-96; ADS 1-2003, f. 6-13-03, cert. ef. 7-1-03

## 415-020-0030

### Diagnostic Assessment

(1) Written Procedure: The Opioid Treatment Program shall develop and implement a written procedure for assessing each patient's treatment needs based on the American Society of Addictions Medicine Patient Placement Criteria, 2nd Edition Revised (ASAM PPC 2R)

(2) The diagnostic assessment shall be documented in the permanent patient record. It shall consist of the elements described in the ASAM PPC 2R and documentation of the patient's self-identified cultural background. Cultural information documented should include level of acculturation, knowledge of own culture, primary language, spiritual or religious interests, and cultural attitudes toward alcohol and other drug use.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 409.410 & ORS 409.420

Stats. Implemented: ORS 430.010(4)(b) & ORS 430.560 - ORS 430.590

Hist.: HR 4-1988, f. & cert. ef. 5-10-88; HR 17-1993, f. & cert. ef. 7-23-93; Renumbered from 410-006-0030; ADAP 3-1995, f. 12-1-95, cert. ef. 3-1-96; ADS 1-2003, f. 6-13-03, cert. ef. 7-1-03

## 415-020-0035

### Treatment Planning and Documentation of Treatment Progress

(1) The Opioid Treatment Program shall develop treatment plans, progress notes, and discharge plans consistent with the ASAM PPC 2R.

(2) Treatment Plan: Individualized treatment planning shall occur within 30 days of admission and shall be documented in the patient's record. The treatment plan shall:

(a) Describe the primary patient-centered issue or issues as determined by the assessment;

(b) Focus on one or more individualized treatment plan objectives that are consistent with the patient's strengths and abilities and that address the primary obstacles to recovery;

(c) Define the treatment approach, which shall include services and activities to be used to achieve the individualized objectives;

(d) Document the participation of significant others in the planning process and the treatment where appropriate; and

(e) Document the patient's participation in developing the content of the treatment plan and any subsequent modifications with, at a minimum, the patient's signature,

(3) Documentation of Progress: The treatment staff shall document in the permanent record any current obstacles to recovery and the patient's progress toward achieving the individualized objectives in the treatment plan.

(4) Treatment Plan Review: The permanent patient record shall document that the treatment plan is reviewed and modified continuously as needed and as clinically appropriate, consistent with the ASAM PPC 2R.

(5) Modifications: Changes in the patient's treatment needs identified by the review process must be addressed by modifications in the treatment plan. Any modifications to the treatment plan shall be made in conjunction with the patient.

(6) Treatment Summary: No later than 30 days after the last service contact, the program shall document in the permanent patient record a summary describing the reason for discharge, consistent with the ASAM PPC 2R, and the patient's progress toward the treatment objectives.

(7) Discharge Plan: Upon successful completion or planned interruption of the treatment services, the treatment staff and patient shall jointly develop a discharge plan. The discharge plan shall include:

(a) A relapse prevention plan, which has been jointly developed by the counselor and patient.

Stat. Auth.: ORS 409.410 & ORS 409.420

Stats. Implemented: ORS 430.010(4)(b) & ORS 430.560 - ORS 430.590

Hist.: HR 4-1988, f. & cert. ef. 5-10-88; HR 17-1993, f. & cert. ef. 7-23-93; Renumbered from 410-006-0035; ADAP 3-1995, f. 12-1-95, cert. ef. 3-1-96; ADS 1-2003, f. 6-13-03, cert. ef. 7-1-03

# ADMINISTRATIVE RULES

## 415-020-0040

### Treatment Services General

(1) Treatment Services: The Opioid Treatment Program shall provide to patients the following services and activities and document the time or manner of each service or activity in the patient record:

- (a) Dispensing of approved opioid agonist medications;
- (b) Individual group, or family counseling, as clinically indicated;
- (c) Information and training in parenting skills;
- (d) HIV/AIDS, tuberculosis, sexually transmitted diseases, and other infectious disease information,

(e) Completion of HIV/TB/STD risk assessment within 30 days of admission;

(f) Relapse prevention training; and For pregnant patients in a treatment program who were not admitted under OAR 415-020-0025(5), a treatment program shall give them the opportunity for prenatal care. If a program cannot provide direct prenatal care for pregnant patients in treatment, it shall establish a system of referring them for prenatal care, which may be either publicly or privately funded. If there is no publicly funded prenatal care available to which a patient may be referred, and the program cannot provide such services, or the patient cannot afford or refuses prenatal care services, then the treatment program shall, at a minimum, offer her basic prenatal instruction on maternal, physical, and dietary care as a part of its counseling service.

(2) Community Resources: The program, to the extent of community resources available and as clinically indicated, shall provide patients with information and referral to the following services:

- (a) Self help groups and other support groups;
- (b) Educational services;
- (c) Recreational programs and activities;
- (d) Prevocational, occupational, and vocational rehabilitation;
- (e) Life skills training;
- (f) Legal services;
- (g) Smoking cessation programs;
- (h) Medical services;
- (i) Housing assistance;
- (j) Financial assistance counseling programs.
- (k) Crisis intervention; and
- (l) Comprehensive drug education.

(3) Non-compliance: Patients who are non-compliant with program rules may be discharged following medically supervised withdrawal. Clinical justification for medically supervised withdrawal schedules of less than 21 days must be documented in the patient record. For discharges because of failure to pay fees, detoxification periods of less than 21 days are not permitted.

(4) Testing for Drug Use: The program shall use observed urine drug screening as an aid in monitoring and evaluating a patient's progress in treatment. The urine drug screening shall include;

(a) A sensitive, rapid, and inexpensive immunoassay screen to eliminate "true negative" specimens; and

(b) If the initial test is positive, a confirmatory test, which is a second analytical procedure used to identify the presence of a specific drug or metabolite in a urine specimen. The confirmatory test must be by a different analytical method from that of the initial test, to ensure reliability and accuracy.

(5) Standards for Urine Tests: All urine tests shall be performed by laboratories meeting the licensing standards of OAR 333-024-0305 through 333-024-0350.

(6) All urine tests shall, at a minimum, screen for synthetic opiates, opiates, amphetamines, cocaine, benzodiazepines, and THC.

(7) Frequency of urine testing: The Opioid Treatment Program must provide adequate testing or analysis for drugs of abuse, including at least eight random drug abuse tests per year, per patient in maintenance treatment, in accordance with generally accepted clinical practice. More frequent drug testing shall be done if clinically indicated. The program shall document in the patient record the results of any tests and interventions made by the program to address those tests which are positive for illicit substances.

Stat. Auth.: ORS 409.410 & ORS 409.420

Stats. Implemented: ORS 430.010(4)(b) & ORS 430.560 - ORS 430.590

Hist.: HR 4-1988, f. & cert. ef. 5-10-88; HR 17-1993, f. & cert. ef. 7-23-93; Renumbered from 410-006-0040; ADAP 3-1995, f. 12-1-95, cert. ef. 3-1-96; ADS 1-2003, f. 6-13-03, cert. ef. 7-1-03

## 415-020-0050

### Transitional Treatment

(1) The Opioid Treatment Program shall provide transitional care for patients for whom continued opioid agonist medication maintenance is no longer deemed appropriate.

(2) Transitional treatment services shall be provided with the purpose of assisting the patient to establish and maintain a stable, drug-free lifestyle. Transitional treatment will help prepare the patient to begin a reduction in opioid agonist medication dosage and shall be continued while the patient undergoes reduction in doses. The treatment shall continue following the final dose of opioid agonist medication, consistent with the clinical needs of the patient and with ASAM PPC 2R.

Stat. Auth.: ORS 409.410 & ORS 409.420

Stats. Implemented: ORS 430.010(4)(b) & ORS 430.560 - ORS 430.590

Hist.: HR 4-1988, f. & cert. ef. 5-10-88; HR 17-1993, f. & cert. ef. 7-23-93; Renumbered from 410-006-0050; ADAP 3-1995, f. 12-1-95, cert. ef. 3-1-96; ADS 1-2003, f. 6-13-03, cert. ef. 7-1-03

## 415-020-0053

### Unsupervised Use of Opioid Agonist Medications

(1) Any patient in comprehensive maintenance treatment may receive a single take-home dose for a day that the clinic is closed for business, including Sundays, and state or federal holidays.

(2) Decisions on dispensing opioid treatment medications to patients for unsupervised use shall be made by the program medical director. In determining whether a patient is responsible in handling opioid medications and may be permitted unsupervised use, the medical director shall consider a the following criteria;

- (a) Absence of drugs of abuse, including alcohol;
- (b) Regularity of program attendance;
- (c) Absence of serious behavioral problems at the program;
- (d) Absence of criminal activity while enrolled at the program;
- (e) Stability of the patient's home environment and social relationships;

(f) Length of time in comprehensive maintenance treatment;

(g) Assurance that take-home medication can be safely stored in the patient's home; and

(h) Whether the rehabilitative benefit the patient derives from decreasing the frequency of program attendance outweighs the potential risks of diversion.

(3) Decisions to approve unsupervised use of opioid medications, including the rationale for the approval, shall be documented in the patient record.

(4) If it is determined that a patient is responsible in handling opioid agonist medications, the supply shall be limited to the following schedule;

(a) During the first 90 days of treatment, the take-home supply is limited to a single dose each week, in addition to take-home doses allowed when the clinic is closed;

(b) In the second 90 days of treatment, the take-home supply is limited to two doses per week, in addition to take-home doses allowed when the clinic is closed;

(c) In the third 90 days of treatment, the take-home supply is limited to three doses per week, in addition to take-home doses allowed when the clinic is closed;

(d) In the remaining months of the first year, a patient may be given a maximum 6-day supply of take-home medication;

(e) After one year of continuous abstinence in treatment, a patient may be given a maximum 2-week supply of take-home medication;

(f) After two years of continuous abstinence treatment, a patient may be given a maximum one-month supply of take-home medication.

Stat. Auth.: ORS 409.410 & ORS 409.420

Stats. Implemented: ORS 430.010(4)(b) & ORS 430.560 - ORS 430.590

Hist.: ADS 1-2003, f. 6-13-03, cert. ef. 7-1-03

## 415-020-0054

### Diversion Control Plan

Each Opioid Treatment Program shall have a diversion control plan to reduce possibilities for diversion of controlled substances from legitimate treatment to illicit use. The plan shall include the following;

(1) A mechanism for continuous monitoring of clinical and administrative activities, to reduce the risk of medication diversion;

(2) A mechanism for problem identification, prevention, and correction of diversion problems.

Stat. Auth.: ORS 409.410 & ORS 409.420

Stats. Implemented: ORS 430.010(4)(b) & ORS 430.560 - ORS 430.590

Hist.: ADS 1-2003, f. 6-13-03, cert. ef. 7-1-03

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## 415-020-0060

### Medically Supervised Withdrawal

(1) This section contains special provisions that apply to medically supervised withdrawal. Except as otherwise noted in this section, all requirements in the other sections of this rule apply to medically supervised withdrawal as well as comprehensive maintenance treatment patients.

(2) Admission Criteria: The opioid treatment program must establish current physical dependence on narcotics or opiates by way of grade 2 withdrawal symptoms. A one year history of dependence is not required for medically supervised withdrawal.

(3) Readmissions: Patients with two or more unsuccessful medically supervised withdrawal episodes within a 12 month period must be assessed by the Opioid Treatment Program physician for other forms of treatment. A program shall not admit a patient for more than two medically supervised withdrawal episodes in one year.

(4) Medically Supervised Withdrawal Contract: Before initial dosing of the patient, the program shall develop a contract with the patient that shall be dated and signed by the counselor and the patient, and shall specify:

(a) Maximum length of medically supervised withdrawal treatment, which is not to exceed 180 days, and a rationale for the length chosen. Subsequent changes in length of medically supervised withdrawal must also be accompanied by a rationale.

(b) Required abstinence from alcohol and other drugs during medically supervised withdrawal treatment;

(c) Required counseling contacts;

(d) Take-out dose limits;

(e) Consequences regarding missed doses;

(f) Urine drug screening procedures;

(g) Consequences of failure to carry out the medically supervised withdrawal contract including involuntary termination;

(i) Criteria for involuntary termination

(5) Assessment: The program shall develop and implement a written procedure for assessing each patient's medically supervised withdrawal needs following initial dosing. The procedure shall specify that the assessment and evaluation is the responsibility of a member of the treatment staff, shall be recorded in the patient record, and shall include:

(a) Alcohol/drug use and problems history;

(b) Psychological history;

(c) Presenting problem(s); and

(d) History of previous treatment.

(6) Planning: Individualized medically supervised withdrawal planning shall occur and be documented in the patient's record within seven working days to include:

(a) Initial dose level and a planned reduction schedule that shall be complete within 180 days;

(b) Referral to appropriate agencies for needs identified during the intake assessment and evaluation procedure; and

(c) Monthly review by the medical director.

(7) Treatment: Each patient shall be assigned a counselor who shall:

(a) Meet at least weekly with the patient;

(b) Monitor the patient's response to the withdrawal schedule;

(c) Make and monitor referrals;

(d) Maintain the patient's record; and

(e) Monitor patient compliance with the medically supervised withdrawal contract.

(8) Take-Out Doses: Take-home medication is not allowed for medically supervised withdrawal treatment planned for 30 days or less. For medically supervised withdrawal treatment planned for longer than 30 days the program shall use the time frames and criteria established for maintenance patients.

(9) Discharge: An opioid treatment program shall discharge a patient who misses two consecutive doses unless an adequate explanation for the absences has been reviewed and approved by the medical director.

(10) Urinalysis: The program shall collect and test one random urine drug screen for each patient per week. Documentation of a specific clinical intervention shall accompany documentation of any positive urine sample and shall be followed by documentation of the effectiveness of the intervention in subsequent progress notes.

Stat. Auth.: ORS 409.410 & ORS 409.420

Stats. Implemented: ORS 430.010(4)(b) & ORS 430.560 - ORS 430.590

Hist.: HR 4-1988, f. & cert. ef. 5-10-88; HR 17-1993, f. & cert. ef. 7-23-93; Renumbered from 410-006-0060; ADAP 3-1995, f. 12-1-95, cert. ef. 3-1-96; ADS 1-2003, f. 6-13-03, cert. ef. 7-1-03

## 415-020-0065

### Opioid Agonist Medication Administration

The Opioid Treatment Program shall meet the following standards for opioid agonist medication for administration:

(a) Methadone shall be administered only in oral form and shall be formulated in such a way as to reduce its potential for abuse by injection and accidental ingestion;

(b) Packaged for outpatient use in special packaging as required by 16 CFR 1700.14.

(2) Methadone Take-Out Doses: For take-out doses, the Poison Prevention Act (P.L. 91-601, 15 USC 1471 et seq.) must be followed. Any take-out medication must be in oral form, either liquid or diskette and shall be labeled with the treatment program name, address, telephone number, and medical director. All labeling shall be in compliance with the Oregon Board of Pharmacy standards.

(3) Opioid Treatment Programs shall maintain current procedures to ensure that each opioid agonist treatment medication used by the program is administered in accordance with its approved product labeling.

(4) Records: Accurate records traceable to specific patients shall be maintained showing dates, quantity, and any other Board of Pharmacy required identification for the drug administered and shall be retained for a period of seven years.

(5) Security: The program shall meet security standards for the distribution and storage of controlled substances as required by the Drug Enforcement Administration, Department of Justice.

(6) Who May Administer Opioid Agonist Treatment Medications will be administered by:

(a) A practitioner licensed or registered under appropriate State or Federal law to order narcotic drugs for patients; or

(b) A person licensed or approved by the State Board of Nursing or the State Board of Pharmacy, supervised by and pursuant to the order of the practitioner.

(7) Responsibility: The licensed practitioner is fully accountable and personally responsible for the amounts of opioid agonist treatment medications administered.

(8) Documentation: All changes in dosage schedule will be recorded and signed by the licensed practitioner.

(9) Medical Director: The medical director shall:

(a) Assume responsibility for the amounts of opioid agonist treatment medications administered and record, date, and sign in each patient's record each change in the dosage schedule; and

(b) Review each patient's dosage level at least every 90 days.

(10) Initial Dose: The initial dose of methadone should not exceed 30 milligrams and the total dose for the first day should not exceed 40 milligrams unless the program medical director documents in the patient's record that 40 milligrams did not suppress opiate abstinence symptoms. The initial dose of opioid agonist treatment medication to a patient whose tolerance for the drug is unknown shall not exceed 40 milligrams.

(11) Maintenance Dose: The maintenance dose should be individually determined with careful attention to the information provided by the patient. The dose should be determined by a physician experienced in addiction treatment and should be adequate to achieve the desired effects for 24 hours or more. The desired effects are;

(a) Preventing the onset of opioid abstinence syndrome;

(b) Reducing drug cravings or hunger; and

(c) Blocking the effects of any illicitly administered opioids.

(12) All changes ordered by a physician in the opioid agonist treatment medication shall be documented in the patient record.

(13) Methadone Take Out Schedule: A patient may be permitted a temporarily or permanently increased take-out schedule if it is the reasonable clinical judgment of the program physician and documented in the records that:

(a) A patient is found to have a physical disability which interferes with the patient's ability to conform to the applicable take out schedule; or

(b) A patient, because of critical circumstances such as illness, personal or family crises, or other hardship is unable to conform to the applicable takeout schedule;

(c) The patient is not given more than a 30-day supply of narcotic agonist medication at one time.

(14) Patient Treatment at Another Program: The patient shall always report to the same treatment program unless prior written approval is obtained from the program physician allowing the patient to receive treatment at another program. In the event that permission is granted, the programs involved shall meet the following requirements:

# ADMINISTRATIVE RULES

(a) The program referring the patient shall notify and obtain, in writing, permission from the other program for the patient to attend;

(b) The maximum period of time that a patient can attend another program is 30 days;

(c) During attendance at another program the patient may not receive more opioid agonist treatment medication take-out doses than currently authorized by his or her regular program; and

(d) The program making the referral shall provide the patient with positive identification for presentation to the other program.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 409.410 & ORS 409.420

Stats. Implemented: ORS 430.010(4)(b) & ORS 430.560 - ORS 430.590.

Hist.: HR 4-1988, f. & cert. ef. 5-10-88; HR 17-1993, f. & cert. ef. 7-23-93; Renumbered from 410-006-0065; ADAP 3-1995, f. 12-1-95, cert. ef. 3-1-96; ADS 1-2003, f. 6-13-03, cert. ef. 7-1-03

## 415-020-0070

### Medical Services

(1) There shall always be at least one program physician available to supervise the initial medical evaluation, follow-up care and to supervise the patient medication schedules, who is licensed under the appropriate State law and registered under the appropriate State and Federal laws to order narcotic drugs for patients. The licensed physician assumes responsibility for the amounts of narcotic drugs administered or dispensed and shall record and countersign all changes in dosage schedule.

(2) Administering of narcotic agonist medications may be performed by a registered nurse, licensed practical nurse, or other healthcare professional authorized by federal and state law to administer narcotic agonist medications under the direction and supervision of the program director.

(3) Dispensing services may be provided under the direction and supervision of the program physician, provided that the agent is a pharmacist or other healthcare professional authorized under federal and state law to dispense narcotic agonist medications.

(4) The medical director shall assure that the program's medical services are in full compliance with the standards, ethics, and licensure requirements of the medical profession and these rules.

(5) The program shall adopt, maintain, and implement written procedures for acquiring patient physical examinations including medical histories and any laboratory tests or other special examination required by the medical director including the required content of those examinations and procedures. The medical director shall review and approve all such examination procedures. Physical examinations must be completed before administering the first dose of an opioid agonist medication.

(6) The opioid treatment program shall adopt, maintain, and implement a policy and procedure to maintain the health and safety of patients and staff. This shall include:

(a) Control measures for infectious diseases such as hepatitis, tuberculosis, and AIDS;

(b) Informed consent for testing and medical treatment; and

(c) Medication monitoring.

Stat. Auth.: ORS 409.410 & ORS 409.420

Stats. Implemented: ORS 430.010(4)(b) & ORS 430.560 - ORS 430.590

Hist.: HR 4-1988, f. & cert. ef. 5-10-88; HR 17-1993, f. & cert. ef. 7-23-93; Renumbered from 410-006-0070; ADAP 3-1995, f. 12-1-95, cert. ef. 3-1-96; ADS 1-2003, f. 6-13-03, cert. ef. 7-1-03

## 415-020-0075

### Staffing

(1) Medical Director Qualifications: There shall be a medical director who is a physician licensed by the Oregon Board of Medical Examiners and whose license enables him/her to order, dispense, and administer opioid agonist medications. In addition, the program shall document that the Medical Director has completed a minimum of 12 hours per year of continuing education specific to the treatment of addiction disorder.

(2) Administrator — Qualifications: Each Opioid Treatment Program shall be directed by a person with the following qualifications at the time of hire and continuously throughout employment as the program director:

(a) Five years of paid full-time experience in the field of alcohol and drug treatment including experience in a opioid treatment program with at least one year in a paid administrative capacity; or

(b) A Bachelor's Degree in a relevant field and four years of paid full-time experience in the field of alcohol and drug treatment including experience in a opioid treatment program with at least one year in a paid administrative capacity; or

(c) A Master's degree in a relevant field and three years of paid full-time experience in the field of alcohol and drug treatment including experience in a opioid treatment program with at least one year in a paid administrative capacity.

(3) Management Staff — Competency: The program director shall:

(a) Have knowledge and experience demonstrating competence in the performance of the following essential job functions: program planning and budgeting, fiscal management, supervision of staff, personnel management, employee performance assessment, data collection, reporting, program evaluation, quality assurance, and developing and maintaining community resources;

(b) Demonstrate by his or her conduct the competencies required by this rule and compliance with the program policies and procedures implementing these rules.

(4) Management Staff — Recovering Individuals: For an individual recovering from a substance abuse related disorder, the performance of a program director's essential job functions in connection with staff and patients who themselves may be trying to recover from a substance abuse related disorder demands that an applicant or person hired as program director be able to demonstrate continuous sobriety under nonresidential, independent living conditions for the immediate past two years.

(5) Clinical Supervisor — Qualifications: Each Opioid Treatment Program shall have an identified clinical supervisor who has one of the following qualifications at the time of hire:

(a) Five years of paid full-time experience in the field of alcohol and other drug treatment, including experience in a opioid treatment program, with a minimum of two years of direct alcohol and other drug treatment experience; or

(b) A Bachelor's degree in a relevant field and four years of paid full-time experience, with a minimum of two years of direct alcohol and other drug treatment experience including experience in a opioid treatment program; or

(c) A Master's degree in a relevant field and three years of paid full-time experience with a minimum of two years of direct alcohol and other drug treatment experience including experience in a opioid treatment program.

(6) Clinical Supervisor — Competency: Any supervisor shall:

(a) Have knowledge and experience demonstrating competence in the performance of the following essential job functions: supervision of treatment staff including staff development, treatment planning, case management, and utilization of community resources including self-help groups; preparation and supervision of patient evaluation procedures; preparation and supervision of case management procedures for client treatment; conducting of individual, group, family, and other counseling; and assurance of the clinical integrity of all patient records for cases under their supervision, including timely entry or correctness of records and requiring adequate clinical rationale for decisions in admission and assessment records, treatment plans and progress notes, and discharge records;

(b) Demonstrate by his or her conduct the competencies required by this rule and compliance with the program policies and procedures implementing these rules;

(c) Except as provided in section (9) of this rule, hold a current certification or license in addiction counseling or hold a current license as a health or allied provider issued by a state licensing body.

(7) Clinical Supervisors — Certification: For supervisors holding a certification or license in addiction counseling, qualifications for the certificate or license must have included at least:

(a) 4,000 hours of supervised experience in alcohol/drug abuse counseling;

(b) 270 contact hours of education and training in alcoholism and drug abuse related subjects; and

(c) Successful completion of a written objective examination or portfolio review by the certifying body.

(8) Clinical Supervisor — Licensure: For supervisors holding a health or allied provider license, such license shall have been issued by one of the following state bodies and the supervisor must possess documentation of at least 120 contact hours of academic or continuing professional education in the treatment of alcohol and drug-related disorders:

(a) Board of Medical Examiners;

(b) Board of Psychologist Examiners;

(c) Board of Clinical Social Workers;

(d) Board of Licensed Professional Counselors and Therapists; or

(e) Board of Nursing

(9) Clinical Supervisors — Existing Staff: Supervisors not having a credential or license that meets the standards identified in section (7) or (8) of this rule must apply to a qualified credentialing organization or state licensing board within 90 days of the effective date of this rule and achieve certification or licensure meeting the standards of section (7) or (8) of this rule within 24 months of the application date.

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(10) Clinical Supervisors — Recovering Individuals: For an individual recovering from the disease of alcoholism and/or from other drug dependence, the performance of a clinical supervisor's essential job functions in connection with staff and patients who themselves may be trying to recover from the disease of addiction demands that an applicant or person hired as clinical supervisor be able to demonstrate continuous sobriety under non-residential, independent living conditions for the immediate past two years.

(11) Director as Clinical Supervisor: If the program's director meets the qualifications of the clinical supervisor, the director may be the clinical supervisor.

(12) Treatment Staff — Competency: All treatment staff shall:

(a) Have knowledge, skills, and abilities demonstrating competence in the following essential job functions: treatment of substance-related disorders including patient evaluation and individual, group, family, and other counseling techniques; program policies and procedures for client case management and record keeping; and accountability for recording information in the patient files assigned to them consistent with those policies and procedures and these rules;

(b) Demonstrate by conduct the competencies required by this rule and compliance with the program policies and procedures implementing these rules;

(c) Except as provided in section (15) or (16) of this rule, hold a current certification or license in addiction counseling or hold a current license as a health or allied provider issued by a state licensing body.

(13) Treatment Staff — Certification: For treatment staff holding a certification or license in addiction counseling, qualifications for the certificate or license must have included at least:

(a) 1,000 hours of supervised experience in alcohol/drug abuse counseling;

(b) 150 contact hours of education and training in alcoholism and drug abuse related subjects; and

(c) Successful completion of a written objective examination or portfolio review by the certifying body.

(14) Treatment Staff — Licensure: For treatment staff holding a health or allied provider license, such license shall have been issued by one of the following state bodies and the staff person must possess documentation of at least 60 contact hours of academic or continuing professional education in the treatment of alcohol and drug-related disorders:

(a) Board of Medical Examiners;

(b) Board of Psychologist Examiners;

(c) Board of Clinical Social Workers;

(d) Board of Licensed Professional Counselors and Therapists; or

(e) Board of Nursing.

(15) Treatment Staff — Existing Staff: Existing staff who do not hold a certificate/license that meets the standards identified in section (13) or (14) of this rule must apply to a qualified credentialing organization or state licensing board within 90 days of the effective date of this rule and achieve certification or licensure meeting the standards of section (13) or (14) of this rule within 36 months of the application date.

(16) Treatment Staff — New Hires: New hires need not hold a qualified certificate/license but those who do not must make application within six months of employment and receive the credential/license within 36 months of the application.

(17) Treatment Staff — Recovering Individuals: For an individual recovering from the disease of alcoholism and/or from other drug dependence, the performance of a counselor's essential job functions demands that an applicant or person hired as a counselor be able to demonstrate continuous sobriety under non-residential, independent living conditions for the immediate past two years.

(18) The Opioid Treatment Program shall provide a minimum of two hours per month of clinical supervisor consultation for each staff person or volunteer who is responsible for the delivery of treatment services. One hour of the supervision must be individual, face-to-face, and address clinical skill development. The objective of the supervision or consultation is to assist staff and volunteers to increase their treatment skills, improve quality of services to patient, and ensure compliance with program policies and procedures implementing these rules.

Stat. Auth.: ORS 409.410 & ORS 409.420

Stats. Implemented: ORS 430.010(4)(b) & ORS 430.560 - ORS 430.590

Hist.: HR 4-1988, f. & cert. ef. 5-10-88; HR 17-1993, f. & cert. ef. 7-23-93; Renumbered from 410-006-0075; ADAP 3-1995, f. 12-1-95, cert. ef. 3-1-96; ADS 1-2003, f. 6-13-03, cert. ef. 7-1-03

## 415-020-0080

### Volunteers

An Opioid Treatment Program utilizing volunteers shall have the following standards for volunteers:

(1) Policy Required: A written policy regarding the use of volunteers that shall include:

(a) Specific tasks and responsibilities of volunteers;

(b) Procedures and criteria used in selecting volunteers, including sobriety requirements for individuals recovering from the disease of alcohol or other drug abuse;

(c) Specific accountability and reporting requirements of volunteer; and

(d) Specific procedure for reviewing the performance of volunteers and providing direct feedback to them.

(2) Orientation and Training: There shall be documentation that volunteers complete an orientation and training program specific to their responsibilities before they participate in assignments. The orientation and training shall:

(a) Include a review of the program's philosophical approach to treatment;

(b) Include information on confidentiality regulations and patient's rights;

(c) Specify how volunteers are to respond to and follow procedures for unusual incidents;

(d) Explain the program's channels of communication, reporting requirements, and accountability requirements for volunteers;

(e) Explain the procedure for reviewing the volunteer's performance and providing feedback to the volunteer; and

(f) Explain the procedure for discontinuing a volunteer's participation.

Stat. Auth.: ORS 409.410 & ORS 409.420

Stats. Implemented: ORS 430.010(4)(b) & ORS 430.560 - ORS 430.590

Hist.: HR 4-1988, f. & cert. ef. 5-10-88; HR 17-1993, f. & cert. ef. 7-23-93; Renumbered from 410-006-0080; ADAP 3-1995, f. 12-1-95, cert. ef. 3-1-96; ADS 1-2003, f. 6-13-03, cert. ef. 7-1-03

## 415-020-0085

### Building Requirements

(1) Applicable Codes: Each Opioid Treatment Program shall maintain up-to-date documentation verifying that they meet applicable building codes, and state and local fire and safety regulations. It is the duty of the program to check with local government to make sure all applicable local codes have been met.

(2) Space Where Services Provided: Provide space for services, including but not limited to, intake, assessment/evaluation, counseling, and telephone conversations that assures the privacy and confidentiality of clients and is furnished in an adequate and comfortable fashion including plumbing, sanitation, heating, and cooling.

(3) Disabled Accessibility: Programs shall be accessible to persons with disabilities pursuant to Title II of the Americans with Disabilities Act if the program receives any public funds or Title III of the Act if no public funds are received.

(4) Emergency Procedures: Programs shall adopt and implement emergency policies and procedures, including an evacuation plan and emergency plan in case of fire, explosion, accident, death or other emergency. The policies and procedures and emergency plans shall be current and posted next to the telephone used by staff. In addition, programs shall:

(a) Maintain a 24 hour telephone answering capability to respond to facility and patient emergencies;

(5) Disaster Plan: The program must develop and regularly update a disaster plan that outlines the program response to disasters of human or natural origin that may render the program's facility unusable. The plan must address the following:

(a) How emergency dosing will be implemented;

(b) Identification of emergency links to other community agencies.

Stat. Auth.: ORS 409.410 & ORS 409.420

Stats. Implemented: ORS 430.010(4)(b) & ORS 430.560 - ORS 430.590

Hist.: HR 4-1988, f. & cert. ef. 5-10-88; HR 17-1993, f. & cert. ef. 7-23-93; Renumbered from 410-006-0085; ADAP 3-1995, f. 12-1-95, cert. ef. 3-1-96; ADS 1-2003, f. 6-13-03, cert. ef. 7-1-03

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

Adm. Order No.: CWP 23-2003

Filed with Sec. of State: 5-22-2003



# ADMINISTRATIVE RULES

**Certified to be Effective:** 5-22-03

**Notice Publication Date:** 10-1-02

**Rules Adopted:** 413-040-0135, 413-040-0155, 413-040-0157, 413-040-0159

**Rules Amended:** 413-040-0100, 413-040-0110, 413-040-0130, 413-040-0140, 413-040-0145, 413-040-0150, 413-040-0170

**Rules Repealed:** 413-040-0120, 413-040-0160

**Subject:** These rule revisions clarify the requirements for Substitute Care Placement Reviews, such as when reviews are required, who must be notified, and who is responsible for the hearings. Also terminology throughout the rule has been corrected as it relates to the restructuring of the Department of Human Services.

**Rules Coordinator:** Barbara J. Carranza—(503) 945-6649

## 413-040-0100

### Purpose

An outline of the required review process to maintain a child who is in the legal custody of the Department and placed in substitute care. These rules emphasize that child safety, permanency and well-being are the paramount concerns guiding the review process for providing and maintaining services to children in Department custody.

Stat. Auth.: ORS 418.005

Stats. Implemented: Title IV, ORS 419A.090 - .122, ORS 419B.440 - .476, ORS 419C.623 - .656

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 24-1999, f. & cert. ef. 12-14-99; SOSCF 8-2000(Temp), f. 3-10-00, cert. ef. 3-10-00 thru 9-6-00; SOSCF 22-2000, f. 9-6-00, cert. ef. 9-7-00; CWP 23-2003, f. & cert. ef. 5-22-03

## 413-040-0110

### Definitions

(1) **“Date Child Entered Substitute Care”** means the earlier of the following two dates:

(a) The date the court found the child within the jurisdiction of the court (under OR 419B.100); or

(b) The date that is 60 days from the date of removal.

(2) **“Department”** means the Department of Human Services.

(3) **“Complete Judicial Review”** means a hearing that results in a written order that contains the findings required under OR 419B.476 or includes substantially the same findings as are required under OR 419A.116.

(4) **“Local Citizen Review Board (CRB)”** means a board of not less than three nor more than five members appointed by the Chief Justice of the Supreme Court of the State of Oregon to review the cases of all children in the custody of the Department and placed in an out-of-home placement (OR 419A.090-419A.094).

(5) **“Permanency Hearing”** means the hearing that determines the permanency plan for the child. The Permanency Hearing is conducted by a juvenile court, another court of competent jurisdiction or by an authorized tribal court.

(6) **“Substitute Care”** means a child in the legal or physical custody and care of the Department, including those supervised by another agency, and placed in a paid or unpaid out-of-home placement, including, but not limited to foster or relative placements, group homes, permanent foster care, emergency shelters, residential facilities, non-finalized adoptive placements, subsidized independent living, accredited psychiatric facilities and the State Hospital.

(7) **“Termination of Parental Rights”** means that a court of competent jurisdiction has entered an order terminating the rights of the parent or parents, pursuant to ORS 419B.500 through 419B.530 or the statutes of another state. The date of the termination order determines the effective date of the termination even if an appeal of that order has been filed (ORS 419A.200).

Stat. Auth.: ORS 418.005

Stats. Implemented: Title IV, ORS 419A.090 - .122; SB408, ORS 419B.440 - .476, ORS 419C.623 - .656

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 24-1999, f. & cert. ef. 12-14-99; SOSCF 8-2000(Temp), f. 3-10-00, cert. ef. 3-10-00 thru 9-6-00; administrative correction 9-16-00; CWP 23-2003, f. & cert. ef. 5-22-03

## 413-040-0130

### Administrative Reviews for Title IV and ORS 419A.090 et seq

(1) Administrative reviews will be held on:

(a) All children in the legal or physical custody of the Department and placed in paid or unpaid substitute care, including court sanctioned permanent foster care, a non-finalized adoptive placement; subsidized independent living; or returned to a parental home on the basis of a trial home visit;

(b) All children placed in substitute care with a Voluntary Custody Agreement or Child Placement Agreement.

(2) Exceptions to the administrative review requirements are:

(a) Children placed directly from the hospital into a nursing home without a prior substitute care placement;

(b) Children hospitalized on a long-term acute basis; or

(c) Youth in detention.

(3) An administrative review shall be held within six months following the first day of placement in care and every six months thereafter from the date of the last review. The administrative review requirement may be met by:

(a) A local CRB review conducted in accordance with OR 419A.090 through 419A.128;

(b) A Permanency Hearing or other court hearing meeting the definition of a complete judicial review, held no earlier than five months after placement when the court relieves the CRB of its responsibility to review the case pursuant to OR 419A.106 (1)(b); or

(c) An Internal Review Committee. In exceptional and rare circumstances, in the absence of a review by a local CRB or court, an internal review committee may be convened to conduct an internal administrative review. An internal review will not relieve the Department of the requirements for CRB reviews in those counties where the local CRB boards operate, therefore, a review must be scheduled with the CRB or court within 30 days of the internal review. At least one member of the internal review committee must not be involved with day-to-day planning on the case. After concluding the internal review, the committee must complete and distribute a findings document to the participants and the CRB (contents should be similar to the findings issued by the CRB).

Stat. Auth.: ORS 418.005

Stats. Implemented: Title IV; ORS 419A.090 - .122; ORS 419B.440 - .476; ORS 419C.623 - .656

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 24-1999, f. & cert. ef. 12-14-99; SOSCF 8-2000(Temp), f. 3-10-00, cert. ef. 3-10-00 thru 9-6-00; SOSCF 22-2000, f. 9-6-00, cert. ef. 9-7-00; CWP 23-2003, f. & cert. ef. 5-22-03

## 413-040-0135

### Responsibility for Administrative Reviews

(1) Responsibility for CRB Reviews when more than one Department office, cluster or state is involved with the case. Offices will meet the administrative review requirements for children in placements as follows:

(a) For Oregon children in substitute care placements inside and outside of Oregon, the local Department office in the county holding legal jurisdiction is responsible for the administrative review.

(A) Information about a child placed out-of state will be requested through Interstate Compact on the Placement of Children (ICPC) from the supervising state; and

(B) The Oregon caseworker will compile information for the review on family members residing in Oregon and receiving Department services.

(b) For non-finalized adoptive placements on fully free children, the supervising Department office is responsible for the administrative review.

(c) For children in the legal custody of the Department whose placement is being co-managed by the Department and mental health or developmental disability case managers:

(A) The Department office in the county holding legal jurisdiction is responsible for the administrative review. The mental health or developmental disability case managers will be invited and encouraged to participate in the review;

(B) The Department caseworker will gather information for the review from the Mental Health or Developmental Disabilities case manager; and

(C) The Department caseworker will compile information for the review on family members receiving Department services.

(2) Review Requirements for Hospitalized Children and Children on Runaway Status. Administrative Reviews must be held for the following children:

(a) Children returned to care from the State Hospital.

(A) The review must be held within 30 days of the child's return to care if the review would have been due during the child's hospitalization, with the exception of children placed directly from the hospital into a nursing home, without a prior substitute care placement.

(b) Children placed in an accredited psychiatric facility or hospital shall continue to have regularly scheduled CRB reviews.

(c) Children on the run shall continue to have regularly scheduled CRB reviews

Stat. Auth.: ORS 418.005

Stats. Implemented: Title IV; ORS 419A.090 - .122; ORS 419B.440 - .476; ORS 419C.623 - .656

Hist.: CWP 23-2003, f. & cert. ef. 5-22-03

# ADMINISTRATIVE RULES

## 413-040-0140

### Permanency Hearings by the Court

A Permanency Hearing must be held no later than 12 months after a child was found within the jurisdiction of the court under ORS 419B.100 or 14 months after the child was placed in substitute care, whichever is the earlier, and thereafter no less frequently than 12 months for as long as the child remains in substitute care. The Permanency Hearing will:

(1) Be held for all children in the legal or physical custody of the Department and placed in paid or unpaid substitute care including, but not limited to, children in foster or relative placements, group homes, permanent foster care, emergency shelters, residential facilities, non-finalized adoptive placements, subsidized independent living, accredited psychiatric facilities, and the State Hospital. Children's permanency hearings continue regardless of whether the placement is licensed or certified or, the child is on runaway status, or the child is returned to a parental home on the basis of a trial home visit.

(2) Be conducted by a juvenile court, another court of competent jurisdiction, or by an authorized tribal court; and

(3) Determine the permanency plan for the child that includes whether, and if applicable, when the child will:

(a) Be returned to the parent;

(b) Be placed for adoption and the Department shall file a petition to terminate the parental rights of the parent(s) to a child in Department custody;

(c) Be referred to legal guardianship; or

(d) Be placed in another planned permanent living arrangement. If the Department has determined that is not in the best interest of the child to file a petition for termination of parental rights, the case plan must also contain documentation for review by the court that:

(A) The child is being cared for by a relative and that placement is intended to be permanent; or

(B) There is a compelling reason that filing such a petition would not be in the best interests of the child. Such compelling reasons include, but are not limited to:

(i) The parent is successfully participating in services that will make it possible for the child to safely return home within a reasonable time;

(ii) Another permanent plan is better suited to meet the health and safety needs of the child;

(iii) The court or local CRB in a prior hearing or review determined that while the case plan was to reunify the family the Department did not make reasonable efforts or, if the Indian Child Welfare Act applies, active effort to make it possible for the child to safely return home; or

(iv) The Department has not provided to the family of the child, consistent with the time period in the case plan, such services as the Department deems necessary for the child to safely return home, if reasonable efforts to make it possible for the child to safely return home are required to be made with respect to the child.

Stat. Auth.: ORS 418.005

Stats. Implemented: Title IV, ORS 419A.090 - ORS 419A.122, ORS 419B.440 - ORS 419B.476 & ORS 419C.623 - ORS 419C.656

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 24-1999, f. & cert. ef. 12-14-99; SOSCF 8-2000(Temp), f. 3-10-00, cert. ef. 3-10-00 thru 9-6-00; SOSCF 22-2000, f. 9-6-00, cert. ef. 9-7-00; CWP 23-2003, f. & cert. ef. 5-22-03

## 413-040-0145

### Additional Requirement for Children Disrupted from Permanent Foster Care

The Department will notify the court when a permanent foster care placement disrupts so the court can take appropriate action, including scheduling a permanency hearing. See OAR 413-070-0730).

Stat. Auth.: ORS 418.005

Stats. Implemented: Title IV, ORS 419A.090 - ORS 419A.122; SB 408; ORS 419B.440 - ORS 419B.476; ORS 419C.623 - ORS 419C.656

Hist.: SOSCF 24-1999, f. & cert. ef. 12-14-99; SOSCF 8-2000(Temp), f. 3-10-00, cert. ef. 3-10-00 thru 9-6-00; SOSCF 22-2000, f. 9-6-00, cert. ef. 9-7-00; CWP 23-2003, f. & cert. ef. 5-22-03

## 413-040-0150

### Participant Notification of Administrative Reviews and Permanency Hearings

(1) The local Department office shall provide correspondence information to the local CRB to assure that written notice of the review is provided to the Department, any other agency directly responsible for the care or placement of the child, the parents or their attorneys, foster parents, surrogate parents, persons granted intervener status, mature children or their attorneys, court-appointed attorney or court appointed special advocate for any child, any district attorney or attorney general actively involved in the case and other interested persons. The notice shall include advice that per-

sons receiving a notice may participate in the hearing and be accompanied by a representative.

(2) The local Department office shall provide foster parent, pre-adoptive parent, or relative who is actively providing care for a child, notice of any court hearing concerning the child.

Stat. Auth.: ORS 418.005

Stats. Implemented: Title IV, ORS 419A.090 - ORS 419A.122, ORS 419B.440 - ORS 419B.476 & ORS 419C.623 - ORS 419C.656

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 24-1999, f. & cert. ef. 12-14-99; SOSCF 8-2000(Temp), f. 3-10-00, cert. ef. 3-10-00 thru 9-6-00; administrative correction 9-16-00; CWP 23-2003, f. & cert. ef. 5-22-03

## 413-040-0155

### Participants in Administrative Reviews and Permanency Hearings

(1) All legal custodians and parents must be invited and encouraged to participate in Administrative Reviews and Permanency Hearings.

(2) Other individuals to invite are:

(a) Substitute care providers;

(b) Children, when it is determined that the child's attendance would be appropriate and the child wishes to attend;

(c) Attorneys and Court Appointed Special Advocates (CASA);

(d) Native American Tribe (if applicable).

Stat. Auth.: ORS 418.005

Stats. Implemented: Title IV; SB 419; ORS 419A.090 - ORS 419A.122, ORS 419B.440 - ORS 419B.476; ORS 419C.623 - ORS 419C.656

Hist.: CWP 23-2003, f. & cert. ef. 5-22-03

## 413-040-0157

### Documentation Requirements for Administrative Reviews and Permanency Hearings

(1) Required documentation supporting the administrative review includes:

(a) The current Substitute Care Case Plan narrative (CF 147B) of case information; and

(b) A signed recommendation of the findings of the CRB or internal review committee (to be attached to the file copy of the CF 147B in the "Narrative" section of the case record); or

(c) A court order with language to the effect that a complete judicial review was held in place of an administrative review, and the court relieves the CRB of its responsibility to review the case pursuant to OR 419A.

(2) Written evidence of a Permanency Hearing having taken place will include:

(a) A written report filed by the worker in accordance with OR 419B.440 through 419B.452, and any additional information required by the court; (with court's approval, the CF 147B may be used to meet reporting requirements of OR 419B.400 through 419B.452); and

(b) A written court order.

(3) Citizen Review Board Recommendations. The Department will implement recommendations of a local CRB as the Department deems appropriate. The Department will give written notification to the local CRB of any recommendations which the Department does not intend to implement. This notification will be given within 17 days of receipt of the CRB recommendations.

Stat. Auth.: ORS 418.005

Stats. Implemented: Title IV; SB 419; ORS 419A.090-419A.122, 419B.440-419B.476; ORS 419C.623-419C.656

Hist.: CWP 23-2003, f. & cert. ef. 5-22-03

## 413-040-0159

### Notification and Distribution Requirements for Administrative Reviews and Permanency Hearings

(1) Case records must contain documentation that written advance notice was provided to the persons cited in OAR 413-040-0150 inviting them to attend the Administrative Review or Permanency Hearing.

(2) The Department will provide copies of the Substitute Care Case Plan narrative (CF 147B) to:

(a) Legal custodial and non-custodial parents;

(b) Parents out-of-state;

(c) Parents who have not had their parental rights terminated or have not signed a release and surrender agreement for adoption;

(d) Native American tribes (if applicable);

(e) Parents' and child's attorneys; and

(f) Court Appointed Special Advocates (CASA).

Stat. Auth.: ORS 418.005

Stats. Implemented: Title IV; OR 419A.090 - 122; ORS 419B.440 - 476; 419C.623 - .656

Hist.: CWP 23-2003, f. & cert. ef. 5-22-03

# ADMINISTRATIVE RULES

## 413-040-0170

### Judicial Requirements for Voluntary Custody Agreement or Child Placement Agreement

(1) Children in out-of-home placement on the basis of a signed Voluntary Custody Agreement or Child Placement Agreement, and Title IV-E-FC eligible must, within 180 days of placement, have a judicial determination by court order to the effect that such placement is in the best interests of the child. A finding of reasonable efforts is not required. The judicial determination requirement may be met without a court hearing, e.g. letter to the court which results in an ex parte court order. However, if a court hearing does not occur, a CRB review must be held and Permanency Hearings must occur as scheduled.

(2) Children placed on the basis of a Voluntary Custody Agreement or Child Placement Agreement are subject to the same Administrative Review and Permanency Hearing requirements as children placed on the basis of a court order.

Stat. Auth.: ORS 418.005  
Stats. Implemented: Title IV, ORS 419A.090 - .122, ORS 419B.440 - .476, ORS 419C.623 - .656  
Hist.: SOSCF 24-1999, f. & cert. ef. 12-14-99; SOSCF 8-2000(Temp), f. 3-10-00, cert. ef. 3-10-00 thru 9-6-00; administrative correction 9-16-00; CWP 23-2003, f. & cert. ef. 5-22-03

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**Department of Human Services,  
Departmental Administration and  
Medical Assistance Programs  
Chapter 410**

**Adm. Order No.:** OMAP 40-2003

**Filed with Sec. of State:** 5-27-2003

**Certified to be Effective:** 6-1-03

**Notice Publication Date:** 5-1-03

**Rules Amended:** 410-121-0040, 410-121-0061, 410-121-0150, 410-121-0155, 410-121-0190, 410-121-0200, 410-121-0220

**Subject:** The Pharmaceutical Services program rules govern Office of medical Assistance Programs (OMAP) payments for pharmaceutical products and services provided to clients. Rule 410-121-0040 is revised to adjust language regarding prior authorization (PA) on PPI drug classes to reflect current Practitioner Managed Prescription Drug Plan category and PA requirements. Because Centers for Medicare and Medicaid Services (CMS) will not extend the Oregon waiver to perform cost avoidance, rule 410-121-0150 is revised to require pharmacy providers to bill private insurance prior to billing DHS. "Paper billers" will be required to use 5.1 universal claim forms. Rule 410-121-0155 is revised to require providers to obtain PA for multiple-source brand name drugs (effective June 15, 2003) and to provide pill splitters to clients so they can take 1/2 doses as required (effective June 1, 2003). Other rules listed above are revised to eliminate the use of pharmacy billing forms and require the use of 5.1 universal claim forms.

**Rules Coordinator:** Darlene Nelson—(503) 945-6927

## 410-121-0040

### Prior Authorization Required for Drugs and Products

(1) Prescribing practitioners are responsible for obtaining prior authorization for the following drugs and products:

- (a) Isotretinoin (Accutane) and Retinoic Acid (Retin A);
- (b) Growth hormone;
- (c) Oral Nutritional supplements;
- (d) Antihistamines (selected);
- (e) Nasal inhalers (selected);
- (f) Antifungals (selected);
- (g) Weight reduction drugs;
- (h) Excessive daily doses;
- (i) Excessive drug therapy duration;
- (j) Coal tar preparations;
- (k) Topical antibiotics;
- (l) Topical antivirals (selected);
- (m) Topical testosterone;
- (n) Dronabinol (marinol);
- (o) Drugs with cosmetic indications;
- (A) Emollients;
- (B) Dermatologicals;
- (C) Hair growth products;
- (p) Proton Pump Inhibitors (PPI);

(A) Non-Practitioner's Managed Prescription Drug Plan (PMPDP) PPI category listed drug on the initial prescription;

(B) PMPDP PPI category listed drugs after eight weeks of acute anti-ulcer therapy.

(2) Over-the-counter medications not mentioned above are limited to two prescriptions per therapeutic class per month.

(3) Psychotropic prescriptions for children under 6, cannot be processed when a default 999999 provider number has been entered.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: AFS 56-1989, f. 9-28-89, cert. ef. 10-1-89; AFS 2-1990, f. & cert. ef. 1-16-90; HR 29-1990, f. 8-31-90, cert. ef. 9-1-90; Renumbered from 461-016-0170; HR 10-1991, f. & cert. ef. 2-19-91; HR 14-1993, f. & cert. ef. 7-2-93; HR 25-1994, f. & cert. ef. 7-1-94; HR 6-1995, f. 3-31-95, cert. ef. 4-1-95; HR 18-1996(Temp), f. & cert. ef. 10-1-96; HR 8-1997, f. 3-13-97, cert. ef. 3-15-97; OMAP 1-1999, f. & cert. ef. 2-1-99; OMAP 29-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 31-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 44-2002, f. & cert. ef. 10-1-02; OMAP 66-2002, f. 10-31-02, cert. ef. 11-1-02; OMAP 29-2003, f. 3-31-03 cert. ef. 4-1-03; OMAP 40-2003, f. 5-27-03, cert. ef. 6-1-03

## 410-121-0061

### Durable Medical Equipment and Medical Supplies

(1) Follow the guidelines in the Durable Medical Equipment and Medical Supplies (DME) and Home Enteral/Parenteral Nutrition and IV Services guides for billing and prior authorization of these items and services.

(2) Medical supplies for home enteral/parenteral nutrition and IV services are listed in the Home Enteral/Parenteral Nutrition and IV Services guide.

(3) Bill Medicare first for these services for qualified clients.

(4) Use the HCFA-1500 or OMAP 505 billing forms, as outlined in the above guides.

(5) Oral Nutritional products and IV products are to be billed on the 5.1 Universal Claim Form or through pharmacy point of sale. Follow prior authorization requirements listed in the Home Enteral/Parenteral Nutrition and IV Services guide.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 26-1991, f. & cert. ef. 7-1-91; HR 20-1994, f. 4-29-94, cert. ef. 5-1-94; OMAP 1-1999, f. & cert. ef. 2-1-99; OMAP 40-2003, f. 5-27-03, cert. ef. 6-1-03

## 410-121-0150

### Billing Requirements

(1) When billing OMAP for pharmaceuticals, the provider must not bill in excess of the usual and customary charge to the general public.

(2) The National Drug Code (NDC), as it appears on the package from which the prescribed medications are dispensed, must be indicated.

(3) Actual metric decimal quantity dispensed, must be billed.

(4) The provider must accurately furnish all information required on the 5.1 Universal Claims Form if submitting paper claim.

(5) The prescribing physician's Medicaid Provider ID Number is required on all claims. Use of the appropriate identification number is mandatory. Claims will deny for a missing or invalid Prescriber ID number. Exceptions to this include but are not limited to:

(a) Out-of-state providers;

(b) Mental Health providers working at county clinics which have no individual provider number;

(c) Inactive medicaid providers contracted by managed care plans prescribing class seven (7) or eleven (11) drugs.

(6) When clients have private insurance, providers are required to bill the private insurance as primary and OMAP as secondary.

(7) Billing for Death With Dignity services:

(a) All Death With Dignity services must be billed directly to OMAP, even if the client is in a managed care plan;

(b) Prescriptions must be billed on an 5.1 Universal Claims Form paper claim form using an NDC number ;

(c) Claims for Death With Dignity services cannot be billed through Point-of-Sale;

(d) Claims for Death With Dignity services must be submitted to OMAP at PO Box 992, Salem, Oregon 97308-0992.

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: AFS 15-1987, f. 3-31-87, ef. 4-1-87; AFS 56-1989, f. 9-28-89, cert. ef. 10-1-89; Renumbered from 461-016-0093; HR 29-1990, f. 8-31-90, cert. ef. 9-1-90; Renumbered from 461-016-0240; HR 20-1994, f. 4-29-94, cert. ef. 5-1-94; OMAP 44-1998(Temp), f. 12-1-98, cert. ef. 12-1-98 thru 5-1-99; OMAP 11-1999(Temp), f. & cert. ef. 4-1-99 thru 9-1-99; OMAP 25-1999, f. & cert. ef. 6-4-99; OMAP 5-2000, f. 3-31-00, cert. ef. 4-1-00; 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 7-2002, f. & cert. ef. 4-1-02; OMAP 40-2003, f. 5-27-03, cert. ef. 6-1-03

# ADMINISTRATIVE RULES

## 410-121-0155

### Reimbursement

(1) Payment for pharmaceuticals will be the lesser of the amount billed or the Estimated Acquisition Cost (EAC) of the generic form, or Oregon Maximum Allowable Cost (OMAC), minus any applicable copayments, plus a professional dispensing fee;

(2) Pharmacies must make available to OMAP any information necessary to determine the pharmacist's actual acquisition cost of pharmaceutical goods dispensed to OMAP clients.

(3) Payment for trade name forms of multisource products will be the lesser of the amount billed or the EAC of the trade name form of the product, plus a professional dispensing fee only if the following criteria are met (Section (3)(a)(b) is effective for services rendered on or after June 15, 2003):

(a) The brand name drug is listed on the Practitioner Managed Prescription Drug Plan (PMPDP) as outlined in OAR 410-121-0030, or;

(b) The prescribing practitioner has received a prior authorization from the Managed Access Program (MAP) help desk for a trade name drug with multiple sources.

(4) Payment for individual special admixtures, fluids or supplies shall be limited to the lesser of:

(a) Eighty percent of the usual and customary charges to the general public;

(b) The amount Medicare allows for the same product or service;

(c) The amount the agency negotiates with an individual provider, less any amount paid or payable by another third party; or

(d) The amount established or determined by OMAP.

(5) No professional dispensing fee is allowed for dispensing condoms, contraceptive foams, suppositories, inserts, jellies, pill splitters/cutters, and creams, medical supplies and equipment, or oral nutritional supplements:

(a) Over the counter contraceptive drugs and devices will be reimbursed at the lesser of billed amount or EAC, plus 50 percent of EAC;

(b) Oral nutritional supplements will be reimbursed at the lesser of billed amount or EAC, plus 1/3 of EAC;

(c) Pill splitters/cutters with an NDC number will be reimbursed at the lesser of billed amount, or EAC. A practitioner prescription is not required. The limit is one per client in a 12 month period.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: PWC 818(Temp), f. 10-22-76, ef. 11-1-76; PWC 831, f. 2-18-77, ef. 3-1-77; PWC 846(Temp), f. & ef. 7-1-77; PWC 858, f. 10-14-77, ef. 11-1-77; PWC 869, f. 12-30-77, ef. 1-1-78; AFS 15-1979(Temp), f. 6-29-79, ef. 7-1-79; AFS 41-1979, f. & ef. 11-1-79; AFS 15-1981, f. 3-5-81, ef. 4-1-81; AFS 35-1981(Temp), f. 6-26-81, ef. 7-1-81; AFS 53-1981(Temp), f. & ef. 8-14-81; AFS 70-1981, f. 9-30-81, ef. 10-1-81; AFS 44-1982, f. 4-30-82 & AFS 52-1982, f. 5-28-82, ef. 5-1-82 for providers located in the geographical areas covered by the branch offices of North Salem, South Salem, Dallas, Woodburn, McMinnville, Lebanon, Albany and Corvallis, ef. 6-30-82 for remaining AFS branch offices. AFS 74-1982 (Temp), f. 7-22-81, ef. 8-1-82; AFS 99-1982, f. 10-25-82, ef. 11-1-82; AFS 113-1982(Temp), f. 12-28-82, ef. 1-1-83; AFS 13-1983, f. & ef. 3-21-83; AFS 51-1983(Temp), f. 9-30-83, ef. 10-1-83; AFS 56-1983, f. 11-17-83, ef. 12-1-83; AFS 18-1984, f. 4-23-84, ef. 5-1-84; AFS 53-1985, f. 9-20-85, ef. 10-1-85; AFS 42-1986(Temp), f. 6-10-86, ef. 7-1-86; AFS 52-1986, f. & ef. 7-2-86; AFS 12-1987, f. 3-3-87, ef. 4-1-87; AFS 56-1989, f. 9-28-89, cert. ef. 10-1-89; Renumbered from 461-016-0100; HR 29-1990, f. 8-31-90, cert. ef. 9-1-90; Renumbered from 461-016-0250; HR 20-1991, f. & cert. ef. 4-16-91; HR 20-1994, f. 4-29-94, cert. ef. 5-1-94; 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 61-2001(Temp), f. 12-13-01, cert. ef. 12-15-01 thru 3-15-02; OMAP 1-2002, cert. ef. 2-15-02; OMAP 32-2002, f. & cert. ef. 8-1-02; OMAP 40-2003, f. 5-27-03, cert. ef. 6-1-03

## 410-121-0190

### Clozapine Therapy

(1) Clozapine is covered only for the treatment of clients who have failed therapy with at least two anti-psychotic medications. Clozapine Supervision is the management and record keeping of clozapine dispensings as required by the manufacturer of clozapine.

(2) Clozapine supervision:

(a) Pharmacists are to bill for Clozapine Supervision by using code 90862 and type of service "S". CMS01 has been deleted. Do not bill CMS01 for Clozapine supervision.

(b) Providers billing for clozapine supervision must document all of the following:

(A) Exact date and results of White Blood Counts (WBCs), upon initiation of therapy and at recommended intervals per the drug labeling;

(B) Notations of current dosage and change in dosage;

(C) Evidence of an evaluation at intervals recommended per the drug labeling requirements approved by the FDA;

(D) Dates provider sent required information to manufacturer.

(E) Only one provider, either pharmacist or physician, may bill per week per client;

(F) Limited to five units per 30 days per client;

(G) An ICD-9 diagnosis must be shown in Field 21 of the HCFA-1500. The diagnosis code must be shown to the 5th digit on the HCFA-1500 and OMAP 505.

(3) Drug Products — The information required on the 5.1 Universal Claim Form must be included in the billing. The actual drug product may be billed electronically or submitted on the 5.1 Universal Claim Form;

(4) Venipuncture — If the pharmacy performs venipuncture, bill for that procedure on a HCFA-1500 (and OMAP 505 if the client has Medicare coverage). Use Type of Service "S" and Procedure Code G0001.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 20-1994, f. 4-29-94, cert. ef. 5-1-94; HR 6-1995, f. 3-31-95, cert. ef. 4-1-95; OMAP 1-1999, f. & cert. ef. 2-1-99; OMAP 17-2001, f. 3-30-01, cert. ef. 4-1-01; OMAP 31-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 45-2002, f. & cert. ef. 10-1-02; OMAP 20-2003, f. 3-26-03, cert. ef. 4-1-03; OMAP 40-2003, f. 5-27-03, cert. ef. 6-1-03

## 410-121-0200

### Billing Forms

(1) Prescription Drug Invoice 5.1 Universal Claim Form:

(a) This form is used to bill for all pharmacy services, except durable medical equipment and home enteral/parenteral nutrition and IV services identified with a five-digit HCPCS or OMAP Unique codes in the Home Enteral/Parenteral Nutrition and IV Services Guide;

(b) The provider may bill on the form when a valid Medical Care Identification has been presented. In the absence of a valid Medical Care Identification, the provider should call the Automated Information System or contact the local branch office where the client is being served;

(c) All completed 5.1 Universal Claim Forms should be mailed to the Office of Medical Assistance Programs; A paper claim must be used when the billed amount exceeds \$99,999;

(2) HCFA-1500 for Durable Medical Equipment:

(a) All durable medical equipment and certain enteral/parenteral nutrition and IV services must be billed on the HCFA-1500, using the billing instructions found in the OMAP Durable Medical Equipment and Medical Supplies Guide, and the OMAP Home Enteral/Parenteral Nutrition and IV Services guide;

(b) All completed HCFA-1500 forms for durable medical equipment should be mailed to the Office of Medical Assistance Programs.

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 29-1990, f. 8-31-90, cert. ef. 9-1-90; HR 20-1994, f. 4-29-94, cert. ef. 5-1-94; OMAP 20-2003, f. 3-26-03, cert. ef. 4-1-03; OMAP 40-2003, f. 5-27-03, cert. ef. 6-1-03

## 410-121-0220

### Instructions for Completion of the Prescription Drug Invoice

(1) The 5.1 Universal Claim Form is the required billing form for pharmacies billing on a paper claim. Use the standard Instructions for completion of the 5.1 Universal Claim Form.

(2) Enter all applicable information for billing of prescription drug claims for clients on the Oregon Health Plan.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: AFS 56-1989, f. 9-28-89, cert. ef. 10-1-89; HR 29-1990, f. 8-31-90, cert. ef. 9-1-90; Renumbered from 461-016-0280; HR 14-1993, f. & cert. ef. 7-2-93; HR 20-1994, f. 4-29-94, cert. ef. 5-1-94; HR 2-1995, f. & cert. ef. 2-1-95; HR 23-1995, f. 12-29-95, cert. ef. 1-1-96; OMAP 1-1999, f. & cert. ef. 2-1-99; OMAP 40-2003, f. 5-27-03, cert. ef. 6-1-03

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**Notice Publication Date:** 4-1-03

**Rules Amended:** 410-121-0300

**Subject:** The rules of Pharmacy Services govern Office of Medical Assistance Programs (OMAP) payment to providers for pharmaceutical services provided for clients of the Medical Assistance programs. On March 1, 2003, OMAP temporarily amended rule 410-121-0300 to update the CMS Federal Upper Limits for Drug Payments listing. This filing will permanently amend Rule 410-121-0300 to update Transmittal # 37, with Title XIX State Agency Letter Number 03-01, changes to be effective March 11, 2003, to revise drug products information in compliance with federal regulations from Centers for Medicare and Medicaid Services (CMS).

**Rules Coordinator:** Darlene Nelson—(503) 945-6927

# ADMINISTRATIVE RULES

## 410-121-0300

### CMS Federal Upper Limits for Drug Payments

(1) The CMS Federal Upper Limits for Drug Payments listing of multiple source drugs meets the criteria set forth in 42 CFR 447.332 and 1927(e) of the Act as amended by OBRA 1993. The development of the current Federal Upper Limit (FUL) listing has been accomplished by computer. Payments for multiple source drugs must not exceed, in the aggregate, payment levels determined by applying to each drug entity a reasonable dispensing fee (established by the State and specified in the State Plan), plus an amount based on the limit per unit which CMS has determined to be equal to a 150 percent applied to the lowest price listed (in package sizes of 100 units, unless otherwise noted) in any of the published compendia of cost information of drugs. The FUL drug listing is published in the State Medicaid Manual, Part 6, Payment for Services, Addendum A. The most current Transmittals and subsequent changes are posted to the CMS website at <http://www.cms.hhs.gov/medicaid/drugs/drug10.asp>. The FUL price listing will be updated approximately every six months.

(2) The most current CMS Federal Upper Limits for Drug Payments Listing, includes changes to Transmittal #37, Title XIX State Agency Letter Number 03-03, with changes to be effective May 11, 2003, and is available for downloading on OMAP's Website, (<http://www.dhs.state.or.us/policy/healthplan/guides/pharmacy/>). To request a hard copy, call OMAP.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: AFS 56-1989, f. 9-28-89, cert. ef. 10-1-89; AFS 63-1989(Temp), f. & cert. ef. 10-17-89; AFS 79-1989, f. & cert. ef. 12-21-89; HR 3-1990(Temp), f. & cert. ef. 2-23-90; HR 13-1990, f. & cert. ef. 4-20-90; Renumbered from 461-16-330; HR 20-1990, f. & cert. ef. 7-9-90; HR 29-1990, f. 8-31-90, cert. ef. 9-1-90; HR 45-1990, f. & cert. ef. 12-28-90; HR 10-1991, f. & cert. ef. 2-19-91; HR 37-1991, f. & cert. ef. 9-16-91; HR 13-1992, f. & cert. ef. 6-1-92; HR 28-1992, f. & cert. ef. 9-1-92; HR 35-1992(Temp), f. & cert. ef. 12-1-92; HR 1-1993(Temp), f. & cert. ef. 1-25-93; HR 3-1993, f. & cert. ef. 2-22-93; HR 5-1993(Temp), f. 3-10-93, cert. ef. 3-22-93; HR 8-1993(Temp), f. & cert. ef. 4-1-93; HR 11-1993, f. 4-22-93, cert. ef. 4-26-93; HR 15-1993(Temp), f. & cert. ef. 7-2-93; HR 20-1993, f. & cert. ef. 9-1-93; HR 25-1993(Temp), f. & cert. ef. 10-1-93; HR 14-1994, f. & cert. ef. 3-1-94; HR 25-1994, f. & cert. ef. 7-1-94; HR 2-1995, f. & cert. ef. 2-1-95; HR 6-1995, f. 3-31-95, cert. ef. 4-1-95; HR 14-1995, f. 6-29-95, cert. ef. 7-1-95; HR 23-1995, f. 12-29-95, cert. ef. 1-1-96; HR 22-1997, f. & cert. ef. 10-1-97; HR 27-1997, f. & cert. ef. 12-1-97; OMAP 2-1998, f. 1-30-98, cert. ef. 2-1-98; OMAP 43-1998(Temp), f. & cert. ef. 11-20-98 thru 5-1-99; OMAP 5-1999, f. & cert. ef. 2-26-99; OMAP 42-2000(Temp), f. & cert. ef. 12-15-00 thru 5-1-01; OMAP 1-2001(Temp), f. & cert. ef. 2-1-01 thru 6-1-01; OMAP 2-2001(Temp), f. 2-14-01, cert. ef. 2-15-01 thru 7-1-01; OMAP 18-2001, f. 3-30-01, cert. ef. 4-1-01; OMAP 23-2001(Temp), f. & cert. ef. 4-16-01 thru 8-1-01; OMAP 26-2001(Temp), f. & cert. ef. 6-6-01 thru 1-2-02; OMAP 51-2001(Temp), f. 9-28-01, cert. ef. 10-1-01 thru 3-15-01; OMAP 58-2001, f. 11-30-01, cert. ef. 12-1-01; OMAP 67-2001(Temp), f. 12-28-01, cert. ef. 1-1-02 thru 5-15-02; OMAP 3-2002(Temp), f. & cert. ef. 2-15-02 thru 6-15-02; OMAP 5-2002(Temp), f. & cert. ef. 3-5-02 thru 6-15-02; OMAP 19-2002(Temp), f. & cert. ef. 4-22-02 thru 9-15-02; OMAP 29-2002(Temp), f. 7-15-02, cert. ef. 8-1-02 thru 1-1-03; OMAP 71-2002(Temp), f. & cert. ef. 12-1-02 thru 5-15-03; OMAP 10-2003, f. 2-28-03, cert. ef. 3-1-03; OMAP 11-2003(Temp), f. 2-28-03, cert. ef. 3-1-03 thru 8-15-03; OMAP 41-2003, f. & cert. ef. 5-29-03

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**Adm. Order No.:** OMAP 42-2003(Temp)

**Filed with Sec. of State:** 5-30-2003

**Certified to be Effective:** 6-1-03 thru 11-15-03

**Notice Publication Date:**

**Rules Amended:** 410-121-0140

**Rules Suspended:** 410-121-0140(T)

**Subject:** The Pharmaceutical Services program rules govern Office of Medical Assistance Programs (OMAP) payments for services provided to clients. On March 14, 2003, OMAP filed a Temporary Certificate for Rule 410-121-0140 to change the definition of Estimated Acquisition Cost (EAC) by changing, in section (9)(a), "Eighty-six" to "eighty-five percent of Average Wholesale Price (AWP) of the drug." Implementation of this action was contingent upon necessary approval from Centers for Medicare and Medicaid Services (CMS) and scheduled to be effective May 1, 2003. Having received CMS approval, it is necessary to revise the implementation date, in rule, to June 1, 2003 to be in compliance with federal regulations and the state plan allowing OMAP eligibility for Federal Fund Participation. Therefore, a Temporary filing is needed to revise the date of implementation and suspend 410-121-140(T).

**Rules Coordinator:** Darlene Nelson—(503) 945-6927

## 410-121-0140

### Definition of Terms

(1) Actual Acquisition Cost: The net amount paid per invoice line item to a supplier. This net amount does not include separately identified discounts for early payment.

(2) Automated Information System (AIS): A computer system which provides on-line Medicaid eligibility information. Accessed through the provider's touch-tone telephone. The AIS is accessed by dialing 1-800-522-2508.

(3) Bulk Dispensing: Multiple doses of medication packaged in one container labeled as required by pertinent Federal and State laws and rules.

(4) Community Based Living Facility: For the purposes of the OMAP Pharmacy Program, "community based living facilities" include:

- (a) Supportive Living Facilities;
- (b) 24-Hour Residential Services;
- (c) Foster Care;
- (d) Semi-independent Living Programs;
- (e) Assisted Living and Residential Care Facilities.

(5) Compounded Prescriptions: A prescription that is prepared at the time of dispensing and involves the weighting of at least one solid ingredient which must be a compensable item or a legend drug in a therapeutic amount. Compounded prescription is further defined to include the Board of Pharmacy definition of Compounding.

(6) Dispensing: Issuance of a prescribed quantity of an individual drug entity by a licensed pharmacist.

(7) Drug Order/Prescription:

(a) A written prescription, dated and signed by the prescribing practitioner, the elapsed time between the date of writing and date of filling must be reasonable and appropriate for the drug and to the conditions for which it is ordinarily required; or

(b) An order on a nursing facility chart, dated and signed by the prescribing practitioner; or

(c) A telephone (verbal) order from the prescribing practitioner, or his agent, to the pharmacist and filed in the pharmacist's place of business;

(d) All prescriptions/drug orders shall be filed in the pharmacist's place of business according to State Board of Pharmacy rules and regulations.

(8) Durable Medical Equipment and supplies (DME): Equipment that can stand repeated use and is primarily and customarily used to serve a medical purpose. Examples include wheelchairs, respirators, crutches, custom built orthopedic braces. Medical supplies are nonreusable items used in the treatment of illness or injury. Examples of medical supplies include diapers, syringes, gauze bandages, tubing.

(9) Estimated Acquisition Cost (EAC): The estimated cost at which the pharmacy can obtain the product. In the absence of actual cost data, OMAP will determine Estimated Acquisition Cost as the lesser of:

(a) Eighty-five percent of Average Wholesale Price (AWP) of the drug. Section (9)(a) is effective for services rendered on or after June 1, 2003.

(b) Eighty-nine percent of AWP for a pharmacy enrolled with OMAP as a unit dose or modified unit dose pharmacy (see policy 410-121-0148). Section (9)(b) is effective for services rendered on or after February 1, 2003. These rates will be reimbursed retroactively to February 1, 2003.

(c) Health Care Financing Administration (HCFA) upper limits for drug payment. These prices will be the upper limit on EAC for the HCFA designated drugs as specified by OMAP;

(d) Oregon Maximum Allowable Cost (OMAC).

(10) Managed Access Program (MAP): The OMAP Managed Access Program, through its designated agent, First Health Services, utilizes a system of clinical protocols to evaluation drug therapy selected in drug categories. A prescriber or licensed medical personnel in a prescriber's office may request prior authorization on selected drug categories by calling the MAP Help Desk.

(11) Nursing Facilities: The term "Nursing Facility" refers to an establishment which is licensed and certified by Senior and Disabled Services Division as a Nursing Facility.

(12) Point-of-Sale (POS): A computerized, claims submission process for retail pharmacies which provides on-line, real-time claims adjudication.

(13) Prescription Splitting: Any one or a combination of the following actions:

(a) Reducing the quantity of a drug prescribed by a licensed practitioner. In situations where greater than a 34-day supply is prescribed, a pharmacist may dispense a 34-day supply (See OAR 410-121-0146);

(b) Billing the agency for more than one dispensing fee when the prescription calls for one dispensing for the quantity dispensed;

(c) Separating the ingredients of a prescribed drug and billing the agency for separate individual ingredients which, when combined together would represent the prescribed drug, with the exception of compounded medications (see OAR 410-121-0146);

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(d) Using multiple 30-day cards to dispense a prescription when a lesser number of cards will suffice.

(14) Prescription Volume Survey: A survey used by pharmaceutical providers which determines the providers dispensing rate. This survey documents for each pharmacy the total prescriptions dispensed, the total prescriptions dispensed to Medical Assistance Program clients, and if used, the types of unit dose system.

(15) Unit Dose: A sealed, single unit container of medication, so designed that the contents are administered to the patient as a single dose, direct from the container, and dispensed following the rules for unit dose dispensing system established by the State Board of Pharmacy.

(16) Unit Dose Delivery System:

(a) OMAP currently recognizes two types of unit dose dispensing systems:

(A) True Unit Dose. A True Unit Dose Delivery System requires that:

(i) Each nursing facility or community based living facility patient's medication be delivered a minimum of five days weekly, or delivery of medical carts every other day with daily (seven-days-a-week) service available;

(ii) Only the actual number of drug units used by the client during the billing period can be billed to OMAP;

(iii) Resumption of the same medication after a "stop order" or discontinuance ("DC") order constitutes a new prescription;

(iv) The closing date for the monthly billing period shall remain the same for all clients;

(v) Small quantity prescriptions are allowed only when the closing date for the monthly billing period is interrupted, e.g., hospitalization, new patient admit, etc.

(B) Modified Unit Dose. A Modified Unit Dose Delivery System requires that:

(i) A pharmacy must deliver each nursing facility or community based living facility client's medication in a sealed single-or multi-dose packages;

(ii) A pharmacy must dispense the greater of the quantity prescribed or a 30-day supply, except when short-term therapy is specified by the prescriber;

(iii) Only the actual number of drug units used by the client during the monthly billing period or during the prescribed medication period can be billed to OMAP;

(iv) The provider must credit OMAP for all unused medications as established by the State Board of Pharmacy;

(v) OMAP will be billed for the date of dispensing within the timely filing limit;

(vi) Manufacturer's Unit Dose packaging of drugs is not reimbursable.

(b) 30-Day Card:

(A) A 30-day blister pack, bingo or punch card containing multiple sealed single doses of medication. The pharmacy must have a system for dispensing and recovery of unused doses that has been approved by the State Board of Pharmacy;

(B) A 30-day card system which does not meet the requirements of the State Board of Pharmacy for recovery of unused doses, or for other reasons does not qualify for payment is not considered a True or Modified Unit Dose Delivery System.

(c) True and Modified Unit Dose providers must:

(A) Supply OMAP with a list of the facilities it will serve under this system;

(B) Sign an agreement to abide by the requirements of the program;

(C) Keep a separate, detailed Medication Administration (MAR) of all medications dispensed for each facility client served.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: PWC 818(Temp), f. 10-22-76, ef. 11-1-76; PWC 831, f. 2-18-77, ef. 3-1-77; PWC 869, f. 12-30-77, ef. 1-1-78; AFS 28-1982, f. 6-17-81, ef. 7-1-81; AFS 44-1982, f. 4-30-82 & AFS 52-1982, f. 5-28-82, ef. 5-1-82; AFS 54-1985(Temp), f. 9-23-85, ef. 10-1-85 for providers located in the geographical areas covered by the branch offices of North Salem, South Salem, Dallas, Woodburn, McMinnville, Lebanon, Albany and Corvallis, ef. 6-30-82 for remaining AFS branch offices; AFS 12-1984, f. 3-16-84, ef. 4-1-84; AFS 42-1986(Temp), f. 6-10-86, ef. 7-1-86; AFS 11-1987, f. 3-3-87, ef. 4-1-87; AFS 2-1989(Temp), f. 1-27-89, cert. ef. 2-1-89; AFS 17-1989(Temp), f. 3-31-89, cert. ef. 4-1-89; AFS 42-1989, f. & cert. ef. 7-20-89; AFS 56-1989, f. 9-28-89, cert. ef. 10-1-89; Renumbered from 461-016-0010; AFS 63-1989(Temp), f. & cert. ef. 10-17-89; AFS 79-1989, f. & cert. ef. 12-21-89; HR 29-1990, f. 8-31-90, cert. ef. 9-1-90; Renumbered from 461-016-0190; HR 52-1991(Temp), f. 11-29-91, cert. ef. 12-1-91; HR 6-1992, f. & cert. ef. 1-16-92; HR 28-1992, f. & cert. ef. 9-1-92; HR 14-1993, f. & cert. ef. 7-2-93; HR 20-1993, f. & cert. ef. 9-1-93; HR 20-1994, f. 4-29-94, cert. ef. 5-1-94; HR 6-1996(Temp), f. & cert. ef. 8-1-96; HR 27-1996, f. 12-11-96, cert. ef. 12-15-96; OMAP 1-1999, f. & cert. ef. 2-1-99; OMAP 29-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 49-2001, f. 9-28-01, cert. ef. 10-1-01 thru 3-15-02; OMAP 59-2001, f. & cert. ef. 12-11-01; OMAP 37-2002, f. 8-30-02, cert. ef. 9-1-02; OMAP 9-2003, f. 2-28-03, cert. ef. 3-1-03; OMAP 18-2003(Temp), f. 3-14-03, cert. ef. 4-1-03 thru 9-1-03 (Suspended by OMAP 27-

2003, f. 3-31-03, cert. ef. 4-1-03 thru 4-15-03); OMAP 32-2003(Temp), f. & cert. ef. 4-15-03 thru 9-15-03; OMAP 42-2003(Temp), f. 5-30-03, cert. ef. 6-1-03 thru 11-15-03

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**Adm. Order No.:** OMAP 43-2003(Temp)

**Filed with Sec. of State:** 6-10-2003

**Certified to be Effective:** 7-1-03 thru 12-15-03

**Notice Publication Date:**

**Rules Amended:** 410-121-0040, 410-121-0150

**Subject:** The Pharmaceutical Services program rules govern Office of Medical Assistance Programs (OMAP) payments for services provided to clients. 410-121-0040 will be amended to require prior authorization of gabapentin. 410-121-0150 will be amended to require primary billing of Medicare prior to billing OMAP for drug prescriptions.

**Rules Coordinator:** Darlene Nelson—(503) 945-6927

## 410-121-0040

### Prior Authorization Required for Drugs and Products

(1) Prescribing practitioners are responsible for obtaining prior authorization for the following drugs and products:

(a) Isotretinoin (Accutane) and Retinoic Acid (Retin A);

(b) Growth hormone;

(c) Oral Nutritional supplements;

(d) Antihistamines (selected);

(e) Nasal inhalers (selected);

(f) Antifungals (selected);

(g) Weight reduction drugs;

(h) Excessive daily doses;

(i) Excessive drug therapy duration;

(j) Coal tar preparations;

(k) Topical antibiotics;

(l) Topical antivirals (selected);

(m) Topical testosterone;

(n) Dronabinol (marinol);

(o) Drugs with cosmetic indications;

(A) Emollients;

(B) Dermatologicals;

(C) Hair growth products;

(p) Proton Pump Inhibitors (PPI):

(A) Non-Practitioner's Managed Prescription Drug Plan (PMPDP) PPI category listed drug on the initial prescription;

(B) PMPDP PPI category listed drugs after eight weeks of acute anti-ulcer therapy.

(q) Gabapentin

(2) Over-the-counter medications not mentioned above are limited to two prescriptions per therapeutic class per month.

(3) Psychotropic prescriptions for children under 6, cannot be processed when a default 999999 provider number has been entered.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: AFS 56-1989, f. 9-28-89, cert. ef. 10-1-89; AFS 2-1990, f. & cert. ef. 1-16-90; HR 29-1990, f. 8-31-90, cert. ef. 9-1-90; Renumbered from 461-016-0170; HR 10-1991, f. & cert. ef. 2-19-91; HR 14-1993, f. & cert. ef. 7-2-93; HR 25-1994, f. & cert. ef. 7-1-94; HR 6-1995, f. 3-31-95, cert. ef. 4-1-95; HR 18-1996(Temp), f. & cert. ef. 10-1-96; HR 8-1997, f. 3-13-97, cert. ef. 3-15-97; OMAP 1-1999, f. & cert. ef. 2-1-99; OMAP 29-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 31-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 44-2002, f. & cert. ef. 10-1-02; OMAP 66-2002, f. 10-31-02, cert. ef. 11-1-02; OMAP 29-2003, f. 3-31-03 cert. ef. 4-1-03; OMAP 40-2003, f. 5-27-03, cert. ef. 6-1-03; OMAP 43-2003(Temp), f. 6-10-03, cert. ef. 7-1-03 thru 12-15-03

## 410-121-0150

### Billing Requirements

(1) When billing OMAP for pharmaceuticals, the provider must not bill in excess of the usual and customary charge to the general public.

(2) The National Drug Code (NDC), as it appears on the package from which the prescribed medications are dispensed, must be indicated.

(3) Actual metric decimal quantity dispensed, must be billed.

(4) The provider must accurately furnish all information required on the 5.1 Universal Claims Form if submitting paper claim.

(5) The prescribing physician's Medicaid Provider ID Number is required on all claims. Use of the appropriate identification number is mandatory. Claims will deny for a missing or invalid Prescriber ID number. Exceptions to this include but are not limited to:

(a) Out-of-state providers;

(b) Mental Health providers working at county clinics which have no individual provider number;

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(c) Inactive medicaid providers contracted by managed care plans prescribing class seven (7) or eleven (11) drugs.

(6) When clients have private insurance, providers are required to bill the private insurance as primary and OMAP as secondary.

(7) When clients have Medicare prescription drug coverage, providers are required to bill Medicare as primary and OMAP as secondary.

(8) Billing for Death With Dignity services:

(a) All Death With Dignity services must be billed directly to OMAP, even if the client is in a managed care plan;

(b) Prescriptions must be billed on an 5.1 Universal Claims Form paper claim form using an NDC number ;

(c) Claims for Death With Dignity services cannot be billed through Point-of-Sale;

(d) Claims for Death With Dignity services must be submitted to OMAP at PO Box 992, Salem, Oregon 97308-0992.

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: AFS 15-1987, f. 3-31-87, ef. 4-1-87; AFS 56-1989, f. 9-28-89, cert. ef. 10-1-89; Renumbered from 461-016-0093; HR 29-1990, f. 8-31-90, cert. ef. 9-1-90; Renumbered from 461-016-0240; HR 20-1994, f. 4-29-94, cert. ef. 5-1-94; OMAP 44-1998(Temp), f. 12-1-98, cert. ef. 12-1-98 thru 5-1-99; OMAP 11-1999(Temp), f. & cert. ef. 4-1-99 thru 9-1-99; OMAP 25-1999, f. & cert. ef. 6-4-99; OMAP 5-2000, f. 3-31-00, cert. ef. 4-1-00; 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 7-2002, f. & cert. ef. 4-1-02; 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

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## Department of Human Services, Public Health Chapter 333

**Adm. Order No.:** PH 6-2003

**Filed with Sec. of State:** 5-22-2003

**Certified to be Effective:** 5-22-03

**Notice Publication Date:** 6-1-02

**Rules Amended:** 333-019-0017

**Subject:** Amend 333-019-0017(2)(b), adding the word "direct" to read: under the direct supervision of a veterinarian.

**Rules Coordinator:** Jana Fussell—(503) 731-4320

### 333-019-0017

#### Rabies Vaccination for Animals

(1) Except where specifically exempt, all dogs at least three months old shall be immunized against rabies by the age of six months. The following are exempt:

(a) Dogs brought temporarily into the state for periods of less than 30 days and kept under strict supervision by their owners;

(b) Dogs for which rabies immunization is contraindicated for health reasons, as determined by a licensed veterinarian subsequent to an examination. The reasons for the exemption and a specific description of the dog, including name, age, sex, breed, and color, shall be recorded by the examining veterinarian on a Rabies Vaccination Certificate, which shall bear the owner's name and address. The veterinarian shall also record whether the exemption is permanent, and if it is not, the date the exemption ends;

(c) Dogs that are owned by dealers, breeders, or exhibitors exclusively for sale or exhibition purposes and that are confined to kennels except for transportation under strict supervision to and from dog shows or fairs.

(2) Vaccination of an animal against rabies is valid only when performed:

(a) By a licensed veterinarian;

(b) By a veterinary technician (certified according to OAR 875-030-0010) under the direct supervision of a licensed veterinarian; or

(c) In the case of a need to vaccinate and the lack of an available veterinarian, by another person approved for this purpose by the State Public Health Veterinarian.

(3) To be considered immunized against rabies, dogs and cats must be vaccinated according to guidelines published in the Compendium of Animal Rabies Prevention and Control 2001 (published by the National Association of State Public Health Veterinarians, Inc., in *Morbidity and Mortality Weekly Report*, Volume 50, Number RR-8, pages 1-16, May 25, 2001).

(4) A Rabies Vaccination Certificate shall be completed and signed by the person performing the vaccination. That individual shall give the original and one copy to the dog's owner and retain one copy for the period for which the vaccination is in force. The Certificate must include at least the following information: owner's name and address; dog description by age,

sex, color, breed; date of vaccination; due date for revaccination; type and lot number of vaccine used; and name and address of vaccinator..

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 431, ORS 432, ORS 433 & ORS 437

Stats. Implemented:

Hist.: OHD 4-2002, f. & cert. ef. 3-4-02; PH 6-2003, f. & cert. ef. 5-22-03

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**Adm. Order No.:** PH 7-2003

**Filed with Sec. of State:** 6-6-2003

**Certified to be Effective:** 6-6-03

**Notice Publication Date:** 4-1-03

**Rules Adopted:** 333-700-0000, 333-700-0005, 333-700-0010, 333-700-0015, 333-700-0020, 333-700-0025, 333-700-0030, 333-700-0035, 333-700-0040, 333-700-0045, 333-700-0050, 333-700-0055, 333-700-0060, 333-700-0065, 333-700-0070, 333-700-0075, 333-700-0080, 333-700-0085, 333-700-0090, 333-700-0095, 333-700-0100, 333-700-0105, 333-700-0110, 333-700-0115, 333-700-0120, 333-700-0125, 333-700-0130

**Subject:** Establishes licensure requirements for Outpatient Renal Dialysis Facilities.

**Rules Coordinator:** Jana Fussell—(503) 731-4078

### 333-700-0000

#### Statement of Purpose

The purpose of these rules is to establish the standards for licensure of outpatient renal dialysis facilities.

Stat. Auth.: ORS 441.020 & ORS 442.015

Stats. Implemented: ORS 441.020 & ORS 442.015

Hist.: PH 7-2003, f. & cert. ef. 6-6-03

### 333-700-0005

#### Definitions

As used in OAR chapter 333, division 700, unless the context requires otherwise, the following definitions apply:

(1) "Health care facility" (HCF) has the meaning given the term in Oregon Revised Statute (ORS) 442.015, and includes but is not limited to the classifications defined in subsections (a) through (e) of this section. The phrases "subject health care facility(ies)" and "subject HCF(s)" refer to those classifications subject to Department of Human Services licensure; i.e., hospitals, special inpatient care facilities, long-term care facilities, ambulatory surgical centers, outpatient renal dialysis facilities, and freestanding birthing centers.

(a) "Hospital" means an establishment with an organized medical staff, with permanent facilities that include inpatient beds, and with medical services, including physician services and continuous nursing services under the supervision of registered nurses, to provide diagnosis and medical or surgical treatment primarily for, but not limited to, acutely ill patients and accident victims, or to provide treatment for the mentally ill or to provide treatment in special inpatient care facilities. "Special inpatient care facilities" are facilities with permanent inpatient beds and other facilities designed and utilized for special health care purposes, to include but not be limited to: Rehabilitation center, college infirmary, chiropractic facility, facility for the treatment of alcoholism or drug abuse, freestanding hospice facility, infirmary for the homeless, or inpatient care facility meeting the requirements of ORS 441.065, and any other establishment falling within a classification established by the Department, after determination of the need for such classification and the level and kind of health care appropriate for such classification.

(b) "Long-term care facility" includes the terms "skilled nursing facility" and "intermediate care facility," but such definition shall not be construed to include facilities licensed and operated pursuant to ORS 443.400 to 443.455.

(c) "Ambulatory surgical center" (ASC) means a health care facility which performs outpatient surgery not routinely or customarily performed in a physician's or dentist's office, and is able to meet health facility licensure requirements.

(d) A freestanding birthing center means a health care facility licensed for the primary purpose of performing low risk deliveries.

(e) An outpatient renal dialysis facility means a facility licensed to provide ESRD services on an outpatient basis.

(2) "Administrator" means a person designated by the governing body to have overall management of the facility. The administrator enforces the rules and regulations relative to the health care and safety of patients. The administrator plans, organizes, and directs those responsibilities delegated to the administrator by the governing body.

## ADMINISTRATIVE RULES

(3) As used in 333-700-0085 and 333-700-0090, the term "assessment" means an assessment done by a registered nurse, social worker, or dietitian that is appropriate for the scope of practice for that discipline. This includes:

- (a) Systematic and ongoing collection of information to determine an individual's health status and need for intervention;
- (b) Comparison with past information; and
- (c) Judgment, evaluation, or conclusion that occurs as a result of parts (a) and (b) of this definition.

(4) "Agreement", as used in these rules, means a written document executed between a dialysis facility and another facility in which the other facility agrees to assume responsibility for furnishing specified services to patients and for obtaining reimbursement for those services.

(5) "Arrangement", as used in these rules, means a written document executed between a dialysis facility and another facility in which the other facility agrees to furnish specified services to patients but the dialysis facility retains responsibility for those services and for obtaining reimbursement for them.

(6) "Authentication" means verification that an entry in the patient medical record is genuine.

(7) "CMS" means the Center for Medicare and Medicaid Services.

(8) "Department" means the Department of Human Services.

(9) "Dialysis" means a process by which dissolved substances are removed from a patient's body by diffusion from one fluid compartment to another across a semi-permeable membrane. The two types of dialysis that are currently in common use are hemodialysis and peritoneal dialysis.

(10) "Discharge", as used in these rules, means the process whereby a patient who was receiving services in a facility is either sent home, transferred to another facility or has died.

(11) "End-Stage Renal Disease (ESRD)" means that stage of renal impairment that appears irreversible and permanent, and requires a regular course of dialysis or kidney transplantation to maintain life.

(12) "ESRD service" means the type of care or services furnished to a dialysis patient.

(13) "Facility", as used in these rules, means an outpatient renal dialysis facility.

(14) "Furnishes directly" means the facility provides the service through its own staff and employees, or through individuals who are under direct contract to furnish such services personally for the facility (i.e., not through Agreements" or "arrangements").

(15) "Furnishes on the premises" means the facility furnishes services on its main premises; or on its other premises that are contiguous with or in immediate proximity to the main premises, and under the direction of the same professional staff and governing body as the main premises.

(16) "Governing body" means the body or person legally responsible for the direction and control of the operation of the facility.

(17) "Governmental unit" means the state, or any county, municipality, or other political subdivision, or any related department, division, board or other agency.

(18) "Health Care Facility Licensing Law" means ORS 441.005 to 441.990 and rules there under.

(19) "Histocompatibility testing" means laboratory test procedures which determine compatibility between a potential organ donor and a potential organ transplant recipient.

(20) "Licensed" means that the person or facility 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 subject health care facility means that the facility is currently and has been duly and regularly licensed by the Department.

(21) "Licensed nurse" means a Registered Nurse (RN) or a Licensed Practical Nurse (LPN).

(22) "Licensed Practical Nurse" (LPN) means a person licensed under ORS Chapter 678 to practice practical nursing.

(23) "Major alteration" means changes other than repair or replacement of building materials and equipment with materials and equipment of a similar type.

(24) "Network" means Northwest Renal Network (Network 16). The Network is a Quality Improvement Organization under contract to the federal Centers for Medicare and Medicaid Services.

(25) "New Construction" means a new building or an addition to an existing building.

(26) "NFPA" means National Fire Protection Association.

(27) "Nurse Practitioner" means a registered nurse who has been certified by the Oregon State Board of Nursing (OSBN) as qualified to practice in an expanded specialty role within the practice of nursing.

(28) "Outpatient dialysis" means dialysis furnished on an outpatient basis at an outpatient renal dialysis facility. Outpatient dialysis includes:

(a) Staff-assisted dialysis. Dialysis performed by the staff of the facility;

(b) Self-dialysis. Dialysis performed, with little or no professional assistance, by a dialysis patient who has completed an appropriate course of training;

(c) "Home dialysis" means dialysis performed by an appropriately trained patient or helper at home;

(d) "Self-dialysis and home dialysis training" means a program that trains dialysis patients to perform self-dialysis or home dialysis with little or no professional assistance, and trains other individuals to assist patients in performing self-dialysis or home dialysis.

(29) "Organ procurement", as used in these rules, means the process of acquiring donor kidneys.

(30) "Oregon Sanitary Code" means the Food Sanitation Rules, OAR 333-150-0000 through 333-168-0020 except 333-157-0000 through 333-158-0030.

(31) "Patient audit" means review of the medical record and/or physical inspection and/or interview of a patient.

(32) "Patient care staff" as used in these rules means registered nurses, licensed practical nurses, hemodialysis technicians, social workers, and dietitians.

(33) "Person" means an individual, a trust or estate, a partnership or corporation (including associations, joint stock, companies and insurance companies, a state or a political subdivision or instrumentality including a municipal corporation).

(34) "Physician" means a person licensed under ORS Chapter 677 to practice medicine by the Board of Medical Examiners.

(35) "Physician's Assistant" means a person who is registered as a physician's assistant in accordance with ORS Chapter 677.

(36) "Qualified instructor" means a person who is qualified in the field of instruction by education and experience.

(37) "Qualified personnel" means personnel who meet the requirements specified in this paragraph.

(a) "Chief executive officer" means a person who:

(A) Holds at least a baccalaureate degree or its equivalent and has at least 1 year of experience in a dialysis facility; or

(B) Is a registered nurse or physician director as defined in this definition; or

(C) Has demonstrated capability by acting for at least 2 years as a chief executive officer in a dialysis facility or transplantation program.

(b) "Dietitian" means a person who is a licensed dietitian as specified in ORS 691.435.

(c) "Medical record practitioner" means a person who:

(A) Has graduated from a program for Medical Record Administrators accredited by the Council on Medical Education of the American Medical Association and the American Medical Record Association, and is eligible for certification as a Registered Record Administrator (RRA) by the American Medical Record Association; or

(B) Has graduated from a program for Medical Record Technicians approved jointly by the Council on Medical Education of the American Medical Association and the American Medical Record Association, and is eligible for certification as an Accredited Record Technician (ART) by the American Medical Record Association, or

(C) Has successfully completed and received a satisfactory grade in the American Medical Record Association's Correspondence Course for Medical Record Personnel approved by the Accrediting Commission of the National Home Study Council, and is eligible for certification as an Accredited Record Technician by the American Medical Record Association.

(d) "Nurse responsible for nursing service" means a person who is licensed as a registered nurse by the State in which practicing, and

(A) Has at least 12 months of experience in clinical nursing, and an additional 6 months of experience in nursing care of the patient with permanent kidney failure or who is undergoing kidney transplantation including training in and experience with the dialysis process; or

(B) Has 18 months of experience in nursing care of the patient on maintenance dialysis, or in nursing care of the patient with a kidney transplant including training in and experience with the dialysis process.

(e) "Physician-director" or medical director means a physician who:

(A) Is board-eligible or board-certified in internal medicine or pediatrics by a professional board, and has had at least 12 months of experience or training in the care of patients at dialysis facilities; or



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(B) As of the date of these rules served for at least 12 months as director of a dialysis or transplantation program.

(f) "Social worker" means a person who:

(A) Has completed a course of study with specialization in clinical practice at, and holds a masters degree from, a graduate school of social work accredited by the Council on Social Work Education; or

(B) Has served for at least 2 years as a social worker, 1 year of which was in a dialysis unit or transplantation program prior to September 1, 1976, and has established a consultative relationship with a social worker who qualifies under paragraph (f)(A) of this definition.

(g) "Transplantation surgeon" means a physician who:

(A) Is board-eligible or board-certified in general surgery or urology by a professional board; and

(B) Has at least 12 months training or experience in the performance of renal transplantation and the care of patients with renal transplants.

(38) "Records" are defined as case histories, clinical records, x-rays, treatment charts, progress reports and other similar written accounts of the patients of any provider.

(39) "Registered Nurse" (RN) means a person licensed under ORS Chapter 678 by the OSBN.

Stat. Auth.: ORS 441.020 & ORS 442.015

Stats. Implemented: ORS 441.020 & ORS 442.015

Hist.: PH 7-2003, f. & cert. ef. 6-6-03

## 333-700-0010

### Issuance of License

(1) Application for a license to operate a facility shall be in writing on a form provided by the Department, and shall include demographic, ownership, and administrative information. The form shall specify such information required by the Department.

(2) No person or facility licensed pursuant to the provisions of ORS Chapter 441 shall in any manner or by any means assert, represent, offer, provide or imply that such person or facility is or may render care or services other than that which is permitted by or which is within the scope of the license issued to such person or facility by the Department nor shall any service be offered or provided which is not authorized within the scope of the license issued to such person or facility.

(3) Each application for license renewal shall accurately reflect only the number of stations the facility is then presently capable of operating considering existing equipment and service capability of the facility and the physical requirements as specified within these rules and regulations. The number of stations to be licensed shall not exceed the number of stations reflected in the license to be renewed unless approved by the Department.

(4) The license shall be conspicuously posted in the area where patients are admitted.

(5) A facility license that has been suspended or revoked may be reissued after the Department determines that compliance with laws applicable to subject health care facilities has been achieved satisfactorily.

(6) Compliance with "Submission of Plans," OAR 333-700-0060, is also required as a condition of licensure.

Stat. Auth.: ORS 441.020 & ORS 442.015

Stats. Implemented: ORS 441.020 & ORS 442.015

Hist.: PH 7-2003, f. & cert. ef. 6-6-03

## 333-700-0015

### Annual License Fee

For outpatient renal dialysis facilities, the annual licensing fee shall be \$1,500. Each license shall be issued only for the facility named in the application and shall not be transferable. If the ownership of the agency changes, the new owner shall apply for a license.

Stat. Auth.: ORS 441.020 & ORS 442.015

Stats. Implemented: ORS 441.020 & ORS 442.015

Hist.: PH 7-2003, f. & cert. ef. 6-6-03

## 333-700-0020

### Expiration and Renewal of License

Each license to operate an outpatient renal dialysis facility shall expire on December 31 following the date of issue, and if a renewal is desired, the licensee shall make application at least 30 days prior to the expiration date upon a form prescribed by the Department as described in section 333-700-0010.

Stat. Auth.: ORS 441.020 & ORS 442.015

Stats. Implemented: ORS 441.020 & ORS 442.015

Hist.: PH 7-2003, f. & cert. ef. 6-6-03

## 333-700-0025

### Denial or Revocation of a License

(1) A license for any facility may be denied, suspended or revoked by the Department when the Department finds that there has been a substan-

tial failure to comply with the provisions of Health Care Facility licensing law.

(2) A person or persons in charge of a facility shall not permit, aid or abet any illegal act affecting the welfare of the license.

(3) A license shall be denied, suspended or revoked in any case where the State Fire Marshal certifies that there was failure to comply with all applicable laws, lawful ordinances and rules relating to safety from fire.

(4) A license may be suspended or revoked for failure to comply with a Department order arising from a facility's substantial lack of compliance with the rules or statutes.

Stat. Auth.: ORS 441.020 & ORS 442.015

Stats. Implemented: ORS 441.020 & ORS 442.015

Hist.: PH 7-2003, f. & cert. ef. 6-6-03

## 333-700-0030

### Discontinuance and Recommencement of Operation of Outpatient Renal Dialysis Facilities

(1) If on or after January 1, 2003, the operation of any licensed outpatient renal dialysis facility is discontinued, and the license to operate remains in effect, the licensee shall notify the Department of the fact in writing within 14 days of such discontinuance.

(2) Before any patient is admitted to any licensed outpatient renal dialysis facility which recommences operation after having discontinued the same, the licensee shall request Department inspection for and receive acknowledgment that the facility is in compliance with Department statutes and rules regulating the facility's operation.

Stat. Auth.: ORS 441.020 & ORS 442.015

Stats. Implemented: ORS 441.020 & ORS 442.015

Hist.: PH 7-2003, f. & cert. ef. 6-6-03

## 333-700-0035

### Return of Facility License

Each license certificate in the licensee's possession shall be returned to the Department immediately on the suspension or revocation of the license, failure to renew the license by December 31, or if operation is permanently discontinued by the voluntary action of the licensee. If the outpatient renal dialysis facility voluntarily discontinues operation, a multimedia press release must be initiated by the facility, within 24 hours of the closure, notifying the public of facility closure. Such notice shall include the procedure by which individuals may obtain their medical records. In addition, notification of facility closure and plan for disposal of medical records must be given to the Department. Medical records must be stored until seven years past the last date of discharge from the facility. Medical records not claimed that are beyond seven years of the last date of discharge from the facility may be destroyed.

Stat. Auth.: ORS 441.020 & ORS 442.015

Stats. Implemented: ORS 441.020 & ORS 442.015

Hist.: PH 7-2003, f. & cert. ef. 6-6-03

## 333-700-0040

### Classification

(1) The various types of subject health care facilities within the provisions of ORS Chapter 441 are classified as follows:

(a) Hospital Classifications:

(A) General Hospital;

(B) Mental Hospital or Psychiatric Hospital;

(C) Orthopedic Hospital;

(D) Special Inpatient Care Facility Classifications:

(i) Chiropractic Facility;

(ii) Facility for the Treatment of Alcoholism and/or Substance Abuse;

(iii) Infirmary; College Infirmary or Student Health Center;

(iv) Rehabilitation Center;

(v) Christian Science Facility;

(vi) Infirmary for the Homeless;

(vii) Freestanding Hospice Facility; and

(viii) Critical Access Hospital.

(b) Long Term Care Facility

(c) Ambulatory Surgical Center.

(d) Freestanding Birthing Center.

(e) Outpatient Renal Dialysis Facility.

(2) The classification of each facility shall be so designated on the license.

(3) Health care facilities licensed by the Department shall neither assume a descriptive title or be held out under any descriptive title other than the classification title established by the Department and under which the facility is licensed. This not only applies to the name on the facility but where stationery, advertising and other representations are involved.

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General hospitals may be described as hospitals without modifications by the term "general."

(4) No change in the licensed classification of any facility, as set out in this rule, shall be allowed by the Department unless such facility shall file a new application, accompanied by the required license fee, with the Department. If the Department finds that the applicant and facility comply with health care facility (HCF) laws and the regulations of the Department relating to the new classification for which application for licensure is made, the Department shall issue a license for such classification.

Stat. Auth.: ORS 441.020 & ORS 442.015  
Stats. Implemented: ORS 441.020 & ORS 442.015  
Hist.: PH 7-2003, f. & cert. ef. 6-6-03

## 333-700-0045

### Hearings

Upon written notification by the Department of revocation, suspension or denial to issue or renew a license, a written request by the facility for a hearing in accordance with ORS 183.310 to 183.500 shall be granted by the Department.

Stat. Auth.: ORS 441.020 & ORS 442.015  
Stats. Implemented: ORS 441.020 & ORS 442.015  
Hist.: PH 7-2003, f. & cert. ef. 6-6-03

## 333-700-0050

### Adoption by Reference

All rules, standards and publications referred to in OAR chapter 333, divisions 700-0000 through 700-0130 are made a part thereof. Copies are available for inspection in the Department during office hours. Where publications are in conflict with the rules, the rules shall govern.

Stat. Auth.: ORS 441.020 & ORS 442.015  
Stats. Implemented: ORS 441.020 & ORS 442.015  
Hist.: PH 7-2003, f. & cert. ef. 6-6-03

## 333-700-0055

### Department Procedures

Inspections and investigations; Complaints:

(1) Any person may make a complaint verbally or in writing to the Department regarding violation of laws or regulations applicable to subject health care facilities. The identity of any person making a complaint will be kept confidential. A complaint investigation will be carried out as soon as practicable and may include, but not be limited to, as applicable to facts alleged: interviews of the complainant, patient(s), witnesses, and health care facility management and staff; observations of the patient(s), staff performance, patient environment and physical environment; and review of documents and records;

(2) Copies of all complaint investigations, will be available from the Department, provided that the identity of any patient referred to in an investigation will not be disclosed without legal authorization.

Stat. Auth.: ORS 441.020, 441.057, 442.015  
Stats. Implemented: ORS 441.020 & ORS 442.015  
Hist.: PH 7-2003, f. & cert. ef. 6-6-03

## 333-700-0060

### Inspections

General. The Department may conduct an unannounced inspection at any time to verify compliance with the statute or these Oregon Administrative Rules. By applying for or holding a license, the facility consents to entry and inspection of the facility by the Department or representative of the Department in accordance with the statute and these Oregon Administrative Rules.

(1) An authorized representative of the Department (surveyor) may enter the premises of a license applicant or license holder at reasonable times during business hours to conduct an on-site inspection incidental to the issuance of a license and at other times as the Department considers necessary to ensure compliance with:

(a) The applicable statutes and Oregon Administrative Rules for the licensing of this facility;

(b) A plan of correction; and

(c) Other enforcement actions.

(2) The surveyor must be granted access to all books, records, or other documents maintained by or on behalf of the facility to the extent necessary to ensure compliance with the statute, these Oregon Administrative Rules, a plan of correction or other enforcement action. The Department shall maintain the confidentiality of the facility records as applicable under federal and state law. Ensuring compliance includes providing photocopies of any records or other information by or on behalf of the Department to determine or verify compliance with the statute or these Oregon Administrative Rules.

(3) An inspection conducted by the Department shall be in accordance with the procedures set out in Oregon Administrative Rule 333-700-0060. Types of inspections include the following:

(a) Initial survey;

(b) Resurvey;

(c) Complaint investigation; and

(d) Follow-up visit.

(4) Entrance conference: The Department's surveyor shall hold a conference with the person who is in charge of the facility at the time of the inspection for the purpose of explaining the nature and scope of the inspection.

(5) Evaluation of compliance: An onsite inspection may include, but not be limited to, an evaluation to determine compliance with the requirements in:

(a) Equipment;

(b) Water treatment and reuse;

(c) Infection control;

(d) Quality assurance/continuous quality improvement;

(e) Provision for and coordination of treatment;

(f) Staff qualifications;

(g) Facility staffing;

(h) Medical director involvement;

(i) Patients' rights;

(j) Physical environment; and

(k) Emergency management.

(6) Exit conference: After an inspection of a facility, the surveyor may conduct an exit conference with the facility administrator or his or her designee. During the exit conference, the surveyor will:

(a) Inform the facility representative of the preliminary finding(s) of the inspection; and

(b) Give the person a reasonable opportunity to submit additional facts or other information to the surveyor in response to those findings.

(7) Written Notice of findings:

(a) The surveyor shall prepare and provide the facility administrator or his/her designee specific and timely written notice of the findings.

(b) If the findings result in a referral to another regulatory agency, the surveyor will submit applicable information to that referral agency for its review and determination of appropriate action.

(c) If no deficiencies are found during an inspection, the Department shall provide a statement indicating that fact.

(d) If the written notice of findings includes deficiencies, the Department and the facility shall comply with the procedure set out in these rules:

(A) The Department shall provide the facility with a statement of deficiencies;

(B) The facility administrator or administrator's designee shall sign the written statement of deficiencies and return it to the Department with a plan of correction for each deficiency no later than ten (10) business days following its receipt of the statement of the deficiencies. The signature does not indicate the administrator or designee's agreement with deficiencies stated on the form;

(C) Each deficiency shall be corrected as soon as possible. The facility must come into compliance within 60 days of the survey exit date. Permission to take longer than 60 days to correct deficiencies requiring major construction or remodeling may be granted by the Department. A request for such an extension shall be submitted in writing and must accompany the plan of correction.

(e) If the surveyor's written notice of findings solely indicates that the facility was in compliance with these rules and no deficiencies were cited, the facility administrator or administrator's designee shall sign the written statement and return it to the Department.

(8) The Department shall determine if a written plan of correction is acceptable. If the plan of correction is not acceptable to the Department, the Department shall notify the facility by telephone and/or in writing and request that the plan of correction be modified and resubmitted no later than 10 working days from the facility's receipt of such request.

(9) If the facility does not come into compliance by the required date of correction reflected on the plan of correction or 60 days from the survey exit date, whichever comes first, the Department may propose to deny, suspend, or revoke the license.

Stat. Auth.: ORS 441.020 & ORS 442.015  
Stats. Implemented: ORS 441.020 & ORS 442.015  
Hist.: PH 7-2003, f. & cert. ef. 6-6-03

# ADMINISTRATIVE RULES

## 333-700-0065

### Submission of Plans

Any party proposing to make certain alterations or additions to an existing facility or to construct new facilities shall, before commencing such alteration, addition or new construction, submit plans and specifications to the Department, for preliminary inspection and approval or recommendations with respect to compliance with Department rules. Submissions shall be in accord with rules of the Licensing Plans Review Program, OAR chapter 333, division 675-0000 through 0040. Plans should also be submitted to the local building division having authority for review and approval in accordance with state building codes.

Stat. Auth.: ORS 441.020 & ORS 442.015  
Stats. Implemented: ORS 441.020 & ORS 442.015  
Hist.: PH 7-2003, f. & cert. ef. 6-6-03

## 333-700-0070

### Exceptions to Rules (All Subject HCFs)

(1) While all subject health care facilities are required to maintain continuous compliance with the Department's rules, these requirements do not prohibit the use of alternative concepts, methods, procedures, techniques, equipment, facilities, personnel qualifications or the conducting of pilot projects or research. Requests for exceptions to the rules must be:

- (a) Submitted to the Department in writing; and
- (b) Identify the specific rule for which an exception is requested; and
- (c) The special circumstances relied upon to justify the exception; and
- (d) What alternatives were considered, if any and why alternatives (including compliance) were not selected; and

(e) Demonstrate that the proposed exception is desirable to maintain or improve the health and safety of the patients, and will not jeopardize patient health and safety; and

(f) The proposed duration of the exception.

(2) Upon finding that the facility has satisfied the conditions of this rule, the Department may grant an exception.

(3) The facility may implement an exception only after written approval from the Department.

Stat. Auth.: ORS 441.020 & ORS 442.015  
Stats. Implemented: ORS 441.020 & ORS 442.015  
Hist.: PH 7-2003, f. & cert. ef. 6-6-03

## 333-700-0075

### Administrative Authority and Management

(1) Every facility shall be organized, equipped, and administered to provide adequate care for each person admitted.

(2) The governing body, the owner, or the person or persons designated by the owner or governing body shall be the authority responsible for the management and control of the facility, and shall not:

(a) Permit, aid or abet the commission of any unlawful act relating to the securing of a license, or the operation of the facility; and/or

(b) With the exception of abusive or disruptive patients, refuse to admit and treat, on the basis of medical need, alcohol and substance abusers, mentally ill or retarded patients solely on the basis of their substance abuse or mental illness. Discharge of patients exhibiting violent, threatening, disruptive, or abusive behavior shall be handled as outlined in OAR 333-700-0115(2)(f)

(3) The governing authority shall formulate and implement a written set of bylaws or other appropriate policies and procedures for the operation of the facility. These shall:

(a) State the purpose of the facility;

(b) Specify by title the person who is responsible for the operation and maintenance of the facility, and methods established by the governing body for holding that person responsible;

(c) Provide for at least annual meetings of the governing body; and

(d) Provide a policy and procedure manual that is designed to ensure professional and safe care for patients including, but not limited to:

- (A) Admission criteria;
- (B) Rights and responsibilities of patients;
- (C) Care of patients;
- (D) Patient grievance procedures;
- (E) Infection control policies;
- (F) Personnel qualifications and training requirements;
- (G) Consultant qualifications, functions, and responsibilities;
- (H) Reprocessing of hemodialyzers;
- (I) Emergency management of patients;
- (J) Annual reviews of the facilities policies, procedures and operation;

and

(K) A facility-wide continuous quality improvement (CQI) program to evaluate the provision of patient care. The program shall have a written

plan of implementation. Quality data shall be reviewed and analyzed quarterly. The CQI program shall be reviewed at least annually. It shall be designed to effectively identify and correct problems. Written documentation of CQI activities shall be available at the facility.

(4) The governing body shall review implementation of these policies at least annually to ensure that the intent of the policies is carried out. These policies shall be developed by the physician responsible for supervising and directing the provision of dialysis services, or the facility's organized medical staff, with the advice from a group of professional personnel associated with the facility, including, but not limited to, one or more physicians and one or more registered nurses experienced in rendering dialysis care.

(5) An administrator shall be appointed by the governing body, shall be responsible for the management of the facility, and shall assure adherence to facility policies and procedures. The Director of Nursing may serve as the administrator. Any change in the administrator shall be reported to the Department in writing within 30 days. The administrator must have sufficient experience in the management of dialysis facilities, or appropriate education so as to assure that they are qualified to carry out their responsibilities.

(6) The following documents shall be available at the facility:

(a) Appropriate documents showing control and ownership;

(b) Bylaws, policies and procedures of the governing body;

(c) Minutes of the governing body meetings;

(d) Minutes of the facility's professional staff meetings;

(e) Reports of inspections, reviews, and corrective actions taken related to licensure;

(f) Minutes of the facility's quality improvement meetings; and

(g) Contracts and agreements to which the facility is a party.

(7) Medical Staff:

(a) If more than one physician practices at the facility, the physicians shall be organized as a Medical Staff with appropriate bylaws approved by the governing body. The medical staff shall meet at least once a year, and minutes shall be maintained at the facility of such meetings;

(b) The Governing Body shall designate a qualified physician as the physician-director of the facility. The physician-director shall be responsible for the development and implementation of patient care policies and medical staff bylaws, rules, and regulations;

(c) A qualified physician with demonstrated experience in the care of patients receiving dialysis shall be on call and available to patients within a reasonable time frame;

(d) The facility shall require and the medical director shall ensure that any adverse medical patient outcomes are communicated to the patient's physician, and that the facility takes appropriate corrective action.

(8) Transfer Agreement: Each facility shall have in effect an agreement with one or more hospitals, for the provision of inpatient care or other hospital services. The transfer agreement shall provide the basis for an effective working agreement under which the services of the hospital are promptly available to the facility's patients as needed. The facility shall have on file documentation of this agreement. There shall be reasonable assurances that:

(a) Transfer of patients will be effected between the hospital and the facility whenever such transfer is deemed medically necessary by the physician, with timely acceptance and admission;

(b) There shall be interchange, within one working day, of medical or other necessary information useful in the medical care of the patient transferred to a hospital, or to another facility; and

(c) Security and accountability are assured for the patient's personal effects.

(9) Disaster Preparedness:

(a) The facility shall have a posted plan for evacuation of patients, staff and visitors in the case of fire or other emergencies;

(b) At least one fire drill shall be held every six months to familiarize employees and patients with the drill procedures. Participation of staff and patients shall be documented. Timing of drills will be rotated throughout the year to include all shifts. If procedural problems are identified through these drills, records shall show that corrective action has been implemented;

(c) There shall be documentation that employees have received initial and ongoing training in the use of fire extinguishers. Documentation will include verification that fire extinguishers are checked at least every six months to assure they are operational;

(d) Written policies and procedures must specifically define the handling of emergencies which may threaten the health or safety of patients. Such emergencies would exist during a fire or natural disaster or during functional failures in equipment. Emergency preparedness procedures must

# ADMINISTRATIVE RULES

be reviewed and tested at least annually and revised as necessary by, or under the direction of, the chief executive officer. All personnel shall be knowledgeable and trained in their respective roles in emergency situations;

(e) There must be an established written plan for dealing with fire and other emergencies which, when necessary, is developed in cooperation with fire and other expert personnel;

(f) There shall be available at all times on the premises emergency supplies, including emergency drugs, medical supplies, and equipment. Staff must be trained in their use;

(g) The staff must be familiar with the use of all equipment and procedures to handle medical emergencies;

(h) Patients shall be informed of their roles in medical and non-medical emergencies. Patients must be fully informed regarding what to do, where to go, and whom to contact if a medical or non-medical emergency occurs; and

(i) The facility must have a backup water treatment plan that can be demonstrated to meet Association for the Advancement of Medical Instrumentation (AAMI) standards.

(10) The patient care policies shall cover the following:

(a) Scope of services provided by the facility (either directly or under arrangement);

(b) Admission and discharge policies (in relation to both in-facility care and home care);

(c) Medical supervision and physician services;

(d) Patient care plans, frequency of review, and methods of implementation;

(e) Care of patients in medical and other emergencies;

(f) Pharmaceutical services;

(g) Medical records (including those maintained onsite, maintained offsite by the facility, maintained in the patients' homes);

(h) Administrative records;

(i) Use and maintenance of the physical plant and equipment; and

(j) The provision of home dialysis support services, if offered.

(11) The physician-director of the facility must be designated in writing and must be responsible for the execution of patient care policies. If the responsibility for day-to-day execution of patient care policies has been delegated by a physician-director to a registered nurse (or, in the case of a self-dialysis unit, to another licensed health practitioner), the physician-director shall provide medical guidance in such matters.

(12) The facility policy shall provide that, whenever feasible, hours for dialysis are scheduled for patient convenience and that arrangements are made to accommodate employed patients who wish to be dialyzed during their non-working hours.

(13) The governing body shall adopt policies to ensure there is evaluation of the progress each patient is making toward the goals stated in the patient's care plan. Such evaluations shall be carried out through regularly scheduled conferences, with participation by the staff involved in the patient's care.

(14) Medical supervision and emergency coverage: The governing body of the facility shall ensure that the health care of every patient is under the continuing supervision of a physician.

(15) The physician responsible for the patient's medical supervision shall evaluate the patient's immediate and long-term needs and shall prescribe a planned regimen of care which covers indicated dialysis and other treatments, services, medications, diet, special procedures recommended for the health and safety of the patient, and plans for continuing care and discharge. Such plans are made with input from other professional personnel involved in the care of the patient. The facility staff will ensure the physician orders are implemented appropriately.

(16) The governing body will ensure that medical care is available for emergencies during the hours the facility is in operation. The facility shall post at the nursing/monitoring station a roster with the names of the physicians to be called and how they can be reached. There shall be a system in place that will direct patients who call during non-operational hours to appropriate assistance.

Stat. Auth.: ORS 441.020 & ORS 442.015

Stats. Implemented: ORS 441.020 & ORS 442.015

Hist.: PH 7-2003, f. & cert. ef. 6-6-03

## 333-700-0080

### Continuous Quality Improvement

(1) The facility shall establish a program to monitor the quality of care given to patients. This program shall document that the facility staff evaluate the provision of care, determine treatment goals, identify opportunities

for improvement, develop and implement improvement plans, and evaluate implementation until resolution of a problem is achieved.

(2) The medical director of the facility is responsible for quality monitoring and improvement activities. The Continuous Quality Improvement (CQI) team shall consist of a multi-disciplinary team to include representatives of medical staff, administration, nursing, technical, social work and dietary. Meetings of the CQI team shall be held at least quarterly or more often if needed to resolve a particular issue.

(3) CQI mechanisms shall include:

(a) An ongoing review of key elements of care using comparative and trend data to include aggregate patient data and to promote the reduction of risks;

(b) Identification of areas where performance measures or outcome data indicate a need for improvement;

(c) Establishment of CQI committees to identify any variations from desired outcomes; create and implement improvement plans; evaluate the effectiveness of the improvement plan; and

(d) Establishment and monitoring of key quality indicators. For each indicator, the facility shall establish a performance level consistent with current professional knowledge. At a minimum, the following indicators shall be monitored on an ongoing basis:

(A) Water Quality including chemical and bacteriological indicators;

(B) Equipment maintenance and repair;

(C) Reprocessing of dialyzers including performance measures, labeling, disinfection, and pyrogenic reactions;

(D) Infection control including monitoring of staff and patient infections;

(E) Clinical outcomes including laboratory values, dialysis adequacy, hospitalizations, vascular access complications;

(F) Incidents and rate of adverse occurrences (clinical variances) including accidents, medication errors, treatment errors, infiltrations, needle sticks, adverse drug reactions, and other occurrences affecting patients, visitors, or staff;

(G) Mortality including review of each patient death and monitoring of mortality rates and trends;

(H) Complaints and suggestions including those from patients, family and staff; and

(I) Other indicators as required by federal regulations and/or Network requirements.

Stat. Auth.: ORS 441.020 & ORS 442.015

Stats. Implemented: ORS 441.020 & ORS 442.015

Hist.: PH 7-2003, f. & cert. ef. 6-6-03

## 333-700-0085

### Patient Care Plan

(1) Each facility shall maintain a written patient care plan for each patient to ensure that patients receive the appropriate treatment modality and the appropriate care within that modality. Provisions shall be made for the patient, or when appropriate, parent or legal guardian to be involved with the health team in the planning of care and in the development of the care plan. Due consideration shall be given to his/her preferences.

(2) The written patient care plan for each patient of a facility (including home dialysis patients under the supervision of the facility) shall be based upon the nature of the patient's illness, the treatment prescribed, and an assessment of the patient's needs.

(3) The patient care plan shall be personalized for the individual, shall reflect the psychological, nutrition, social, and functional needs of the patient, and shall indicate the dialysis and other care required as well as the individualized modifications in approach necessary to achieve the long-term and short-term goals. Any unresolved concerns of the patient and family shall be addressed at the time of each review. Documentation shall reflect that the patient and/or family has had an opportunity to voice these concerns and the methods utilized to achieve resolution of the concerns.

(4) The plan shall be developed by a professional team consisting of at least the physician responsible for the patient's dialysis care, a qualified nurse responsible for nursing services, a qualified social worker, and a qualified dietitian.

(5) The care plans for patients whose medical conditions are not stable shall be reviewed at least monthly by the professional patient care team. For adult patients aged 18 and older whose conditions are stable, the care plans shall be reviewed every six months. For pediatric patients whose conditions are stable, the care plans shall be reviewed monthly for ages 0-11 months, quarterly for ages 1-5 years, and every six months for ages 6-17 years. The care plans shall be revised as necessary to insure that they provide for the ongoing needs of patients.

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(6) If the patient is transferred to another facility, the care plan shall be sent to the receiving facility at the time the patient is transferred or within one working day of the transfer.

(7) For a home-dialysis patient whose care is under the supervision of the facility, the care plan shall provide for periodic monitoring of the patient's home adaptation, including provisions for visits to the home by qualified facility personnel to the extent appropriate.

(8) When a dialysis patient uses an anemia management drug in the home, the plan must provide for monitoring home use of the anemia management drug. This monitoring shall include the following:

(a) Review of diet or fluid intake for indiscretions as indicated by hyperkalemia and elevated blood pressure secondary to volume overload;

(b) Review of lab values and medications to ensure adequate management of anemia;

(c) A reevaluation of the dialysis prescription taking into account the patient's increased appetite and red blood cell volume;

(d) A method for physician follow up on blood tests and a mechanism (such as a patient log) for keeping the physician informed of the results;

(e) Review of the training of the patient to identify the signs and symptoms of hypotension and hypertension.

Stat. Auth.: ORS 441.020 & ORS 442.015

Stats. Implemented: ORS 441.020 & ORS 442.015

Hist.: PH 7-2003, f. & cert. ef. 6-6-03

## 333-700-0090

### Medical Records

(1) The facility shall maintain complete medical records on all patients (including self-dialysis patients within the self-dialysis unit and home dialysis patients whose care is under the supervision of the facility) in accordance with accepted professional standards and practices.

(2) The medical records must be completely and accurately documented, readily available, and systematically organized to facilitate the compilation and retrieval of information. Each patient's medical record shall contain sufficient information to identify the patient clearly, to justify the diagnosis and treatment, and to document the results accurately. All medical records shall contain documented evidence of the following:

(a) Assessment of the needs of the patient;

(b) Evidence that the patient was informed of the results of the assessment;

(c) Documentation of any treatment with a reprocessed hemodialyzer (when applicable);

(d) Establishment of an appropriate plan of treatment;

(e) The care and services provided;

(f) Identification and social data;

(g) Signed consent forms;

(A) All consent forms shall document that the information was provided in such a way that acknowledges the patient's individual language and special needs; and

(B) Except as provided in Oregon Revised Statute (ORS) 109.610(1) and 433.045, a minor 15 years of age or older may consent to hospital care, medical or surgical diagnosis or treatment by a physician, and dental care, without the consent of a parent or guardian.

(h) Documentation of an initial history and physical and an update of the history and physical at least annually or whenever changes occur;

(i) Reports of any pertinent medical, surgical or access procedures which shall be filed in the record within 30 days of the procedure;

(j) Referral information with authentication of diagnosis;

(k) Diagnostic and therapeutic orders. Physician orders must be reviewed and rewritten annually. "Resume previous orders" is not adequate to meet the annual requirement. All verbal orders shall be received by a licensed nurse or physician assistant. Orders relating to social work or nutrition services may be received by the professional responsible for that service. Verbal orders must be countersigned within 45 calendar days by the practitioner giving the order. All patients shall have written orders for length of dialysis treatment, the dialyzer type, the composition of the dialysate, the estimated dry weight, any medications the patient receives at the dialysis facility, the heparinization schedule including the amount of the bolus, maintenance dose and when to discontinue the maintenance dose, and any necessary infection control measures. New orders that include, but are not limited to the above listed items, must be written when a patient returns from an inpatient stay at a hospital;

(l) Progress notes;

(m) Reports of treatments and clinical findings;

(n) Reports of laboratory results, diagnostic tests, and procedures;

(o) Social worker and nutritional assessments: Initial assessments must be completed within 30 days of admission to the facility. Subsequent

assessments will be completed every six months and updated as necessary; and

(p) A medication list that is updated as needed and reviewed at least quarterly or as changes occur.

(3) The facility shall require and the medical director shall ensure that any adverse medical patient outcomes are communicated to the patient's physician, and that the facility takes appropriate corrective action.

(4) All entries in the medical record shall be dated and authenticated by the person making the entry.

(5) Protection of medical record information: There must be a plan for the retention, storage, preservation of confidentiality, certification of validity, and where appropriate, destruction of medical records.

(a) The facility must safeguard medical record information against loss, destruction, or unauthorized use. The facility must have written policies and procedures which govern the use and release of information contained in medical records.

(b) Written consent of the patient, or authorized person(s) acting on behalf of the patient, is required for release of information not mandated by federal law or by statute. Medical records are made available under stipulations of confidentiality for inspection by Department staff as required for administration of the dialysis program or authorized agents of the state for the purposes of confirming compliance with these rules.

(c) If a patient is under the age of 15, the patient's medical records may be released only with the voluntary and informed consent of the patient's parent or legal guardian. In the case of divorce, unless otherwise ordered by the court, either parent may consent for the minor as provided by Oregon Revised Statute 107.154.

(6) Medical records supervisor. A member of the facility's staff shall be designated to serve as supervisor of medical records services, and ensure that all records are properly documented, completed, and preserved. When necessary, consultation is secured from a qualified medical record practitioner. The functions of the medical records supervisor include, but are not limited to, the following:

(a) Ensuring that the records are documented, completed, and maintained in accordance with accepted professional standards and practices;

(b) Safeguarding the confidentiality of the records in accordance with established policy and legal requirements; and

(c) Ensuring that the records contain pertinent medical information and are filed for easy retrieval.

(7) Completion of medical records and centralization of clinical information: Medical records shall be completed by all members of the dialysis facility staff within 30 days following the patient's discharge. Current medical records and those of discharged patients shall be completed promptly. All clinical information pertaining to a patient must be centralized in the patient's medical record. Provisions shall be made for collecting and including in the medical record medical information generated regarding self-dialysis patients. Entries concerning the daily dialysis process must either be completed by staff, or be completed by trained self-dialysis patients, trained home dialysis patients or trained assistants and must be countersigned by staff of the dialysis facility.

(8) Retention and preservation of records: All medical records shall be kept for a period of at least seven (7) years after the date of discharge. Original medical records may be retained on paper, microfilm, electronic, or other media. The medical records of pediatric patients shall be kept at least 3 years after the age of 18 or for a total of 7 years, whichever is longer.

(9) Location and facilities: The facility shall maintain adequate facilities, equipment, and space conveniently located to provide efficient processing of medical records (e.g., reviewing, filing, and prompt retrieval) and statistical medical information (e.g., required abstracts, reports, etc.).

(10) Transfer of medical information: The facility must provide for the exchange of medical and other information necessary or useful in the care and treatment of patients transferred to other medical facilities.

(11) If the facility closes or is purchased, arrangements shall be made for the medical records to be transferred to the patients' new place of treatment. In the case of expired or no longer treated patients, arrangements will be made to store those records for the required time intervals. The patients' families and the Department shall be notified of the location of the medical records.

(12) Technical logs will meet the same documentation standards as the medical records, including proper correction of errors. A signature list will be readily available to identify the users of initials.

Stat. Auth.: ORS 441.020 & ORS 442.015

Stats. Implemented: ORS 441.020 & ORS 442.015

Hist.: PH 7-2003, f. & cert. ef. 6-6-03

# ADMINISTRATIVE RULES

## 333-700-0095

### Medical Director of an Outpatient Renal Dialysis Facility

The Medical Director shall be responsible for oversight of the care provided by the staff of the dialysis facility. Treatment must be provided under the general supervision of a director who is a physician. The physician-director need not devote full time as director but shall be responsible for planning, organizing, conducting, and directing the professional dialysis services and must devote sufficient time to carrying out these responsibilities. The director may also serve as the Chief Executive Officer of the facility.

(1) The director of a dialysis facility must be a qualified physician-director.

(2) The responsibilities of the physician-director include but are not limited to the following:

(a) Assuring the development and implementation of the process of modality selection, i.e., transplantation or dialysis and the setting for dialysis for all patients;

(b) Assuring adequate training of nurses and technicians in dialysis techniques;

(c) Assuring adequate monitoring of the patient and the dialysis process, including, self-dialysis patients;

(d) Assuring periodic assessment of patient performance of dialysis tasks;

(e) Assuring the development and availability of a patient care policy and procedures manual and its implementation. At a minimum, the manual shall describe the following:

(A) Types of dialysis used in the facility and the procedures followed in performance of such dialysis;

(B) Hepatitis prevention and procedures for handling an individual with hepatitis;

(C) Infection control; and

(D) A disaster preparedness plan (e.g., patient emergency, fire, flood);

(f) Assuring that patient teaching materials are available for use by all trainees during the training period and at times other than during the dialysis procedure when self-dialysis training or home dialysis training is offered; and

(g) Assuring that patient outcomes are monitored and evaluated as part of the CQI process. The Medical Director must assure that a plan is in place for the improvement of patient outcomes. This process shall include a review of any accidents, incidents, or adverse outcomes.

Stat. Auth.: ORS 441.020 & ORS 442.015

Stats. Implemented: ORS 441.020 & ORS 442.015

Hist.: PH 7-2003, f. & cert. ef. 6-6-03

## 333-700-0100

### Patient Care Staff

(1) The facility shall maintain a personnel record for each staff member which includes, but is not limited to documentation of the following:

(a) Hire date;

(b) Required current license or certification;

(c) Orientation completed prior to commencement of duties;

(d) Job description;

(e) Employment application;

(f) Annual evaluation(s);

(g) Education and qualifications;

(h) Health status to include at a minimum testing for tuberculosis exposure and HbsAg testing according to CDC guidelines; and

(i) Current CPR certification for direct patient care personnel.

(2) Properly trained personnel must be present in adequate numbers to meet the needs of the patients, including those needs arising from medical and non medical emergencies. Employees who have not demonstrated competency as defined by facility policy will not be counted in the staff/patient ratios.

(3) The facility must employ at least one full time qualified registered nurse responsible for nursing service. There shall be a registered nurse or physician, experienced in rendering ESRD care, in the facility to supervise care whenever patients are undergoing dialysis treatments. A registered nurse shall be designated as charge nurse in each facility to oversee ESRD patient care.

(4) The facility shall be responsible for developing and implementing a written facility-wide staffing plan for all patient care staff including registered nurses, licensed practical nurses, hemodialysis technicians, social workers, and dietitians. The facility shall have a process that ensures the consideration of input from patient care staff in the development, implementation, monitoring, evaluation, and modification of the staffing plan. The staffing plan shall include the number, qualifications, and categories of

staff needed. The written staffing plan shall be evaluated and monitored for effectiveness, and revised as necessary, as part of the facility's CQI process. Written documentation of these CQI activities shall be maintained.

(a) The written staffing plan shall be based on the care required by aggregate and individual needs of patients. This care shall be the major consideration in determining the number and categories of personnel needed. The written staffing plan shall be based on the specialized qualifications and competencies of the staff. The skill mix and the competency of the staff shall ensure that the needs of the patient are met and shall ensure patient safety.

(1) The written staffing plan shall be consistent with the scopes of practice for R.N.'s, L.P.N.'s, hemodialysis technicians, social workers, and dietitians.

(2) The facility shall maintain a list of qualified staff that may be called to provide qualified replacement or additional staff in the event of emergencies, sickness, vacations, vacancies and other absences of staff and that provides a sufficient number of replacement staff for the facility on a regular basis. The list shall be available to the individual responsible for obtaining replacement staff.

(3) The written staffing plan shall establish minimum numbers of personnel (R.N.'s, L.P.N.'s, hemodialysis technicians, social workers and dietitians) on specified shifts. The number of personnel on duty shall be sufficient to assure that the needs of each patient are met. In no case shall fewer than one registered nurse and one other staff member be on duty when a patient is undergoing dialysis treatment.

(4) After a facility learns about the need for replacement staff, the facility shall make every reasonable effort to obtain staff for unfilled hours or shifts before requiring a patient care staff member to work overtime. Reasonable effort includes the facility seeking replacement at the time the vacancy is known and contacting all available resources as described in (2) of this section. Such efforts shall be documented.

(5) The facility shall have a workable plan in place to deal with both medical and non-medical emergencies.

(6) If the facility offers self-care dialysis training, a qualified licensed nurse must be in charge of such training.

(7) Licensed practical nurses. This chapter does not preclude a licensed practical nurse (LPN) from practicing in accordance with the rules adopted by the Oregon State Board of Nursing. If the LPN is acting in the capacity of a hemodialysis technician, the facility shall ensure that the LPN is functioning within his/her job description and scope of practice.

(8) Employee Orientation and Training: Each facility shall have and execute a written orientation and training program to familiarize each employee with his/her job responsibilities. The facility shall maintain documentation that each staff member has attended the orientation program. Each employee shall be evaluated to assure that he/she possesses at least the minimum competencies required to perform his/her job function.

(a) The facility orientation program for all staff, approved by the medical director shall include at least:

(A) Review of the services provided by the facility;

(B) Review of facility policies and procedures, including general infection control procedures and use of universal precautions;

(C) The facility's emergency procedures and disaster preparedness plans;

(D) Training in the use of fire extinguishers;

(E) The facility's Continuous Quality Improvement Program;

(F) Documentation and records requirements; and

(G) Job descriptions that adequately describe the duties of every position including:

(i) Position;

(ii) Title;

(iii) Scope of authority;

(iv) Specific responsibilities; and

(v) Minimum requirements.

(b) The facility shall conduct and document a training needs assessment to identify training needs specific to care for the dialysis patients, and shall document the provision of such training by a qualified instructor.

(9) Job descriptions shall be given to each employee when assigned to a position or when the job description is revised. A copy of this job description signed by the employee shall be maintained in the employee's file.

(10) The facility shall also maintain documentation of the satisfactory completion by each staff member of a skills competency checklist.

(11) Trainees must not be counted in staffing ratios until documentation reflects they are qualified to work independently. Patients shall be

# ADMINISTRATIVE RULES

informed when trainees are participating in their treatment and the trainee shall be supervised at all times.

(12) All staff must maintain required current certification and/or licensure according to the requirements of their profession.

(13) The physician-director shall be responsible for ensuring that each patient caregiver has completed the appropriate training and orientation, and has demonstrated competence in their roles. This responsibility may be delegated to the facility's administrative and/or education staff. There must be documentation to reflect this delegation.

(14) The most recent statement of deficiencies resulting from an inspection by the state agency shall be reviewed with the staff and shall be available in the facility for reference.

Stat. Auth.: ORS 441.020 & ORS 442.015  
Stats. Implemented: ORS 441.020 & ORS 442.015  
Hist.: PH 7-2003, f. & cert. ef. 6-6-03

## 333-700-0105

### Minimal Service Requirements for an Outpatient Renal Dialysis Facility

The facility must provide dialysis services, as well as adequate laboratory, social, and nutritional services to meet the needs of the dialysis patient.

(1) Outpatient Dialysis Services:

(a) Staff-assisted dialysis services. The facility must provide all necessary dialysis services and staff required to perform dialysis.

(b) Self-dialysis services. If the facility offers self-dialysis services, it must provide all medically necessary supplies and equipment and any other service specified in the facility's patient care policies.

(2) Laboratory Services: The facility must make available laboratory services (other than the specialty of tissue pathology and histocompatibility testing), to meet the needs of the dialysis patient. All laboratory services must be performed by an appropriately certified laboratory in accordance with federal and state regulations. If the facility furnishes its own laboratory services, these services must meet the applicable requirements established in state and federal regulations. If the facility does not provide laboratory services, it must make arrangements to obtain these services from a laboratory certified in the appropriate specialties and subspecialties of service.

(3) Social Services: Social services shall be provided to patients and their families and shall be directed at supporting and maximizing the social functioning and adjustment of the patient. Social services must be furnished by a qualified social worker who has an employment or contractual relationship with the facility. The facility will provide an adequate social work coverage to ensure the needs of the patients are met. The qualified social worker is responsible for:

(a) Conducting psychosocial evaluations;

(b) Participating in team reviews of patient progress;

(c) Recommending changes in treatment based on the patient's current psychosocial needs;

(d) Providing casework and group work services to patients and their families in dealing with the special problems associated with dialysis; and

(e) Identifying community social agencies and other resources and assisting patients and families to utilize them.

(4) Nutrition Services: Nutrition services shall be provided to the patients and the patient's caregiver(s) in order to maximize the patient's nutritional status. Each patient must be evaluated as to his/her nutritional needs by the attending physician and by a qualified dietitian who has an employment or contractual relationship with the facility.

(a) The facility will provide an adequate amount of dietitian coverage to ensure the needs of the patients are met. The dietitian will be responsible for:

(A) Conducting nutritional assessments of patients;

(B) Participating in a team process in developing and reviewing patient care plans;

(C) Recommending nutrition therapy with consideration of cultural preferences and changes in treatment based on the patient's nutritional needs in consultation with the patient's physician;

(D) Counseling patients, patients' families and significant others; and monitoring adherence to and response to nutrition therapy;

(E) Referring patients for assistance with nutrition resources such as financial assistance, community resources or in-home assistance; and

(F) Participating in continuous quality improvement activities.

(5) Self-dialysis Support Services: The facility furnishing self-dialysis training, upon completion of the patient's training, must furnish (either directly, under agreement or by arrangement with another facility) the following services:

(a) Surveillance of the patient's home adaptation, including provisions for visits to the home or the facility;

(b) Consultation for the patient with a qualified social worker and a qualified dietitian;

(c) A record-keeping system, which assures continuity of care;

(d) Installation and maintenance of equipment;

(e) Testing and appropriate treatment of the water; and

(f) Ordering of supplies on an ongoing basis.

(6) Participation in Recipient Registry: The facility shall participate in a patient registry program with an Organ Procurement Organization (OPO) designated or redesignated for patients who are awaiting cadaveric donor transplantation.

(7) Home Anemia Management:

(a) Patient Monitoring: The facility, or the physician responsible for all dialysis-related services furnished to the patient, shall monitor the patient. This monitoring shall include:

(A) Reviewing appropriate laboratory values;

(B) Establishing the plan of care and monitoring the progress of the home anemia management therapy;

(C) Determining that the patient or a caregiver who assists the patient in performing self-dialysis meets the following conditions:

(i) Is trained by the facility to inject the anemia management drug;

(ii) Is capable of carrying out the procedure;

(iii) Is capable of reading and understanding the drug labeling; and

(iv) Is trained in, and capable of observing, aseptic techniques.

(D) Determining that the anemia management drug can be stored in the patient's residence under refrigeration, and that the patient is aware of the potential hazard of a child's having access to the drug and syringes.

(b) The patient's physician or facility must:

(A) Develop a protocol that follows the drug label instructions;

(B) Make the protocol available to the patient to ensure safe and effective home use of the anemia management drug; and

(C) Through the amounts prescribed, ensure that the drug "on hand" at any time does not exceed a 2-month supply.

(8) Medications:

(a) Medications maintained in the facility shall be properly stored and safeguarded in enclosures of sufficient size that are not accessible to unauthorized persons;

(b) Refrigerators used for storage of medications shall maintain appropriate temperatures for such storage and routine monitoring of these temperatures shall be documented;

(c) Medications not given immediately shall be labeled with the name of the medication, the dosage prepared, the date and time, and the initials of the person preparing the medication. Expired medications will be disposed of appropriately; and

(d) All medications shall be administered by licensed nurses, physician assistants, pharmacists, or physicians. Intravenous normal saline, intravenous heparin, and subcutaneous lidocaine may be administered as part of a routine hemodialysis treatment by dialysis technicians qualified according to Oregon Administrative Rules for Hemodialysis Technicians (OARS 333-275-0001 through 333-275-0180).

Stat. Auth.: ORS 441.020 & ORS 442.015  
Stats. Implemented: ORS 441.020 & ORS 442.015  
Hist.: PH 7-2003, f. & cert. ef. 6-6-03

## 333-700-0110

### Infection Control

(1) There shall be written policies and procedures in effect for the prevention and control of hepatitis and other infections. These policies must include, but are not limited to:

(a) Appropriate procedures for surveillance and reporting of infections;

(b) Housekeeping;

(c) Handling and disposal of waste and contaminants;

(d) Sterilization and disinfection, including the sterilization and maintenance of equipment where dialysis supplies are reused; and

(e) The rinsing, cleaning, disinfection, preparation and storage of reused items which conform to requirements for reuse.

(2) Dialysis facilities shall follow the Centers for Disease Control and Prevention (CDC) recommendations for preventing transmission of infections. This includes the use of long-sleeved gowns that are impervious to the passage of fluids during procedures at high risk for blood or other bodily fluid contamination (e.g. initiation and termination of dialysis and reuse procedures).

(3) The medical director shall designate a committee or individual qualified in surveillance, prevention and control of nosocomial infections

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to be responsible for the direction, provision, and quality of infection prevention and control services. The medical director shall be responsible for ensuring the facility maintains a record of all infections, their incidence, treatment, and outcome.

(4) Facilities shall follow the tuberculosis screening requirements for employees outlined in OAR 333-019-0405(4)(a)-(i).

(5) Blood spills shall be cleaned immediately or as soon as is practical with an appropriate chemical disinfectant.

(6) The facility shall employ appropriate techniques to prevent cross-contamination between the unit and adjacent hospital or public areas including, but not limited to: food service areas; laundry; disposal of solid waste and blood-contaminated equipment; and disposal of contaminants into sewage systems. Waste storage and disposal shall be carried out in accordance with applicable local laws and accepted public health procedures. The written patient care policies shall specify the functions to be carried out by facility personnel and by the self-dialysis patients with respect to contamination prevention. Where dialysis supplies are reused, records shall be maintained that can be used to demonstrate whether established procedures covering the rinsing, cleaning, disinfection, preparation and storage of reused items, conform to requirements for reuse.

Stat. Auth.: ORS 441.020 & ORS 442.015

Stats. Implemented: ORS 441.020 & ORS 442.015

Hist.: PH 7-2003, f. & cert. ef. 6-6-03

## 333-700-0115

### Patients' Rights, Responsibilities and Family Education

(1) The governing body of the facility shall adopt written policies regarding the rights and responsibilities of patients and, through the chief executive officer, shall be responsible for development of, and adherence to, procedures implementing such policies.

(2) These policies and procedures shall be made available to patients and any guardians, next of kin, the Department, and to the public. The staff of the facility must be trained in and involved in the execution of such policies and procedures. The patients' rights policies and procedures must ensure all patients in the facility:

(a) Are informed of these rights and responsibilities, and of all rules and regulations governing patient conduct and responsibilities;

(b) Are informed of services available in the facility and of related charges;

(c) Are informed by a physician of their medical conditions unless medically contraindicated (as documented in their medical records);

(d) Are afforded the opportunity to participate in the planning of their medical care (either through direct involvement or if the patient chooses, through family or a representative);

(e) Are afforded the opportunity to refuse to participate in experimental research;

(f) Are transferred or discharged only for medical reasons, for their own welfare or that of other patients or for nonpayment of fees. Patients discharged for these reasons will be given a written notice prior to transfer or discharge. A patient exhibiting violent, abusive, or threatening behavior may be discharged immediately if necessary to protect themselves, other patients, or employees. A written notice shall be given to these patients within ten days of transfer or discharge;

(g) Are informed about the effects and potential hazards of receiving dialysis and related treatments;

(h) Are treated with consideration, respect and full recognition of their individual and their personal needs, including maintenance of confidentiality;

(i) Are informed regarding the facility's reuse of dialysis supplies, including hemodialyzers. If printed materials such as brochures are utilized to describe a facility and its services, they must contain a statement with respect to reuse. Patients have the right to refuse the use of reprocessed dialyzers; and

(j) Are informed of all choices of dialysis treatment including peritoneal, self-care, home dialysis, in-center dialysis, no treatment, hospice, and transplantation. If the patient is not considered to be a candidate for transplantation, this information should be made available to the patient or his/her family member in writing and include the reason(s).

(3) The facility shall have written documentation from the patient that he/she has had his/her rights and responsibilities explained.

(4) The facility shall provide the patient and his/her family with the opportunity for education including, but not limited to the following topics:

(a) Physical orientation of the dialysis center;

(b) Policy for scheduling patient treatment times;

(c) Policies on violent or disruptive behavior;

(d) Duties of members of the dialysis team;

(e) Team member qualifications and duties;

(f) Boundary issues between staff and patient;

(g) Importance of dialysis adequacy and lab values;

(h) Dietary needs and fluid balance;

(i) Medications;

(j) Benefits of exercise;

(k) Disaster planning for situations in which the facility is unable to operate;

(l) Infection control procedures;

(m) Water purification;

(n) Handling of hazardous substances;

(o) Quality control process;

(p) Medical records including contents and confidentiality issues; and

(q) The right of patients and/or families to request private conversations with a member(s) of the multidisciplinary team at a time of their convenience.

(5) Grievance mechanism: The facility must inform patients (or their representatives) of the facility's grievance process and the procedures for appeal. All patients are encouraged and assisted to understand and exercise their rights. Grievances and recommended changes in policies and services may be addressed to facility staff, administration, the Network, and agencies or regulatory bodies with jurisdiction over the facility, through any representative of the patient's choice, without restraint or interference, and without fear of discrimination or reprisal.

(6) The facility's grievance process must:

(a) Include a record of each grievance made by a patient, his/her representative or family member;

(b) Include documentation of the facility's investigation of each grievance, including the resolution;

(c) Include the method and phone number for submitting grievances that cannot be resolved at the facility level (e.g. administration, the Network, and the Department);

(d) Include evidence that the person expressing the grievance is notified in writing of the outcome of the grievance investigation; and

(e) Include evidence the facility has responded to the grievance within 30 days.

Stat. Auth.: ORS 441.020 & ORS 442.015

Stats. Implemented: ORS 441.020 & ORS 442.015

Hist.: PH 7-2003, f. & cert. ef. 6-6-03

## 333-700-0120

### Physical environment

(1) The physical environment in which dialysis services are furnished must afford a functional, clean, sanitary, safe, and comfortable setting for patients, staff, and the public.

(2) The physical structure in which dialysis services are furnished must be constructed, equipped, and maintained to ensure the safety of patients, staff, and the public.

(3) All electrical and other equipment used in the facility must be maintained free of defects that could be a potential hazard to patients or personnel. There must be an established program of preventive maintenance of equipment used in dialysis and related procedures in the facility. Facilities shall follow the manufacturers' recommendations for preventive maintenance for all equipment.

(4) The areas used by patients shall be maintained in good repair and kept free of hazards such as those created by damaged or defective parts of the building.

(5) The facility must employ the water quality requirements listed in this section and developed by the Association for the Advancement of Medical Instrumentation (AAMI) and published in "Hemodialysis Systems," second edition, 1993, which is incorporated by reference.

(6) Any adverse results identified by the water quality monitoring system shall be addressed and corrected immediately. Documentation of these corrections will be maintained in a designated area for review.

(7) Testing of the water in dialysis facilities must comply with the requirements of Table 1 of this section. [Table not included. See ED. NOTE.]

(8) Treatment areas shall be designed and equipped to provide adequate and safe dialysis therapy, as well as privacy and comfort for patients. The space for treating each patient must be sufficient to accommodate medically needed emergency equipment and personnel to treat the patient in the event of an emergency. There must be sufficient space in the facility for safe storage of dialysis supplies.

(9) Chronic dialysis patients shall be dialyzed in chairs that can be reclined so that the patient's head is lower than his/her feet, except when the patient is dialyzed in a hospital bed.



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(10) There shall be a nursing/monitoring station from which all patients receiving dialysis can be continuously monitored during the course of treatment.

(11) Heating and ventilation systems shall be capable of maintaining adequate and comfortable temperatures.

(12) Each facility utilizing a central-batch delivery system must provide, either on the premises or through affiliation agreement or arrangement sufficient individual delivery systems for the treatment of any patient requiring special dialysis solutions.

[ED. NOTE: Tables referenced in this rule are available from the agency.]

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 441.020 & ORS 442.015

Stats. Implemented: ORS 441.020 & ORS 442.015

Hist.: PH 7-2003, f. & cert. ef. 6-6-03

## 333-700-0125

### Reuse of Hemodialyzers and other Dialysis Supplies

If the facility reuses hemodialyzers, the facility shall conform to the following:

(1) Reuse guidelines: Voluntary guidelines adopted by the Association for the Advancement of Medical Instrumentation (AAMI) ("Reuse of Hemodialyzers," second edition) incorporation by reference to the AAMI's AReuse of Hemodialyzers," second edition, 1993;

(2) Procedure for chemical germicides: To prevent any risk of dialyzer membrane leaks due to the combined action of different chemical germicides, dialyzers shall only be exposed to one chemical germicide during the reprocessing procedure. If a dialyzer is exposed to a second germicide, the dialyzer must be discarded;

(3) Surveillance of patient reactions: In order to detect bacteremia and to maintain patient safety when unexplained events occur, the facility:

(a) Shall take appropriate blood cultures at the time of a febrile response in a patient; and

(b) If pyrogenic reactions, bacteremia, or unexplained reactions associated with ineffective reprocessing are identified, the reuse of hemodialyzers in that setting shall be terminated and the facility will not continue reuse until the entire reprocessing system has been evaluated;

(4) Transducer filters: To control the spread of hepatitis, transducer filters shall be changed after each dialysis treatment and shall not be reused; and

(5) Bloodlines: If the facility reuses bloodlines, it shall:

(a) Limit the reuse of bloodlines to the same patient;

(b) Not reuse bloodlines labeled for "single use only";

(c) Reuse only bloodlines for which the manufacturer's protocol for reuse has been accepted by the Food and Drug Administration (FDA) pursuant to the premarket notification (section 510(k)) provision of the Food, Drug, and Cosmetic Act; and

(d) Follow the FDA-accepted manufacturer's protocol for reuse of that bloodline.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 441.020 & ORS 442.015

Stats. Implemented: ORS 441.020 & ORS 442.015

Hist.: PH 7-2003, f. & cert. ef. 6-6-03

## 333-700-0130

### Dialysis Facilities Construction Requirements

These rules apply to outpatient renal dialysis facilities licensed by the State of Oregon.

(1) All new construction and alterations must comply with Oregon Structural Specialty Code at the time of original licensure.

(2) Minimum facility standards are as follows:

(a) Facility Location & Accessibility:

(A) The facility shall be located to allow for prompt access by ambulances and by buses, including wheelchair-lift equipped type, without the need for patients to traverse across vehicular pathways and parking areas, or the project sponsor shall present an alternate plan showing that patient safety will not be compromised;

(B) The dialysis unit shall be located in a separate building or section of a building free of traffic by non-related persons;

(C) Accessible parking shall be provided for patients and visitors, constructed to comply with the Oregon Structural Specialty Code, as enforced by the Oregon Building Codes Division and local jurisdictions having authority;

(D) Building access and all patient use areas shall be designed and constructed in accordance with Chapter 11 of the Oregon Structural Specialty Code for accessibility at the time of original licensure as enforced by the Oregon Building Codes Division or local jurisdictions having authority; and

(E) Corridors, doorways, stairways and elevators serving the unit shall be sized to allow at least one exit route for emergency transport of a patient by an Emergency Medical Services (EMS) type of stretcher to an ambulance.

(b) Treatment Areas:

(A) Dialysis stations shall be designed and equipped to provide adequate and safe dialysis therapy, as well as privacy and comfort for patients.

(i) The space shall be sufficient to accommodate the patient recliner and dialysis machine, as well as sufficient space to accommodate medical-ly needed emergency equipment. Individual patient treatment areas shall contain at least 80 sq. ft. A 4'-0" minimum shall be available at the foot of the recliner.

(ii) Hand-washing stations, readily available for staff use, shall be provided within the treatment area. One hand washing station shall be provided for each six patients minimum, located with appropriate spacing to facilitate washing of hands between patient contact.

(B) Patient care staff station(s) shall be located within the dialysis treatment area and designed to provide visual observation of all patients.

(C) Patient separation, when required by CDC Guidelines (e.g. Hepatitis-B Virus), shall be accomplished either by use of a dedicated room, or by use of a non-permeable portable partition or curtain that prevents a blood splash from one patient to another, and does not inhibit staff observation as stated above.

(3) Patient Support: The following shall be provided:

(a) Waiting space with a seating capacity minimum of 1 seat or wheelchair for each 2 patient stations;

(b) An Americans with Disabilities Act (ADA) accessible patient toilet, convenient to the waiting room, with emergency nurse call annunciated to the patient care staff station;

(c) Dedicated space for patient scale; and

(d) Dedicated space for wheelchair storage.

(4) General Support Areas: The following shall be provided:

(a) Clean supply room with space for bulk storage of necessary supplies;

(b) Soiled holding room or area for soiled linen and contaminated waste. A hand-washing station shall be provided. A flush rim clinical sink with rinsing device is also required when peritoneal dialysis is performed;

(c) If a dedicated medical waste room or area is provided in addition to the soiled holding area, a hand washing station is not required at the contaminated waste area;

(d) Secure medications storage, meeting Board of Pharmacy rules with dedicated refrigerator and a hand washing station;

(e) Emergency cart/equipment storage located close to the patient treatment area, readily accessible by staff, and not located in the exit path;

(f) Access to a janitor closet with floor sink or service sink and space for supplies within or close to the unit;

(g) Equipment maintenance and storage space for equipment servicing and storage. Equipment space allocated for bio-medical interventions shall not be in proximity to patients while they are undergoing dialysis;

(h) When dialyzer reprocessing is practiced, space for reuse equipment, work counter and hand washing station. Additional sinks shall be provided as defined by the facility's reprocessing program;

(i) Solution mixing/preparation area for central concentrate delivery system or individual preparation, sized to meet facility needs;

(j) Dedicated space for central or individual water treatment equipment with waste drain sized to meet equipment requirements;

(k) Separate staff toilet facilities within or near the unit;

(l) If a home training program is included, separate training room(s) with a hand washing station shall be provided. At least one convenient program office and general support spaces shall be provided to meet program needs. An emergency nurse call, annunciated at the patient care staff station, or the home training office, shall be provided in each training room.

(m) Staff office; and

(n) Consultation space available for private conferences with patients and/or family.

(5) Finishes:

(a) Wall materials in all patient treatment areas shall be cleanable;

(b) Water treatment area walls and floors shall be designed and constructed to prevent water from migrating to other areas during normal operating circumstances; and

(c) In new construction or renovation, all soiled utility, medical waste storage, and janitor closet flooring shall be seamless with an integral coved wall base.

(6) Maintenance and Housekeeping:

# ADMINISTRATIVE RULES

(a) All building components and equipment shall be maintained in good repair and free from obvious hazards to patients and staff;

(b) All dialysis equipment shall be maintained in accordance with manufacturers' recommendations, and each dialysis machine shall be cleaned in accordance with written policies and procedures after each use.

(7) Mechanical and plumbing:

(a) Hot water used for hand washing shall have a water temperature of a minimum of 105° and a maximum of 120° Fahrenheit;

(b) All water treatment and dialysate concentrate equipment and distribution systems shall be in compliance with Association for the Advancement of Medical Instrumentation (AAMI) standards (RD52) at all times. Floor drain(s) shall be provided in these area(s);

(c) If piped-in oxygen or vacuum systems are included, they shall be installed in accord with National Fire Protection Act (NFPA) 99, Chapter 4 and the Oregon Plumbing Specialty Code;

(d) All heating, ventilation and cooling systems shall comply with the Oregon Mechanical Specialty Code and Chapters 12 and 13 of the Oregon Structural Specialty Code (OSSC) at the time of initial licensure as enforced by the Oregon Building Codes Agency or local jurisdiction having authority;

(e) Dialyzer reuse space, if provided, shall not recirculate air, and shall be provided with an exhaust to the outside as required for the reprocessing methods utilized;

(f) To minimize discomfort to patients, whose sensitivity to drafts and temperature change may be accentuated by their physical condition, heating, cooling and ventilation systems in facilities licensed after July 1, 2003, shall be designed to minimize airflow and temperature change at treatment stations; and

(g) In facilities licensed after July 1, 2003, lavatories and sinks intended for hand-washing shall be trimmed with fittings operable without use of the hands.

(8) Electrical:

(a) Emergency power for evacuation lighting and the fire alarm system shall be provided. Lighting levels shall be 5 footcandles minimum at patient stations, staff support stations and paths of egress for a minimum of 12 hours. Installation shall comply with Oregon Structural Safety Code Chapter 10;

(b) In facilities initially licensed or constructed after July 1, 2003, provisions shall be made to allow connection to an alternate power source. The point of connection shall be immediately accessible to the exterior. The alternate power source shall provide on-going power for lighting required in (8)(a) of this sub-section, and continued provision of dialysis services;

(c) A ground fault interrupter (GFI) shall be provided independently for each dialysis machine;

(d) Hospital grade electrical outlets shall be provided serving all dialysis equipment connections; and

(e) All electrical installations shall comply with the Oregon Electrical Specialty Code in effect at the time of initial licensure as enforced by the Oregon Building Codes Agency having jurisdiction and shall be maintained in full compliance.

(9) Structural, Fire & Life Safety and Maintenance:

(a) Occupancy classification:

All facilities constructed after July 1, 2003, shall be constructed to a minimum standard of I 1.2 or I 1.3 occupancy classification as defined by the Oregon Structural Specialty Code, 1997 Edition; or, B occupancy with the following modifications:

(A) The facility shall be provided with a fire sprinkler system, meeting Oregon Structural Specialty Code Standard 9-1, and National Fire Protection Act (NFPA) 13;

(B) The facility shall be separated from adjoining B occupancies by a one-hour occupancy separation. Separation from other occupancies shall be the same as required for I 1.2 separation on Table 3B of the Oregon Structural Specialty Code;

(C) Dialysis facilities greater than 2000 square feet in size shall be separated into two smoke compartments in accord with the Oregon Structural Specialty Code as enforced by the Oregon Building Codes Agency or local jurisdiction having authority for I 1.2 occupancy;

(D) A fire alarm system in accordance with NFPA 72 shall be provided;

(E) Fire extinguishers shall be installed in locations readily accessible to staff. At least one fire extinguisher shall be provided for each 8 patient stations; and

(F) The facility shall comply with all other requirements of the Oregon Structural Specialty Code, 1997 Edition, for a B occupancy.

(b) Existing B Occupancies: Existing dialysis facilities classified as a B Occupancy and legally constructed and operating prior to the adoption of these rules shall be permitted to continue to operate as pre-existing non-conforming facilities subject to the following provisions:

(A) Facilities shall have a smoke detection system;

(B) Type 2A:10B:C fire extinguishers shall be installed in locations readily accessible to staff. At least one fire extinguisher shall be provided for each eight (8) patient stations;

(C) The facility shall meet the exiting requirements of Chapter 10 of the Oregon Structural Specialty Code and exiting requirements of Chapter 5 of the NFPA 101 Life Safety Code;

(D) Minimum egress requirements shall include;

(i) Door latching that is classified as simple hardware;

(ii) Exit signs from all common locations of the facility;

(iii) Exit illumination with an alternate power source;

(iv) The means of egress shall be free of obstructions.

(E) Floor surfaces shall be relatively level and free of tripping hazards;

(F) Buildings shall be maintained in good condition with sound structural integrity; and

(G) Facilities shall be in compliance with local codes, laws and ordinances.

(c) All interior and exterior materials and surfaces (e.g. floors, walls, roofs, ceilings, windows and furnishings) and all equipment necessary for the health, safety and comfort of patients shall be kept clean and in good repair.

Stat. Auth.: ORS 441.020 & ORS 442.015  
Stats. Implemented: ORS 441.020 & ORS 442.015  
Hist.: PH 7-2003, f. & cert. ef. 6-6-03

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

**Adm. Order No.:** SSP 12-2003

**Filed with Sec. of State:** 5-29-2003

**Certified to be Effective:** 6-1-03

**Notice Publication Date:** 3-1-03

**Rules Adopted:** 461-135-0701

**Rules Repealed:** 461-135-0701(T)

**Subject:** Rule 461-135-0701 is being adopted to terminate the General Assistance (GA) program.

**Rules Coordinator:** Annette Tesch—(503) 945-6067

### 461-135-0701

#### Terminate GA and GAM Programs

(1) Effective February 1, 2003, the General Assistance (GA) and General Assistance Medical (GAM) programs are not funded. Notwithstanding other rules of the Department, the programs are closed effective that date.

(2) Effective January 31, 2003, all persons eligible for or receiving benefits of the GA or GAM program become ineligible for the program. The Department will not authorize or provide any benefit under the programs after January 31, 2003.

Stat. Auth.: ORS 411.060  
Stats. Implemented: ORS 411.060

Hist.: AFS 21-2002(Temp), f. & cert. ef. 12-30-02 thru 6-27-03; SSP 12-2003, f. 5-29-03, cert. ef. 6-1-03

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**Adm. Order No.:** SSP 13-2003

**Filed with Sec. of State:** 6-12-2003

**Certified to be Effective:** 6-16-03

**Notice Publication Date:** 8-1-02

**Rules Adopted:** 461-135-0506, 461-180-0081

**Rules Amended:** 461-115-0450, 461-170-0020, 461-175-0270, 461-180-0030

**Subject:** Rules 461-0506 and 461-180-0081 are being adopted and rules 461-115-0450, 461-170-0020, 461-175-0270 and 461-180-0030 are being amended to allow some Food Stamp households leaving TANF to receive frozen FS benefits for five months.

**Rules Coordinator:** Annette Tesch—(503) 945-6067

# ADMINISTRATIVE RULES

## 461-115-0450

### Periodic Redeterminations; FS

In the Food Stamp program, the Department selects the certification period and the *redetermination date* based on the client's circumstances and according to the following considerations:

(1) The length of the certification period depends on how far in advance the circumstances affecting the group's eligibility can be predicted but may not exceed 12 months, except that the certification period may be extended to the end of the TBA period if the client becomes eligible for transitional benefits (see OAR 461-135-0506).

(2) For benefit groups in which all members are included in a cash or medical program, eligibility for FS and the other program benefits is determined at the same time when practicable.

(3) When a client starts working under a JOBS Plus agreement, the Food Stamp certification period is extended to include the month after the client finishes working under the agreement. If the agreement ends early, the certification period is changed to end on the original redetermination date or on the last day of the month following the month in which the JOBS Plus agreement ends, whichever is later.

(4) A client remains eligible for and continues to receive food stamp benefits on the normal issuance cycle if the application for recertification is filed with the Department and all required verification has been received by the Department:

(a) Not later than the 15th day of the month in which the certification expires; or

(b) In the case of a benefit group whose certification period is shorter than two months, not later than the 15th day after the Department provides notice that the certification period will expire.

(5) In the event a client files a timely application for recertification but either fails to appear for a scheduled interview or fails to timely submit required verification, the Department will deny the application for recertification. A client who files a timely application for recertification (see section (4) of this rule) is eligible for a food stamp allotment for the whole month only if:

(a) The required interview is completed, or the Department receives the required verification, within 30 days after the client files the application for recertification; or

(b) The interview or verification required by this rule would have occurred timely but for a delay caused by the Department.

(6) If the client fails to file an application for recertification during a certification period, food stamp benefits for the first month of the following certification period are prorated in accordance with OAR 461-180-0080.

(7) Once assigned, the certification period cannot be shortened.

Stat. Auth.: ORS ORS 411.816

Stats. Implemented: ORS 411.816

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 2-1994, f. & cert. ef. 2-1-94; AFS 19-1994, f. & cert. ef. 9-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 25-1998, f. 12-28-98, cert. ef. 1-1-99; AFS 1-2000, f. 1-13-00, cert. ef. 2-1-00; AFS 9-2001, f. & cert. ef. 6-1-01; SSP 13-2003, f. 6-12-03, cert. ef. 6-16-03

## 461-135-0506

### Transitional Benefit Alternative (TBA) in the Food Stamp Program

(1) This rule establishes the transitional benefit alternative (TBA). A client participating in TBA continues to receive food stamp benefits without reduction during the transition period. The transition period is five months.

(2) Clients in the Food Stamp program who receive a cash grant in the TANF program may participate in TBA when the TANF benefits are stopped, except as provided in section (4) of this rule.

(3) The benefit level for the transition period is based on countable income for FS during the last month before TBA begins, but the TANF grant is not counted as income. Once it is established, the TBA benefit level is changed only when:

(a) The client files a new application in the Food Stamp program;

(b) A member of the household leaves and applies for food stamps as a member of another household;

(c) The household reports a change that results in an increase in benefits; or

(d) The Department initiates a change identified in OAR 461-170-0200.

(4) A household may not participate in TBA if:

(a) A member of the filing group is receiving benefits of the TANF program.

(b) The TANF benefits are stopped because the household does not reside in Oregon.

(c) The TANF benefits are stopped because the household failed to comply with a reporting requirement.

(d) During the last month of eligibility for TANF, a person in the household was serving a penalty imposed in the TANF program.

(e) The TANF benefits are stopped at the request of the household after the household is informed of an impending disqualification in the TANF program.

(f) A member of the financial group is subject to a penalty in the Food Stamp program because of the person's conduct, for instance, because the person:

(A) Was excluded from the need group under OAR 461-110-0630(6);

(B) Was penalized for failure to meet a requirement of an employment program;

(C) Was ineligible for food stamps under OAR 461-105-0410; or

(D) Was ineligible for or disqualified from participation in the Food Stamp program because of a failure to comply with a requirement of the program to provide complete and accurate information to the Department.

(5) Once the TBA benefits have ended, a client's eligibility for the Food Stamp program is determined on the basis of a new application.

Stat. Auth.: ORS 411.816

Stats. Implemented: ORS 411.816

Hist.: SSP 13-2003, f. 6-12-03, cert. ef. 6-16-03

## 461-170-0020

### Changes That Must Be Reported; FS, MAA, MAF, TANF

Clients in the FS, MAA, MAF and TANF programs are required to report the changes described in this rule.

(1) Clients must report the following changes within 10 days of occurrence unless the client is required to report the change by section (2) or is exempted from the reporting requirement by section (3) of this rule:

(a) A change in members of the filing group and any resulting change in income;

(b) A change in employment, including getting, quitting or losing a job;

(c) A change in source of income;

(d) A change in earned income based on hourly wages when the change is due to:

(A) A change in the rate of pay, except that clients are not required to report a change due to the annual adjustment in the Oregon minimum wage; or

(B) A change greater than five in the number of hours worked each week when the change is expected to last one month or longer;

(e) A change in earned income, not based on hourly wages, of more than \$100 a month;

(f) A change in unearned income, except a change in a public assistance grant, of more than \$25;

(g) The acquisition or change in ownership of nonexcluded vehicles;

(h) The sale or receipt of resources that cause total resources to exceed program resource limits;

(i) A change in residence and the shelter costs in the new residence;

(j) A benefit group member's noncompliance with the OFSET program when that person is a mandatory participant; and

(k) A change in the legal obligation to pay child support.

(2) Clients in the monthly reporting system (MRS) must report changes in income as required by the rules applicable to the Monthly Change Report.

(3) A client participating in the transitional benefit alternative (TBA) in the Food Stamp program is not required to report changes.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.105

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1992, f. & cert. ef. 5-1-92; AFS 17-1992, f. & cert. ef. 7-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 19-1994, f. & cert. ef. 9-1-94; AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 13-1997, f. 8-28-97, cert. ef. 9-1-97; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 17-1998, f. & cert. ef. 10-1-98; AFS 25-1998, f. 12-18-98, cert. ef. 1-1-99; AFS 9-1999, f. & cert. ef. 7-1-99; AFS 11-1999, f. & cert. ef. 10-1-99; AFS 24-2002(Temp), f. 12-31-02, cert. ef. 1-1-03 thru 6-30-03; SSP 7-2003, f. & cert. ef. 4-1-03; SSP 13-2003, f. 6-12-03, cert. ef. 6-16-03

## 461-175-0270

### Notice Situation; APR, MRS or TBA

(1) When a benefit group is entered into the MRS, the Department sends a basic decision notice for the GA, GAM, OSIP, OSIPM, and QMB programs and a continuing benefit decision notice for all other programs.

(2) When a benefit group is entered into the TBA, and when it starts using the APR, the Department sends a continuing benefit decision notice.

# ADMINISTRATIVE RULES

(3) When the Department takes action on information reported on the monthly change report or periodic review:

(a) It sends a continuing benefit decision notice for clients in the ERDC, FS, MAA, MAF, REF, REFM, and TANF programs. Except for ERDC and FS, the notice includes:

(A) The amount of income used to determine the benefits or ineligibility; and

(B) The amount of each deduction; or

(C) The reported nonfinancial changes that affect eligibility.

(b) No notice is required for clients in the GA, GAM, OSIP, OSIPM, and QMB programs.

(4) For all changes not reported on the monthly change report or periodic review, the Department sends a timely continuing benefit decision notice.

(5) For benefit groups in the MRS, when ending TANF benefits because of information acquired through the information match with the Child Support program, the Department sends a continuing benefit decision notice.

(6) When the Department removes a client from the MRS or TBA, it will provide a continuing benefit decision notice if the change occurs at a time other than at the start of a certification period.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 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 2-1994, f. & cert. ef. 2-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; SSP 13-2003, f. 6-12-03, cert. ef. 6-16-03

## 461-180-0030

### Effective Dates; Changes in Income/Deductions That Cause Reductions

For all cases except those using APR and those in TBA, this rule is used to determine the effective date when changes in income or income deductions cause a decrease in benefits.

(1) When retrospective budgeting is being used, the effective date for the reduction is the first day of the payment month.

(2) When prospective budgeting is being used, the effective date for reducing benefits is the first day of the month following the month in which the decision notice period ends.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; SSP 13-2003, f. 6-12-03, cert. ef. 6-16-03

## 461-180-0081

### Effective Dates; Cases Receiving Transitional Benefit Alternative (TBA)

(1) The effective date for starting TBA benefits is the first day of the month after the TBA notice is mailed. The effective date cannot precede the date the Department has determined the client is no longer eligible for TANF.

(2) Once a household begins to receive TBA benefits, the benefits are not changed until the end of the TBA period except that TBA benefits will be changed appropriately if:

(a) A member of the household leaves the household and applies for food stamps as a member of another household; or

(b) The Department receives a report from the client that results in an increase in benefits.

Stat. Auth.: ORS 411.816

Stats. Implemented: ORS 411.816

Hist.: SSP 13-2003, f. 6-12-03, cert. ef. 6-16-03

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

Adm. Order No.: SPD 12-2003

Filed with Sec. of State: 5-30-2003

Certified to be Effective: 6-4-03

Notice Publication Date: 5-1-03

Rules Amended: 411-015-0000, 411-015-0005, 411-015-0010, 411-015-0015, 411-015-0100

Subject: These amendments clarify definitions and further support the actual intent of current policy; establish a more stable foundation for understanding eligibility for services and institute consistency statewide in the assessment process. The amendments also indicate

client assessed priority levels the Department is currently able to serve based on program reductions required to maintain a balanced budget for the biennium, pursuant to ORS 183.335(5), the mandates of HB 5100 and further directives from the 2003 Legislative Emergency Board. These amendments become effective June 4, 2003 following the June 3, 2003 expiration of temporary amendments to these same rules.

Rules Coordinator: Pam Rouske—(503) 945-6954

## 411-015-0000

### Purpose

The purpose of establishing priorities for persons to be served is to assist the Department in addressing the following goals:

(1) To enable persons eligible for and receiving services to remain in the least restrictive and least costly setting consistent with their care needs; and

(2) To serve those persons who are the most functionally impaired and who have no or inadequate alternative service systems; and

(3) To assure access to services paid by the Department to eligible persons; and

(4) To assure that services paid by the Department, and the setting in which they are provided are safe and adequate; and

(5) To manage limited resources to enable the greatest possible number of persons to receive needed services through a priority system based on the Department's assessment of the client's functional impairment and alternative service resources.

Stat. Auth.: ORS 410

Stats. Implemented: ORS 410.070

Hist.: SSD 3-1985, f. & ef. 4-1-85; SSD 5-1986, f. & ef. 4-14-86; SSD 9-1986, f. & ef. 7-1-86; SSD 12-1987, f. 12-31-87, cert. ef. 1-1-88; SSD 12-1991(Temp), f. 6-28-91, cert. ef. 7-1-91; SSD 21-1991, f. 12-31-91, cert. ef. 1-1-92; Former (2)(a) - (l) Renumbered to 411-015-0005; Former (3) renumbered to 411-015-0010; Former (4) Renumbered to 411-015-0015; SDDSD 11-2002(Temp), f. 12-5-02, cert. ef. 12-6-02 thru 6-3-03; SPD 12-2003, f. 5-30-03, cert. ef. 6-4-03

## 411-015-0005

### Definitions

(1) "Activities of Daily Living (ADL)" means those personal functional activities required by an individual for continued well-being which are essential for health and safety. This includes, but is not limited to eating, dressing/grooming, bathing/personal hygiene, mobility, bowel and bladder management, and cognition.

(2) "Alternative Service Resources" means other possible resources for the provision of services to meet the person's needs. This includes, but is not limited to, natural physical/social support systems, Risk Intervention services, Older Americans Act programs, or other community resources.

(3) "Assessment" for service eligibility means the process of evaluating the functional impairment levels including the individual's requirements for assistance or independence in performing activities of daily living, and determining nursing facility care. The Department requires use of the Client Assessment and Planning System (CA/PS) to determine service eligibility and planning.

(4) Assistance Types needed for activities of daily living include, but are not limited to the following terms:

(a) "Cueing" means giving verbal or visual clues during the activity to help the individual complete activities without hand-on assistance.

(b) "Hands-on" means a provider physically performs all or parts of an activity because the individual is unable to do so.

(c) "Reassurance" means to offer encouragement and support.

(d) "Redirection" means to divert the individual to another more appropriate activity.

(e) "Set-up" means getting personal effects, supplies, or equipment ready so that an individual can perform an activity.

(f) "Stand-by" means a person must be at the side of an individual ready to step in and take over the task should the individual be unable to complete the task independently.

(g) "Support" means to enhance the environment to enable the individual to be as independent as possible.

(5) "Assistance/Full Assistance" are defined for each activity of daily living as follows:

(a) Bathing/Personal Hygiene This is comprised of two components. To be considered Assist, the individual must require Assistance in Bathing or Full Assistance in Hygiene. To be considered Full Assist, the individual must require Full Assistance in Bathing.

(A) Bathing means the activities of bathing and washing hair and if needed, using assistive equipment.

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(i) Assist: The individual requires assistance from another person with bathing, even with devices. This may include hands-on assistance for part of the task, cueing during the activity stand-by presence for the duration of activity.

(ii) Full Assist: The individual requires at least one other person to provide bathing, even with assistive devices. This means hands-on assistance in all phases of the task.

(B) Personal Hygiene means the activities of shaving and caring for the mouth.

(i) Assist: The individual requires assistance from another person with personal hygiene, even with assistive devices. This may include hands-on assistance for part of the task, cueing during the activity or stand-by presence for the duration of the activity.

(ii) Full Assist: The individual cannot do personal hygiene, even with assistive devices, without the regular assistance of another person. This means hands-on assistance for all phases of the task.

(b) Cognition/Behavior means functions of the brain, which assist in orientation to person, place and/or time, decision-making, learning, memory, and behaviors, which may affect living arrangements and/or jeopardize safety of self or others. Evaluation of functional limitation is based on eight components. To be considered Assist, the individual must require Assistance in at least three of the eight components. To be considered Full Assist, the individual must require Full Assistance in at least three of the components.

(A) Adaptation means response to major changes in relationship to the individual's environment, such as the possibility of a change in living situation, death of significant other, etc.

(i) Assist: The individual requires frequent reassurance with change. These occurrences are episodic, less than daily.

(ii) Full Assist: The individual requires constant support and reassurance or is unable to adapt to change. These occurrences are ongoing and daily.

(B) Awareness means accurate understanding of needs relating to health, safety, and welfare and how an individual's level of awareness affects others.

(i) Assist: The individual has difficulty understanding those needs, which must be met.

(ii) Full Assist: The individual does not have the capacity to understand those needs.

(C) Danger to Self or Others means behaviors, other than wandering, which may be a danger to the individual (including self injury), or to those around the individual.

(i) Assist: The individual is disruptive or aggressive in a non-physical way, agitated some of the time, or sexually inappropriate. These behaviors are challenging and the individual can generally be verbally redirected.

(ii) Full Assist: The individual is frequently disruptive or aggressive in a non-physical way, is agitated most of the time, or is dangerous, physically abusive, or sexually aggressive. These behaviors are extreme and necessitate intervention beyond verbal redirection.

(D) Demands on Others means behaviors, other than wandering, which negatively impact and affect living arrangements, providers and/or other residents.

(i) Assist: The individual's habits and emotional states limit the types of living arrangements and companions, but can be modified with individualized routines, changes to the environment e.g. roommates and/or non client specific training for the caregiver.

(ii) Full Assist: The individual's habits and emotional states can be modified only with a 24-hour specialized care setting and/or a client specific behavioral care plan that all staff are trained to deliver.

(E) Judgement means ability to make decisions, and conduct activities that affect the ability to function independently. Poor judgement would result in negative consequences that jeopardize the health, safety, and welfare of the individual.

(i) Assist: The individual's judgement is occasionally poor and needs protection, monitoring and guidance to make decisions.

(ii) Full Assist: The individual always or frequently makes poor decisions requiring daily intervention by a care provider.

(F) Memory means ability to remember and appropriately use current information, which impacts health, safety and welfare.

(i) Assist: The individual has difficulty remembering and using current information and requires reminding or occasional directions.

(ii) Full Assist: The individual cannot remember or use information and/or requires regular directions.

(G) Orientation means accurate understanding of person, place, and time as it relates to the ability to function independently.

(i) Assist: The individual is frequently disoriented to person, place or time. These occurrences are episodic during the week; less than daily.

(ii) Full Assist: The individual is disoriented to person, place or time and such occurrences are daily.

(H) Wandering: Moving about aimlessly, or elopement, without relationship to needs or safety.

(i) Assist: The individual wanders within the home or facility, but does not jeopardize safety.

(ii) Full Assist: The individual wanders inside or out and jeopardizes safety.

(c) Dressing/Grooming: This is comprised of two elements. To be considered Assist, the individual must require Assistance in Dressing or Full Assistance in Grooming. To be considered Full Assist the individual must require Full Assistance in Dressing.

(A) Dressing means the activities of dressing and undressing.

(i) Assist: The individual requires assistance from another person to do parts of dressing and undressing, even with assistive devices. This may include hands-on assistance for part of the task, cueing during the activity, or stand-by presence for the duration of the activity.

(ii) Full Assist: The individual must be dressed and undressed by another person, with or without use of assistive devices. Hands-on assistance is required for every phase of dressing activity.

(B) Grooming means nail care and the activities of brushing and combing hair.

(i) Assist: The individual requires help to do part of the task, even with special equipment.

(ii) Full Assist: The individual cannot do any part of the task, even with special equipment.

(d) Eating means the activity of feeding and eating, with special equipment, if regularly used.

(A) Assist: The individual requires another person to be immediately available during mealtime. This includes hands-on facilitation during the act of eating, hands-on assistance with special utensils, cueing during the course of the meal, monitoring to prevent choking or aspiration; or ensuring proper intake of food.

(B) Full Assist: The individual requires one-on-one assistance throughout the meal, for direct feeding (including IV or tube) or constant cueing or, to prevent choking or aspiration.

(e) Elimination: This is comprised of three components. To be considered Assist, the individual must require Assistance in at least one of the three components. To be considered Full Assist the individual must require Full Assist in any of the three components.

(A) Bladder means managing bladder care.

(i) Assist: The individual requires assistance from another person, for parts of the activity, even with special equipment or supplies, to manage dribbling, incontinence, catheter, or sheath changes

(ii) Full Assist: The individual is totally incontinent and requires another person for all phases of bladder care or catheter care.

(B) Bowel means managing bowel care.

(i) Assist: The individual requires assistance from another person to manage incontinence, ostomy care or suppository insertion, even with special equipment or supplies.

(ii) Full Assist: The individual is totally incontinent and requires another person to provide all phases of bowel care.

(C) Toileting means getting to and from the toilet (including bedpan, commode and urinal), cleansing after elimination and adjusting clothing.

(i) Assist: The individual requires assistance from another person to get to and from the toilet or any part of the task, even with special equipment and supplies.

(ii) Full Assist: The individual requires another person to manage all care.

(f) Mobility: This is comprised of two components, Ambulation and Transfer. In the Mobility cluster only, assistance is categorized into three levels. To be considered Minimal Assist, the individual must require Minimal Assistance in Ambulation. To be considered Substantial Assist, the individual must require Substantial Assistance with Ambulation or an Assist with Transfer. To be considered Full Assist, the individual must require Full Assistance with Ambulation or Transfer.

(A) Ambulation means the activity of moving around both inside and outside, using assistive devices, if needed.

(i) Minimal Assist: The individual can get around inside with assistive devices, if needed, without the assistance of another person, but requires assistance from another person when outside or in an unfamiliar environment.

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(ii) Substantial Assist: The individual requires the occasional assistance of another person both outside and in a familiar environment, such as the home, even with assistive devices.

(iii) Full Assist: The individual cannot get around, even with assistive devices, without ongoing assistance from another person.

(B) Transfer means the activity of moving to or from a chair, bed or wheelchair using assistive devices, if needed.

(i) Assist: The individual can transfer, with assistive devices if needed, only if assisted by another person. This includes hands-on help for weight-bearing individuals or stand-by presence for safety in transfer.

(ii) Full Assist: The individual cannot transfer even with special equipment, and is dependent on one or more other persons to perform the transfer. This includes hands-on transfer for non-weight bearing individuals.

(6) "Client Assessment and Planning System (CA/PS)" is a single entry data system used for completing a comprehensive and holistic client assessment, comprised of critical elements of the individual's physical, mental, and social functioning, including identification of risk factors and outcome measurements. The CA/PS calculates the individual's service priority status, level of care and service payment rates, and accommodates client participation in care planning.

(7) "Department" means the Department of Human Services, Seniors and People with Disabilities.

(8) "Functional Impairment" means a person's pattern of mental and physical limitations which, even in the best of environments, permanently or temporarily restrict his or her capability of functioning independently.

(9) "Home and Community Based Care Waiver Services" means services approved for Oregon by the Centers for Medicare and Medicaid Services for aged and physically disabled persons in accordance with Sections 1915 (c) and 1115 of Title XIX of the Social Security Act.

(10) "Independent" means the individual does not meet the definition of "Assist" or "Full Assist".

(11) Service Priority" means the order in which Department clients are found eligible for nursing home, HCB waivers, spousal pay program, and Oregon Project Independence.

Stat. Auth.: ORS 410

Stats. Implemented: ORS 410.070

Hist.: SSD 3-1985, f. & ef. 4-1-85; SSD 5-1986, f. & ef. 4-14-86; SSD 9-1986, f. & ef. 7-1-86; SSD 12-1987, f. 12-31-87, cert. ef. 1-1-88; SSD 12-1991(Temp), f. 6-28-91, cert. ef. 7-1-91; SSD 21-1991, f. 12-31-91, cert. ef. 1-1-92; Renumbered from former 411-015-0000(2)(a) - (i); SDS 11-2002(Temp), f. 12-5-02, cert. ef. 12-6-02 thru 6-3-03; SPD 12-2003, f. 5-30-03, cert. ef. 6-4-03

## 411-015-0010

### Priority of Paid Services

To meet service priority, an individual must be found eligible, through a CA/PS assessment, as meeting at least the requirements for Assist or Full Assist in activities of daily living, in the following order and as designated in OAR 411-015-0015.

(1) Requires Full Assistance in Mobility, Eating, Elimination, and Cognition.

(2) Requires Full Assistance in Mobility, Eating, and Cognition.

(3) Requires Full Assistance in Mobility, or Cognition, or Eating.

(4) Requires Full Assistance in Elimination.

(5) Requires Substantial Assistance with Mobility, Assistance with Elimination and Assistance with Eating.

(6) Requires Substantial Assistance with Mobility and Assistance with Eating.

(7) Requires Substantial Assistance with Mobility and Assistance with Elimination.

(8) Requires Minimal Assistance with Mobility and Assistance with Eating and Elimination.

(9) Requires Assistance with Eating and Elimination.

(10) Requires Substantial Assistance with Mobility.

(11) Requires Minimal Assistance with Mobility and Assistance with Elimination.

(12) Requires Minimal Assistance with Mobility and Assistance with eating.

(13) Requires Assistance with Elimination.

(14) Requires Assistance with Eating.

(15) Requires Minimal Assistance with Mobility.

(16) Requires Full Assistance in Bathing or Dressing.

(17) Requires Assistance in Bathing or Dressing.

(18) Independent in the above levels but requires structured living for supervision for complex medical problems or a complex medication regimen.

Stat. Auth.: ORS 410

Stats. Implemented: ORS 410.070

Hist.: SSD 3-1985, f. & ef. 4-1-85; SSD 5-1986, f. & ef. 4-14-86; SSD 9-1986, f. & ef. 7-1-86; SSD 12-1987, f. 12-31-87, cert. ef. 1-1-88; SSD 12-1991(Temp), f. 6-28-91, cert. ef. 7-1-91; SSD 21-1991, f. 12-31-91, cert. ef. 1-1-92; Renumbered from former 411-015-0000(3); SDS 11-2002(Temp), f. 12-5-02, cert. ef. 12-6-02 thru 6-3-03; SPD 12-2003, f. 5-30-03, cert. ef. 6-4-03

## 411-015-0015

### Current Limitations

The Department has the authority to establish by Administrative Rule the priority level within which to manage its limited resources. The Department is currently able to serve:

(1) Persons determined eligible for OSIPM or TANF if they are assessed on CA/PS in conjunction with the priority levels of OAR 411-015-0010; and

(a) Who are assessed as meeting at least one of the priority levels (1) through (14) will be served through March 31, 2003; and

(b) Who are assessed as meeting at least one of the priority levels (1) through (11) will be served from April 1, 2003 thereafter, or unless otherwise stated by future amendments to this rule.

(2) Persons eligible for Oregon Project Independence funded services if they meet at least one of the priority levels (1) through (18) of OAR 411-015-0010.

(3) Persons needing Risk Intervention Services in areas designated to provide such services. Persons with the greatest priority under OAR 411-015-0010 will be served first.

(4)(a) Persons sixty-five years of age or older determined eligible for Developmental Disability services or having a primary diagnosis of mental illness are eligible for nursing facility and community based care services if they meet Sections (1), (2), or (3) of this rule and are not in need of specialized mental health treatment services or other specialized Department residential program intervention as identified through the PASARR or mental health assessment process.

(b) Persons under sixty-five years of age determined eligible for developmental disability services or having a primary diagnosis of mental illness are not eligible for Department nursing facility services unless determined appropriate through the PASARR process.

(c) Persons under sixty-five years of age whose primary diagnosis and primary need for service is due to mental illness or have been determined eligible for developmental disability services are not eligible for Title XIX Home and Community Based Care Waivered Services paid for under the Department's 1915(c) Waiver.

Stat. Auth.: ORS 410.060, ORS 410.070 & ORS 411

Stats. Implemented: ORS 410.070

Hist.: SSD 3-1985, f. & ef. 4-1-85; SSD 5-1986, f. & ef. 4-14-86; SSD 9-1986, f. & ef. 7-1-86; SSD 12-1987, f. 12-31-87, cert. ef. 1-1-88; SSD 12-1991(Temp), f. 6-28-91, cert. ef. 7-1-91; SSD 21-1991, f. 12-31-91, cert. ef. 1-1-92; Renumbered from former 411-015-0000(4); SSD 1-1993, f. 3-19-93, cert. ef. 4-1-93; SDS 11-2002(Temp), f. 12-5-02, cert. ef. 12-6-02 thru 6-3-03; SPD 1-2003(Temp), f. 1-7-03, cert. ef. 2-1-03 thru 6-3-03; SDP 3-2003(Temp), f. 2-14-03, cert. ef. 2-18-03 thru 6-3-03; SPD 5-2003(Temp), f. & cert. ef. 3-12-03 thru 6-3-03; SPD 6-2003(Temp), f. & cert. ef. 3-20-03 thru 6-3-03; SPD 12-2003, f. 5-30-03, cert. ef. 6-4-03

## 411-015-0100

### Eligibility for Nursing Facility or Community-Based Care Services

(1) To be eligible for nursing facility services, Community-based care waiver services for aged and physically disabled, Independent Choices, Spousal Pay, of, or the Program of All-inclusive Care for the Elderly (PACE), a person must:

(a) Be age 18 or older; and

(b) Be eligible for OSIPM or TANF; and

(c) Meet the functional impairment level within the service priority levels currently served by Seniors and People with Disabilities as outlined in OAR 411-015-0015; or

(d) To be eligible to have services paid through the State Spousal Pay Program, the person must meet requirements as listed above in (a), (b), (c), and in addition, the requirements in OAR 411-030-0080.

(2) Persons who are age 17 or younger and reside in a nursing facility are eligible for nursing facility services only. They are not eligible to receive community-based care waiver services, including Spousal Pay or Independent Choices program services.

Stat. Auth.: ORS 410 & ORS 414.065

Stats. Implemented: ORS 410.070

Hist.: SSD 7-1991(Temp), f. & cert. ef. 4-1-91; SSD 13-1991, f. 6-28-91, cert. ef. 7-1-91; SDS 11-2002(Temp), f. 12-5-02, cert. ef. 12-6-02 thru 6-3-03; SPD 1-2003(Temp), f. 1-7-03, cert. ef. 2-1-03 thru 6-3-03; SPD 12-2003, f. 5-30-03, cert. ef. 6-4-03

# ADMINISTRATIVE RULES

## Department of Justice Chapter 137

**Adm. Order No.:** DOJ 4-2003

**Filed with Sec. of State:** 6-5-2003

**Certified to be Effective:** 6-11-03

**Notice Publication Date:** 5-1-03

**Rules Adopted:** 137-009-0060, 137-009-0065, 137-009-0100, 137-009-0120

**Rules Amended:** 137-009-0000, 137-009-0005, 137-009-0010, 137-009-0045

**Rules Repealed:** 137-009-0015, 137-009-0020, 137-009-0025, 137-009-0030, 137-009-0035, 137-009-0040, 137-009-0055

**Subject:** The rules set forth in this filing govern the screening and selection procedures to establish personal services contracts with individuals and entities to provide attorney services required by law to be performed by the Attorney General.

**Rules Coordinator:** Carol Riches—(503) 378-6313

### 137-009-0000

#### Purpose

The Department may contract for the services of special legal assistants or private counsel to provide legal services otherwise required by law to be performed by the Attorney General. These rules specify the screening and selection procedures the Department will use to select individuals or entities to perform such services.

Stat. Auth.: ORS 180.140(5), 279.051(1), 279.712(2)(g) & ORS 279.712(2)(i)

Stats. Implemented: ORS 180.140(5) & ORS 279.051(1)

Hist.: JD 2-1983, f. & ef. 5-17-83; DOJ 7-2002(Temp), f. & cert. ef. 12-12-02 thru 6-10-03; DOJ 4-2003, f. 6-5-03, cert. ef. 6-11-03

### 137-009-0005

#### Definitions

For purposes of OAR chapter 137, division 009, these terms have the following meanings:

(1) "Attorney General" means the Attorney General of the State of Oregon.

(2) "Contractor" means an individual or entity that is obligated under a contract with the Department to provide legal services required by law to be performed by the Attorney General.

(3) "Department" means the Department of Justice of the State of Oregon.

(4) "Deputy" means the Deputy Attorney General, appointed by the Attorney General to that position pursuant to ORS 180.130.

(5) "Designated Practice Areas" means subject matter areas generally recognized within the legal profession as requiring specialized knowledge of a particular field of law.

(6) "Lowest Overall Cost" means the lowest cost to the state taken as a whole including the prospective Contractor's hourly rates (or other billing methods), available resources, expertise, and ability to accomplish an optimal, timely outcome to a particular matter.

(7) "Master Agreement" means a document that contains contractual provisions that will be included in certain future contracts between the parties. Each future contract will provide detail on scope of services, delivery terms, not-to-exceed amounts and other items necessary to establish a definite contract. A Master Agreement is not a contract, but is a document of understanding between the Department and an individual or entity.

(8) "Solicitation" means a written or oral request for offers, proposals, statements of qualifications, or other information from individuals or entities.

Stat. Auth.: RS 180.140(5), 279.051(1) & 279.712(2)(g)

Stats. Implemented: ORS 180.140(5) & ORS 279.051(1)

Hist.: JD 2-1983, f. & ef. 5-17-83; DOJ 7-2002(Temp), f. & cert. ef. 12-12-02 thru 6-10-03; DOJ 4-2003, f. 6-5-03, cert. ef. 6-11-03

### 137-009-0010

#### Policy

The policy of the Department is to select Contractors in an expeditious and efficient manner that is consistent with the goal of delivering highly competent legal services at the Lowest Overall Cost to the State of Oregon.

Stat. Auth.: ORS 180.140(5), 279.051(1) & ORS 279.712(2)(g)

Stats. Implemented: ORS 180.140(5) & ORS 279.051(1)

Hist.: JD 2-1983, f. & ef. 5-17-83; DOJ 7-2002(Temp), f. & cert. ef. 12-12-02 thru 6-10-03; DOJ 4-2003, f. 6-5-03, cert. ef. 6-11-03

### 137-009-0045

#### Methods for Selecting Contractors

(1) The Department will use one of the following methods to select a Contractor:

(a) The Department may select a Contractor from a list of individuals or entities established for a Designated Practice Area as set forth in OAR 137-009-0060.

(b) The Department may select a Contractor from a group of respondents to a specific matter Solicitation as set forth in OAR 137-009-0065.

(c) The Department may select a Contractor through direct negotiation as set forth in OAR 137-009-0120.

(2) Nothing in this section shall prevent the Department from entering into an amendment to a contract for legal services according to its terms.

Stat. Auth.: ORS 180.140(5), 279.051(1) & ORS 279.712(2)(g)

Stats. Implemented: ORS 180.140(5), ORS 279.051(1)

Hist.: JD 2-1983, f. & ef. 5-17-83; DOJ 7-2002(Temp), f. & cert. ef. 12-12-02 thru 6-10-03; DOJ 4-2003, f. 6-5-03, cert. ef. 6-11-03

### 137-009-0060

#### Procedure to Develop Lists of Individuals or Entities under Master Agreements

(1) The Department may use a Solicitation to request proposals or information that describes general or specific legal services to be performed within a defined period of time. The purpose of such a Solicitation is to establish a list of individuals or entities under Master Agreements for a specified period of time to provide legal services within Designated Practice Areas as requested by the Department and agreed to by the individual or entity.

(a) The Department shall provide notice of the Solicitation on the VIP System or its successor operated by the Department of Administrative Services or in any other manner the Department deems appropriate to provide notice to a sufficient number of individuals or entities to develop adequate lists of available individuals or entities.

(b) In accordance with ORS 200.035, the Department will notify the Advocate for Minority, Women and Emerging Small Businesses.

(2) The evaluation criteria in the Solicitation may include, without limitation, consideration of the following factors:

(a) Availability and capability to perform the work;

(b) Fees or costs, including proposed discounts from rates generally charged other clients;

(c) Geographic proximity to the location where the legal services will primarily be performed;

(d) Ethical considerations, such as the existence of conflicts of interest;

(e) Recommendations of subject matter experts, such as client agency representatives with special knowledge or insights into necessary or desirable non-legal knowledge or background;

(f) Any other criteria the Department determines relevant to the provision of legal services.

(3) In weighing the factors set forth above, no single factor shall be determinative. But if one factor strongly suggests the Department should enter into a Master Agreement with a proposer with respect to a Designated Practice Area, it may outweigh one or more other factors that favor other proposers.

(4) The Department may either sign a Master Agreement with qualified individuals or entities in particular Designated Practice Areas or cancel the Solicitation.

(5) For purposes of subsection (1)(b) of this section, if the Department has notified the Advocate for Minority, Women and Emerging Small Businesses of its intent to use the VIP System or its successor as its official vehicle for notifying the Advocate about opportunities to contract to provide legal services, the Department may satisfy the requirement for notice to the Advocate for Minority, Women and Emerging Small Businesses by posting the notice on the VIP System for at least five calendar days.

Stat. Auth.: ORS 180.140(5), ORS 279.051(1), ORS 279.712(2)(g)

Stats. Implemented: ORS 180.140(5), ORS 279.051(1), ORS 200.035

Hist.: DOJ 7-2002(Temp), f. & cert. ef. 12-12-02 thru 6-10-03; DOJ 4-2003, f. 6-5-03, cert. ef. 6-11-03

### 137-009-0065

#### Solicitation to Engage a Contractor to Provide Legal Services for a Specific Matter

(1) The Department may use a Solicitation to request proposals to provide legal services on a specific matter:

(a) The Department may provide notice of the Solicitation in any manner the Department deems appropriate to provide notice to a sufficient

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number of individuals or entities, but in no event shall notice of a Solicitation under this section be provided to fewer than three prospective proposers.

(b) In accordance with ORS 200.035, the Department will notify the Advocate for Minority, Women and Emerging Small Businesses. For purposes of this subsection, if the Department has notified the Advocate for Minority, Women and Emerging Small Businesses of its intent to use the VIP System as its official vehicle for notifying the Advocate about opportunities to contract to provide legal services, the Department may satisfy the requirement for notice to the Advocate for Minority, Women and Emerging Small Businesses by posting the notice on the VIP System for at least five calendar days.

Stat. Auth.: ORS 180.140(5), ORS 279.051(1), ORS 279.712(2)(g)  
Stats. Implemented: ORS 180.140(5), 279.051(1) & ORS 200.035  
Hist.: DOJ 7-2002(Temp), f. & cert. ef. 12-12-02 thru 6-10-03; DOJ 4-2003, f. 6-5-03, cert. ef. 6-11-03

## 137-009-0100

### Criteria for Selection of Contractor for Specific Matter under OAR 137-009-0060 or 137-009-0065

(1) If the Department decides to select a Contractor for a specific matter from a list of individuals or entities developed pursuant to OAR 137-009-0060, or from among the proposers to a Solicitation under OAR 137-009-0065, the Department will use the evaluation process described in this section.

(2) The Department will make its selection decision based on an evaluation of factors that the Department determines appropriate in any particular instance, which may include, without limitation:

(a) The experience and level of expertise of Contractor and Contractor's available personnel, as determined by the Department, in the Designated Practice Area and for the type of legal services the Department requires;

(b) Whether the Contractor's available personnel possess any required licenses or certifications required to perform the legal services for the specific matter, such as licenses to practice law in the appropriate jurisdiction, or license to appear in a certain forum;

(c) The legal and business constraints or requirements, if any, imposed by particular characteristics of the matter for which the Department seeks legal services;

(d) The extent and nature of any likely conflicts of interest that exist or could arise if Contractor provided legal services with respect to a particular matter;

(e) The training, expertise, temperament, style and experience of the particular Contractor personnel available to perform work on the specific matter and the training, expertise, temperament, style and experience of the particular State of Oregon agency personnel that will be working on the matter with the Contractor's personnel;

(f) Recommendations of subject matter experts, such as client agency representatives with special knowledge or insights into necessary or desirable non-legal knowledge or background.

(g) Lowest Overall Cost; or

(h) Other factors the Department considers relevant to the selection of a Contractor to provide particular legal services.

(3) In weighing the evaluation factors, no single factor shall be determinative, but Lowest Overall Cost always will be considered.

(4) To reduce the Lowest Overall Cost to the state, the Department should select a Contractor from the list of firms established under OAR 137-009-0060 when the work is within an individual's or entity's Designated Practice Area under a Master Agreement and the Department determines:

(a) The administrative cost of selecting a Contractor under OAR 137-009-0065 outweighs potential cost savings under that process;

(b) The services are likely to be integrally related to other services provided by the Contractor under a Master Agreement, resulting in greater economy and efficiency; or

(c) The Department's need for services is of such urgency that selecting a Contractor under OAR 137-009-0065 would result in unacceptable delay.

Stat. Auth.: ORS 180.140(5), ORS 279.051(1), ORS 279.712(2)(g)  
Stats. Implemented: ORS 180.140(5), ORS 279.051(1)  
Hist.: DOJ 7-2002(Temp), f. & cert. ef. 12-12-02 thru 6-10-03; DOJ 4-2003, f. 6-5-03, cert. ef. 6-11-03

## 137-009-0120

### Direct Negotiation and Contracting

(1) The Department may directly negotiate and enter into contracts with Contractors to provide legal services without following the procedures

set forth in OAR 137-009-0060 through 137-009-0100 in the following circumstances:

(a) The contract's maximum consideration does not exceed \$25,000;

(b) The subject matter of the representation is highly confidential, and there is a substantial risk that the interests of the State of Oregon or the Department would be adversely affected by a more public Solicitation;

(c) The subject matter of the representation is highly time sensitive, and there is a substantial risk that the interests of the State of Oregon or the Department would be adversely affected by any delay in obtaining a Contractor;

(d) The cost of the representation will be borne in whole or in part by a nonstate entity and the nonstate entity has a legal right to influence selection of legal counsel; or

(e) Any other situation in which the Attorney General or the Deputy determines that the interests of the Department or the State of Oregon are best served by direct negotiation and contracting with Contractors.

(2) In directly negotiating and entering into a contract with a Contractor, the Department shall consider Lowest Overall Cost.

Stat. Auth.: ORS 180.140(5), ORS 279.051(1) & ORS 279.712(2)(g)  
Stats. Implemented: ORS 180.140(5), ORS 279.051(1)  
Hist.: DOJ 7-2002(Temp), f. & cert. ef. 12-12-02 thru 6-10-03; DOJ 4-2003, f. 6-5-03, cert. ef. 6-11-03

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**Adm. Order No.:** DOJ 5-2003(Temp)

**Filed with Sec. of State:** 6-5-2003

**Certified to be Effective:** 6-5-03 thru 12-2-03

**Notice Publication Date:**

**Rules Amended:** 137-050-0335

**Subject:** The proposed amendment to OAR 137-050-0335 is to clarify which set of child support guidelines to use when calculating past support.

**Rules Coordinator:** Carol Riches—(503) 986-6232

## 137-050-0335

### Implementation of Changes to Child Support Guidelines

(1) Changes to these rules (OAR 137-050-0320 through 137-050-0490) shall apply to all judicial and administrative actions initiated or pending after the effective date of any new, amended, or repealed rule included in this series.

(2) Whenever possible, the support obligation for a time period prior to the effective date of any new, amended, or repealed rule included in this series shall be calculated using the guidelines in effect for that time period.

(3) Rule changes do not constitute a substantial change in circumstances for purposes of modifying a child support order.

(4) As used in this rule, "pending" means any matter that has been initiated before the effective date of a rule change but requires amendment or hearing before a final judgment can be entered.

Stat. Auth.: ORS 180.340 & ORS 25.270 - ORS 25.290  
Stats. Implemented: ORS 25.270 - ORS 25.290  
Hist.: JD 4-1994, f. 10-4-94, cert. ef. 10-15-94; DOJ 1-1999, f. 1-15-99, cert. ef. 3-1-99; DOJ 4-1999, f. 8-27-99, cert. ef. 9-1-99; DOJ 3-2003, f. 4-7-03 cert. ef. 5-12-03; DOJ 5-2003(Temp), f. & cert. ef. 6-5-03 thru 12-2-03

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## Department of Transportation, Board of Maritime Pilots Chapter 856

**Adm. Order No.:** BMP 3-2003

**Filed with Sec. of State:** 5-23-2003

**Certified to be Effective:** 5-23-03

**Notice Publication Date:** 5-1-03

**Rules Adopted:** 856-030-0001, 856-030-0002

**Rules Amended:** 856-030-0000, 856-030-0010, 856-030-0015, 856-030-0020

**Subject:** Establishes new rules requiring pilot organizations to provide notice for board evaluation of any proposed major capital improvements before seeking funding through pilotage rates. Establishes new rules requiring pre-petition notice to board of intent to request change in pilotage rates. Makes amendments to the process for filing petitions and responses.

**Rules Coordinator:** Susan Johnson—(503) 731-4044



# ADMINISTRATIVE RULES

## 856-030-0000

### Ratemaking — Substantive Elements

The Board shall for each pilotage ground establish a rate structure which provides for efficient, economical, and competent pilotage services and fair compensation for pilotage services and expenses:

(1) In determining the number of pilot positions needed and fair compensation for services and expenses, the Board shall consider:

(a) The amount of activity, including number of vessels, number of pilot assignments, size of vessels by net tonnage and length, and draft;

(b) Any change in the amount of activity since the last rate order;

(c) The public interest in prompt and efficient service;

(d) The professional skills and experience required of a pilot and the difficulty and inconvenience of providing the service, including time necessary to perform the service;

(e) Evidence of compensation for comparable maritime professions, including other pilotage associations;

(f) Total gross and net income for the pilots' group since the last rate order, or as directed by the Board, including sources of income by tariff category; and

(g) Individual amounts paid to pilots since the last rate order, or as directed by the Board, which may be shown as both gross and adjusted gross income, as reported for tax purposes.

(2) In determining compensation for expenses the Board shall consider evidence of appropriate expenses related to the provision of pilotage services as shown by records of the pilots' group, and verified by an independent audit.

(3) In receiving evidence on any financial or economic issue, the Board or its hearings officer may require parties to submit independently audited or other financial records in order to hold all parties to a comparable standard of proof.

Stat. Auth.: ORS 776

Stats. Implemented: ORS 776.115

Hist.: MP 2-1983, f. & ef. 12-15-83; MP 3-1988, f. & cert. ef. 11-9-88; BMP 3-2003, f. & cert. ef. 5-23-03

## 856-030-0001

### Capital Improvement Planning

(1) A pilot organization that intends to seek funding through pilotage rates at the next available ratemaking opportunity for reimbursement of the cost of a proposed major capital improvement is encouraged to notify the Board as soon as practicable. A "major capital improvement" is a change in an asset used for or in support of transportation, offices, accommodations, computing or communications that, if funded, would require an increase in revenue produced by rates of five (5) percent or more in the next rate case.

(2) If a pilot organization notifies the Board of a proposed major capital improvement, the Board shall make time on its agenda for one or more of its regularly scheduled meetings for the presentation of information by the pilot organization and discussion of the proposed major capital improvement. The Board may, in addition, appoint a subcommittee of its members to meet with the organization of pilots and other interested parties to evaluate the proposed major capital improvement.

(3) A pilot organization choosing not to utilize the opportunity for Board planning participation provided by this section shall, when filing its pre-petition notice as required by section 856-030-0005, explain its reasons for not doing so.

(4) Major capital improvement expenses shall be submitted to the process provided by this section unless the proponent shows that compliance was prevented by reasons beyond its control and which the proponent could not have reasonably anticipated, or other circumstances make exclusion of the request for major capital improvement funding unjust.

Stat. Auth.: ORS 776

Stats. Implemented: ORS 776.115

Hist.: BMP 3-2003, f. & cert. ef. 5-23-03

## 856-030-0002

### Pre-Petition Notice and Dispute Resolution Process

(1) Any party intending to request a change in pilotage rates must, at least 90 days prior to petitioning the Board, file a notice of intent to petition with the Board, with a copy served on each pilot association, any association representing the interests of vessel owners or operators and any other party that participated in the most recent past rate proceedings. The notice shall contain an explanation of the proposed change, including a description of each new cost item not previously approved by the Board in a rate proceeding, any increase in a cost item previously approved by the Board where the increase is greater than five (5) percent over the amount expended during the prior calendar year, and any requested change in pilot compensation and benefits.

(2) Within 20 days after receipt of the first-filed notice of intent to petition, any other pilot association, any association representing the interests of vessel owners or operators, any other party that participated in the most recent past rate proceedings, shall file their response to the notice, including a description of any intended opposition, or notice of intent to petition for a change on another pilotage ground.

(3) Upon receipt of a notice of intent to petition pursuant to paragraph (1) above, the Board's members representing the public shall be formed as a rate subcommittee.

(4) The Board's rate subcommittee shall, within 45 days of the first filing of a notice of intent to petition, hold a meeting with the party filing the notice and with all respondents thereto. The purpose of the meeting shall be to clarify the issues and begin exploration of possible means of narrowing and simplifying the issues. The rate subcommittee shall encourage the interested parties to utilize mediation or other alternative dispute resolution processes to narrow and simplify issues as much as possible.

(5) Prior to filing of a petition, the rate subcommittee may convene or participate in such additional meetings with interested parties as it deems in the best interests of the Board and the public. The rate subcommittee may, if requested by the interested parties, participate in any mediation or other alternative dispute resolution process that is arranged by the interested parties.

Stat. Auth.: ORS 776, 183

Stats. Implemented: ORS 776.115, ORS 183.415

Hist.: BMP 3-2003, f. & cert. ef. 5-23-03

## 856-030-0010

### Ratemaking — Petitions, Filing and Response

When the Board is petitioned to act under ORS 776.115(5) or acts upon its own motion, the following procedure shall be followed:

(1) An interested person may petition the Board requesting a hearing. The petition is deemed filed when received by the Board at its office. Before the petition can be accepted as filed, the person must deposit \$1,000 with the Board to defray the expenses of the hearing. Deposits are also required with petitions filed for other pilotage grounds as provided in subsection (3)(a) of this rule.

(2) The petition must be in writing, signed by petitioner or petitioner's agent and containing a detailed statement of:

(a) The action requested of the Board, with a detailed listing of all cost items and any requested changes in compensation and benefits;

(b) Enough detailed facts to show petitioner's interest in the factors shown in ORS 776.115(5)(b) and in OAR 856-030-0000 if applicable;

(c) The extent to which the parties have been able to narrow or simplify issues pursuant to OAR 856-030-0003 prior to the petition being filed.

(d) The name and address of petitioner and of any other persons petitioner knows who may be interested in the proceeding; and a statement as to whether a copy of the petition has been served upon them.

(3) Upon receipt of the petition, the Board will mail a true copy of the petition and a copy of any applicable rules of practice to all parties named in the petition unless they have been previously served by petitioner. The Board will include in its mailing those who the Board believes have interest in the proceeding, including pilots' groups and owner/operator associations on all pilotage grounds. The mailing will be by certified or registered mail and will be deemed served on the date of mailing to the last known address of the person being served:

(a) The Board will advise all parties that they have 30 days to file with the Board and the petitioner a petition for another ground, a counter-petition or answer, or other applicable pleading or response. For good cause shown, the Board may extend the time for filing responses for a period not to exceed an additional 20 days. If representatives of pilotage grounds other than those of petitioner wish a rate change, they must file a petition or answer within the time period set by this;

(b) The responses filed by interested parties, whether counter-petitions or responses, must address the factors in ORS 776.115(5)(b) and in OAR 856-030-0000 and all related issues raised in the petition.

(4)(a) Within 45 days of the filing of a petition under this rule, the Board shall appoint a hearings officer and delegate to the hearings officer its powers to subpoena, swear witnesses and otherwise conduct a contested case hearing as required under ORS Chapters 183 and 776;

(b) The hearings officer will set the hearing for a date and time most convenient to the parties concerned, but not later than 90 days after the filing of the petition.

(5) Pre-hearing Conferences, Exhibits and Testimony:

(a) In order to make a more effective use of hearing time in formal proceedings and to expedite the orderly conduct and disposition of the pro-

# ADMINISTRATIVE RULES

ceedings, the hearings officer shall arrange for conferences between the parties to consider:

(A) Simplifying and clarifying the issues and eliminating irrelevant or immaterial issues;

(B) Obtaining stipulations as to facts, authenticity of documents, admissibility of evidence, and other matters;

(C) Such other aids to the orderly conduct and disposition of the proceeding as may be possible.

(b) Conferences may be called before the hearing, or the hearing may be recessed for a conference. The presiding officer shall state on the record the results of such a conference;

(c) Exhibits and testimony. The hearings officer shall require the parties to file proposed written testimony and exhibits with the Board before the date set for hearing, reserving rights of cross-examination. Any objections to the pre-filed testimony and exhibits shall be resolved prior to the hearing.

(6) Intervention. Any person with a material interest may by written petition seek permission to intervene in any proceeding before the Board. The petition shall contain:

(a) The name and address of the party intervening and the party's attorney, if any;

(b) Sufficient facts to show clearly the interest of the proposed intervention and how any action taken by the Board will affect that interest;

(c) The position of the party in the proceeding. Intervention shall not broaden the issues in the proceeding nor shall intervention delay the hearing or unfairly prejudice the other parties.

(7) Notwithstanding the provisions of this section, the Board shall, absent emergency circumstances, refuse to accept any petition to change pilotage rates for any pilotage ground if less than 16 months have elapsed since the effective date of the last rate order for that or any other pilotage ground. The burden shall be on a petitioner wishing to shorten this period to demonstrate emergency circumstances affecting the public interest. In the event the Board determines there are emergency circumstances affecting the public interest that require an immediate rate proceeding, the Board shall issue an order setting forth its justifications for accepting the petition. The order shall be mailed to the petitioner and to other persons upon whom a copy of the petition was served.

Stat. Auth.: ORS 776

Stats. Implemented: ORS 183.413 - ORS 183.470, 776.115, 776.125 & 776.135

Hist.: PC 6, f. 6-2-72, ef. 6-15-72; MP 2-1983, f. & ef. 12-15-83; MP 2-1984, f. & ef. 10-4-84; Renumbered from 856-020-0115; MP 3-1988, f. & cert. ef. 11-9-88; MP 1-1996, f. & cert. ef. 5-9-96; BMP 3-2003, f. & cert. ef. 5-23-03

## 856-030-0015

### Conduct of the Hearing

(1) The hearing shall be conducted in accordance with ORS 183.425 to 183.464 and the Attorney General's Model Rules.

(2) If the hearings officer believes that additional evidence or written argument is necessary to complete the record, the officer may allow additional time for the presentation of further evidence on specific issues designated by the officer or for submission of written arguments. No further evidence or argument shall be received without notice to all parties or later than 10 days after the oral hearing. Any party presenting such evidence or argument shall provide copies to all parties.

(3) The hearings officer shall submit the officer's proposed order to the Board and to all parties within 30 days after the close of the hearing.

Stat. Auth.: ORS 776

Stats. Implemented: ORS 183.425 & ORS 776.115

Hist.: PC 6, f. 6-2-72, ef. 6-15-72; PC 9, f. & ef. 11-12-76; MP 2-1983, f. & ef. 12-15-83; MP 2-1984, f. & ef. 10-4-84; Renumbered from 856-020-0120; MP 1-1996, f. & cert. ef. 5-9-96; BMP 3-2003, f. & cert. ef. 5-23-03

## 856-030-0020

### Proposed Orders

(1) In any case heard under Division 030, Ratemaking Procedures, the hearings officer shall prepare and serve on all members of the Board, and on all parties to the hearing, a proposed order which includes recommended findings of fact and conclusions of law.

(2) The parties affected by the order shall have 15 days from the date of the proposed order to present their objections or alternative proposed orders to the Board.

Stat. Auth.: ORS 776

Stats. Implemented: ORS 183.464 & ORS 776.115

Hist.: PC 6, f. 6-2-72, ef. 6-15-72; MP 2-1983, f. & ef. 12-15-83; MP 2-1984, f. & ef. 10-4-84; Renumbered from 856-020-0125; MP 3-1988, f. & cert. ef. 11-9-88; BMP 3-2003, f. & cert. ef. 5-23-03

## Employment Department Chapter 471

**Adm. Order No.:** ED 8-2003

**Filed with Sec. of State:** 5-22-2003

**Certified to be Effective:** 5-25-03

**Notice Publication Date:** 4-1-03

**Rules Amended:** 471-040-0021

**Subject:** The Employment Department is amending the "Postponement of Hearings" rule to clarify the procedure for allowing a postponement.

**Rules Coordinator:** Richard L. Luthe—(503) 947-1724

### 471-040-0021

#### Postponement of Hearing

(1) At the request of a party or on the hearing officer's own initiative, a hearing officer may order, orally or in writing, that a hearing be postponed.

(2) A postponement may be granted by Hearing Officer Panel staff at the request of a party if:

(a) The request is promptly made after the party becomes aware of the need for postponement; and

(b) The party has good cause, as stated in the request, for not attending the hearing at the time and date set.

(3) For the purpose of subsection (2)(b) of this rule, good cause exists when:

(a) The circumstances causing the request are beyond the reasonable control of the requesting party; and

(b) Failure to grant the postponement would result in undue hardship to the requesting party.

Stat. Auth.: ORS 183.335, ORS 657.260, ORS 657.265 - ORS 657.270, ORS 657.335, ORS 657.610 & Ch. 729, OL 1993

Stats. Implemented: ORS 657.280 & ORS 657.610

Hist.: IDE 153, f. 12-23-77, ef. 1-1-78; ED 4-1994, f. & cert. ef. 9-2-94; ED 8-2003, f. 5-22-03, cert. ef. 5-25-03

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**Adm. Order No.:** ED 9-2003

**Filed with Sec. of State:** 5-22-2003

**Certified to be Effective:** 5-25-03

**Notice Publication Date:** 4-1-03

**Rules Amended:** 471-010-0054

**Rules Repealed:** 471-010-0054(T)

**Subject:** The Employment Department is amending the "Customer Information" rule to clarify who is allowed to witness signatures on the the Department's 1826 "Release of Information" form.

**Rules Coordinator:** Richard L. Luthe—(503) 947-1724

### 471-010-0054

#### Customer Information and Disclosure Authorized Disclosure

(1) The department is authorized to disclose confidential information or records to public agencies, provided that a written disclosure agreement is in place, under the following circumstances:

(a) In the "discharge of duties" as authorized by the department Director;

(b) For public administration of compensation and retirement, relief or welfare laws;

(c) To state and federal agencies authorized by ORS Chapter 657;

(d) For the purpose of providing payment of unemployment insurance benefits; or

(e) To state agencies or political subdivisions for governmental planning functions, consistent with Section (2) of this rule.

(2) The department is authorized to disclose confidential information or records for governmental planning functions by state agencies or political subdivisions provided that the information is:

(a) Only for planning purposes;

(b) Only if the information or records are necessary for the successful performance of those planning activities; and

(c) Only if the requesting agency's authorizing statute clearly and reasonably provides that the agency perform planning functions.

(3) The department is authorized to disclose confidential information or records as authorized under ORS Chapter 657 to non-governmental entities if the non-governmental entity enters into a written disclosure agreement with the department that:

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(a) Requires informed consent from the individual to whom the information pertains;

(b) Safeguards the information once in the hands of the non-governmental entity; and

(c) Requires the non-governmental entity to pay all costs associated with the disclosure.

(4) The department is authorized to disclose confidential information or records to a third party or agent if:

(a) The Oregon Employment Department staff receives a written authorization signed and dated by the customer that specifically states the information that may be disclosed;

(b) The written authorization is witnessed or verified by Oregon Employment Department staff, partner staff authorized by the Director, or notarized; and

(c) The third party or agent presenting the request is the same party authorized to receive the information.

(5) Unless otherwise authorized by these rules the department is authorized to disclose confidential information or records to a customer only under the following provisions:

(a) The Oregon Employment Department staff is sure that the information was provided by the customer, or was previously provided to the customer; or

(b) For Oregon Employment Department wage records, the wage records are identified under the name, social security number or account number of the customer; and

(c) The Oregon Employment Department staff is sure that the customer's identity is the customer to which the information directly relates.

(6) The department is authorized to disclose confidential information or records to the customer's attorney or Certified Public Accountant without written authorization by the customer if the attorney or CPA affirmatively represents their client relationship with the customer. Disclosure to any other agent of the customer requires a written authorization under Section (4) of this rule.

(7) The department is authorized to disclose:

(a) Confidential information or records necessary to prepare for a pending hearing to the extent necessary for the proper presentation of an Unemployment Insurance benefit claim at a hearing before a hearing officer, once a request for hearing has been filed, or for a review arising under a state or federal program administered by the department to a party or agent of a party.

(b) Hearing information or records to a party or agent of a party to the hearing. Information or records submitted but not received into evidence remain confidential and are not subject to disclosure except to the party submitting the information or records.

(8) The department is authorized to disclose confidential information or records pursuant to a customer's request, to a legislator or other elected official, or their staff, if the department receives a copy of the customer's letter to the legislator or other elected official. The department will treat the letter as the customer's authorization for the legislator or other elected official, or their staff, to disclose the information necessary to fulfill the customer's request. If no letter is available, Oregon Employment Department staff will provide customer information only after verifying with the legislator or other elected official, or their staff, that the contact is from the customer. If contact was not from the customer, a written authorization is required.

(9) The department is authorized to disclose confidential information or records without the customer's specific authorization and without a written disclosure agreement under the following provisions:

(a) In the "discharge of duties" as authorized by the department Director for Oregon Employment Department programs under ORS Chapter 657;

(b) For mandatory disclosures under the Social Security Act or other federal law; or

(c) In accordance with state or federal laws requiring cooperation with properly identified law enforcement officers or District Attorneys in the performance of their duties and pursuant to a warrant for the arrest of an individual;

(d) To a court in a civil or criminal proceeding to which the State of Oregon is a party;

(e) To authorized personnel of agencies of other states for the purpose of administering federally funded unemployment insurance programs, Temporary Assistance to Needy Families, child support enforcement programs, and food stamps;

(f) To properly identified officials of the United States Social Security Administration and the United States Department of Health and Human

Services for audit and administration of the Supplemental Security Income Program;

(g) To properly identified officials of the United States Department of Agriculture for audit and administration of the food stamp program; or

(h) To properly identified officials of state and federal agencies charged with administration of fair employment practices and anti-discrimination activities.

(10) Oregon Employment Department staff are expected to comply with Oregon child abuse reporting laws, elderly abuse reporting laws and patient abuse reporting laws.

(11) When an authorized representative of the department has been served a subpoena or other legal compulsory process to produce or disclose information from department records and the disclosure of such information is not specifically allowed under ORS Chapter 657 or this rule:

(a) The Director shall promptly inform the Assistant Attorney General assigned to the department of such demand;

(b) If the disclosure would, in the opinion of the Assistant Attorney General, be inconsistent with the provisions of state law or any policy or rule adopted pursuant to such law, the Assistant Attorney General shall take action to prevent the disclosure.

(12) Drug or alcohol abuse information or records received from federally funded treatment programs, facilities or activities may not be used or redisclosed by the department without the written consent of the patient.

(13) The Workforce Investment Act requires the department to provide its core services funded under the Wagner-Peyser Act (29 U.S.C. 49 et. seq.) through a one-stop delivery system with other one-stop partners. HB 3835 (codified chapter not yet available; Oregon Laws 2001) requires the implementation of an Oregon integrated workforce investment system to serve employers and workers that is in compliance with the Workforce Investment Act. Under these provisions the Employment Department provides information about the unemployment insurance program and delivers core activities of the employment service program to employer and job seeker customers of the one-stop delivery system. It is within the responsibilities of the department Director to ensure that the administration of the Department's programs and services for claimants, job seekers and employers is within the one-stop delivery system. With the increased need for collaboration and customer service in the one-stop delivery system the Director is able to disclose the following information to workforce partners about customers within the authority of "discharge of duties."

(a) The department is authorized to disclose confidential unemployment insurance wage records to required or mandatory entities in the one-stop delivery system for performance measurement purposes only under the following conditions:

(A) The requesting entity is a required or mandatory one-stop delivery system partner as described in Section 121 of the Workforce Investment Act or HB 3835 (codified chapter not yet available; Oregon Laws 2001);

(B) The individual for whom information is requested must have been provided with full disclosure of:

(i) How the information will be used;

(ii) The authority which authorizes the disclosure of the information and whether disclosure of such information by the individual is mandatory or voluntary; and

(iii) The effects on the individual, if any, of not allowing disclosure of the information.

(C) The information requested shall not be used for eligibility determination, case management, intake, compliance, or any other purposes, except as required by state or federal law;

(D) The data can only be disclosed to "public employees", i.e. employees of governmental agencies and shall not be disclosed to volunteers or employees of non-governmental entities that may be mandatory or optional partners in a local one-stop delivery system;

(E) The requesting entity must disclose program-related performance information, for the same individual, to Oregon Employment Department staff; and

(F) There must be an interagency or other applicable agreement with the one-stop delivery system partners that provides for safeguarding of the disclosed information, prohibits re-disclosure of the information without the express consent of the Employment Department, and imposes sanctions for the unauthorized disclosure of confidential information.

(b) Job orders that are designated by the employer for "self-referral" may be shared among one-stop delivery system partners without consent of the employer and without an interagency or other applicable agreement among the one-stop delivery system partners. Identifying information on job orders that are designated by the employer as "suppressed", meaning the employer wants referrals on the job order to be screened by the

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Employment Department, may not be shared with one-stop delivery system partners. One-stop delivery system partners are required to refer clients or customers to the department for referral on "suppressed" job orders. The Employment Department may share "suppressed" job orders with one-stop delivery system partners if there is an interagency or other applicable agreement with the one-stop delivery system partner(s) that establishes, to the satisfaction of the Employment Department Director, how the job order system will be managed in a one-stop delivery system center and that assures employers quality referrals on "suppressed" job orders, including coordination of referrals by one-stop delivery system partners.

(c) Information necessary for providing employer relations services to employers for marketing, visitation, or promoting the one-stop delivery system, including details such as who to contact, planned contact schedules, and results of contacts and telephone calls, can be shared for coordinated employer relations efforts in a one-stop delivery system if there is an interagency or other applicable agreement with the one-stop delivery system partners that describes the needs, the process, and expectations of the employer relations program. The agreement should also provide for steps in safeguarding confidential employer information and assurance to the Employment Department Director that a high level of customer service is provided to the employer concerning the various activities offered by the one-stop delivery system partners. This subsection does not authorize any disclosure of employer wage records and employer tax data.

(d) The department is authorized to disclose job seeker information to partners in the one-stop delivery system under the following conditions:

(A) The requesting entity is a required or mandatory one-stop delivery system partner as described in Section 121 of the Workforce Investment Act or HB 3835 (codified chapter not yet available; Oregon Laws 2001);

(B) There is an interagency or other applicable agreement with the one-stop delivery system partner describing how the information will be used, that provides for the safeguarding of the information, and imposes sanctions for the unauthorized re-disclosure of the information;

(C) The individual for whom information is requested must have been provided with full disclosure of:

(i) How the information will be used;

(ii) The authority which authorizes the disclosure of the information and whether disclosure of such information by the individual is mandatory or voluntary; and

(iii) The effects on the individual, if any, of not allowing disclosure of the information.

(D) The disclosed information shall only be used for the purposes of "intake and referral", which would not include activities such as program eligibility or sanctions; and

(E) The information to be disclosed must be based on a "need to know" for job placement purposes by the one-stop partner. "Need to know" data would include a person's work history, education, training, and skill background as well as personal identification. This subsection does not authorize disclosure of job referrals, job orders or unemployment insurance claims information.

(14) Oregon Employment Department staff is authorized to access confidential information only as needed to perform official duties. Oregon Employment Department staff is not authorized to access confidential information to satisfy curiosity, use the information for personal gain, or provide confidential information to friends or relatives or any unauthorized individual. Oregon Employment Department staff is prohibited, except as authorized under these rules, from disclosing confidential information to any individual who is not an employee or hosted worker of the department (including a spouse or relative) and shall not discuss confidential information among co-workers except as needed to perform the job. Disclosure or discussion of confidential information on personal time or in non-work settings is prohibited.

(15) Hosted workers are authorized to access confidential information only when there is an interagency or other applicable agreement with the employing entity, or the hosted worker if there is no employing entity, that provides sanctions for the unauthorized disclosure of confidential information. Hosted workers must be under the functional control of Oregon Employment Department staff.

Stat. Auth.: ORS 657.610

Stats. Implemented: ORS 657.665 & ORS 657

Hist.: IDE 6-1980, f. & ef. 9-8-80; IDE 1-1981, f. & ef. 1-15-81; IDE 1-1982, f. & ef. 6-30-82; IDE 2-1984, f. & ef. 9-28-84; IDE 3-1985, f. & ef. 12-16-85; ED 1-1991, f. & cert. ef. 4-1-91; ED 1-1996, f. 4-24-96, cert. ef. 4-29-96; ED 2-2000(Temp), f. 6-9-00, cert. ef. 6-11-00 thru 12-8-00; ED 7-2000, f. 12-1-00, cert. ef. 12-3-00; ED 3-2001(Temp), f. 3-16-01, cert. ef. 3-18-01 thru 9-14-01; ED 10-2001, f. 9-28-01, cert. ef. 9-30-01; ED 9-2002(Temp), f. 11-27-02 cert. ef. 12-1-02 thru 5-30-03; ED 9-2003, f. 5-22-03, cert. ef. 5-25-03

## Landscape Contractors Board Chapter 808

**Adm. Order No.:** LCB 3-2003

**Filed with Sec. of State:** 5-27-2003

**Certified to be Effective:** 6-1-03

**Notice Publication Date:** 5-1-03

**Rules Adopted:** 808-001-0008

**Subject:** 808-001-0008 - Adopt 2003-05 Biennium Budget.

**Rules Coordinator:** Kim Gladwill-Rowley—(503) 986-6570

### 808-001-0008

#### Operating Budget

Pursuant to ORS 182.462, the Board adopts the budget, for the biennium beginning July 1, 2003, and ending June 30, 2005, as approved at the Regular Board Meeting held May 16, 2003. The Board Administrator will amend budgeted accounts as necessary, within the approved budget for the effective operation of the Board. Copies of the budget are available at the Board's office.

[Publications: Publications referenced are available from the Agency.]

Stat. Auth.: ORS 670.310, ORS 671.670

Stats. Implemented: ORS 182.462

Hist.: LCB 3-2003, f. 5-27-03, cert. ef. 6-1-03

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**Adm. Order No.:** LCB 4-2003

**Filed with Sec. of State:** 5-27-2003

**Certified to be Effective:** 6-1-03

**Notice Publication Date:** 5-1-03

**Rules Amended:** 808-002-0620, 808-003-0025, 808-003-0045, 808-003-0050, 808-005-0020

**Subject:** 808-002-0620 - Clarifies definition of "Maintenance."

808-003-0025 - Adds requirement for signature and telephone number of client to verify maintenance experience and adds qualification to become a licensed landscape contractor for a holder of an active CCB license who also holds a current certification with the International Society of Arboriculture as a Certified Arborist.

808-003-0045 - Clarifies when a landscape business has a change in employed licensed landscape contractor, the business must notify the agency within ten days of the change and shall not offer or perform services for which it may no longer hold a license for that phase.

808-003-0050 - States a landscape business must submit verification of the individual licensed contractor it employs.

808-005-0020 - Failure to notify the agency of a change in employed licensed landscape contractor is a \$500 civil penalty, and failure to provide verification of the licensed individual landscape contractor employed by the business is a \$500 civil penalty.

**Rules Coordinator:** Kim Gladwill-Rowley—(503) 986-6570

### 808-002-0620

#### Maintenance

"Maintenance" means the regular and practical care of existing landscapes and would include, but are not limited to, the mowing, trimming and edging of lawns, planting of annuals, perennials and bulbs and pruning of vegetation to a height of no more than 15 feet above ground level, removal of trees up to 15 feet in height where the diameter of the tree is 4 inches or less when measured at 6" to 12" above soil line. Limbs may be removed when the diameter of the limb is 3 inches or less at its origin. Replacement planting may occur under the definition of maintenance when the combined total of all plantings including labor, material and mark up does not exceed \$500.00 per site per year as per ORS 671.540(3). Irrigation repair and maintenance is not included in the definition of this work.

Stat. Auth.: ORS 183.325 - ORS 183.410, ORS 670.310 & ORS 671.670

Stats. Implemented: ORS 671.540

Hist.: LC 3, f. & ef. 2-7-77; LC 1-1981, f. & ef. 10-8-81; LC 1-1984, f. & ef. 7-17-84; LC 2-1984, f. & ef. 10-2-84; LC 1-1985, f. & ef. 7-1-85; LC 1-1986, f. & ef. 1-3-86; LCB 1-1988, f. 1-26-88, cert. ef. 2-1-88; Renumbered from 808-010-0010; LCB 1-1991, f. & cert. ef. 7-22-91; LCB 3-1991(Temp), f. & cert. ef. 12-3-91; LCB 1-1992, f. 1-27-92, cert. ef. 2-1-92; LCB 2-1992, f. 7-14-92, cert. ef. 7-15-92; LCB 3-1992(Temp), f. & cert. ef. 7-16-92; LCB 1-1993, f. & cert. ef. 1-19-93; LCB 4-1993, f. & cert. ef. 11-1-93; LSCB 2-1997, f. & cert. ef. 11-3-97; LCB 1-1998, f. & cert. ef. 2-6-98; LCB 3-1998(Temp), f. & cert. ef. 11-16-98 thru 5-15-99; LCB 1-1999, f. & cert. ef. 2-11-99; LCB 3-1999, f. & cert. ef. 11-17-99, Renumbered from 808-002-0010; LCB 4-2003, f. 5-27-03, cert. ef. 6-1-03

# ADMINISTRATIVE RULES

## 808-003-0025

### Alternative Experience

(1) In lieu of experience required by ORS 671.570(1)(a), an applicant may submit documentation showing two years of related landscaping experience by identifying six individual projects per calendar year for two years. For the maximum, two years' experience, the applicant may document 24 projects, six per calendar year, for four years.

(2) To qualify under subsection (1), the applicant shall submit documentation for each project on forms provided by the agency. The following shall be provided for each project, for use by the agency in verifying the information:

- (a) Name and address of person for whom the project was done;
- (b) Description of work done;
- (c) Cost of project (must be \$100 or more but less than \$500 for a single non-recurring project);
- (d) Date of project; and
- (e) Copy of contract, if available.
- (f) Signature of client
- (g) Telephone number of client for verification purposes

(3) An applicant will be deemed to have qualifying experience under ORS 671.570(1)(b) if the applicant:

(a) Completes the Certified Landscape Technician (CLT) program administered by the Oregon Landscape Contractors Association or Associated Landscape Contractors of America; or

(b) Obtains an Associate, Bachelor's or Master's Degree in horticulture or other related fields from an accredited school or college, which includes the completion of a cooperative work experience requirement, or

(c) Holds an active license under ORS 701 and holds a current certification with the International Society of Arboriculture (ISA) as a Certified Arborist.

Stat. Auth.: ORS 183.310 - ORS 183.500, ORS 670.310 & ORS 671.670

Stats. Implemented: ORS 671.570

Hist.: LC 1-1985, f. & ef. 7-1-85; LCB 1-1988, f. 1-26-88, cert. ef. 2-1-88; Renumbered from 808-010-0016; LSCB 2-1994, f. 11-8-94, cert. ef. 11-15-94; LCB 2-1998, f. & cert. ef. 4-30-98; LCB 4-2002, f. & cert. ef. 12-4-02; LCB 4-2003, f. 5-27-03, cert. ef. 6-1-03

## 808-003-0045

### Limitation of Service by License

(1) Landscape contractors holding limited licenses may add to the phase of landscape contracting they perform by taking and passing additional exams. Licensees shall submit the required fees and a written request to take the additional exams.

(2) The following tests must be taken and passed to hold a standard landscape license:

(a) General license holders must take Laws and Rules, General A, General B, General C, and General D;

(b) Sod & Seed license holders must take General A, General B, General C, and General D.

(c) Tree license holders must take General A, General B, General C, and General D.

(3) Holders of a General license, Sod & Seed license or a Tree license must take and pass the irrigation and LIBDI sections of the landscape examination to become licensed to perform irrigation work.

(4) If a landscape business' phases of license change because its employed landscape contractors' phases of license changes or because an employed landscape contractor ceases to be employed by the business, the business shall notify the agency in writing within ten (10) days of the change of license phase to obtain an updated license.

(a) If the individual license holder for a business leaves the employ of the business, the individual license holder must notify the agency in writing (regular mail, fax or email) within ten (10) days of date of departure; and

(b) The business for which this licensee worked must immediately stop performing landscape work until they have an owner that is licensed, or employ an individual landscape contractor licensed, at the level that the business desires to perform.

(5) When license limitations change, the agency will issue new licenses at no cost to licensee. The landscape business shall not offer or perform services for which it does not have a corresponding landscape contractor licensed to perform those phases of landscape contracting.

Stat. Auth.: ORS 183 & ORS 671

Stats. Implemented: ORS 671.560

Hist.: LC 1-1984, f. & ef. 7-17-84; LCB 1-1988, f. 1-26-88, cert. & ef. 2-1-88; Renumbered from 808-010-0022; LCB 1-2003, f. 1-31-03, cert. ef. 2-1-03; LCB 4-2003, f. 5-27-03, cert. ef. 6-1-03

## 808-003-0050

### Employment

(1) An individual landscape contractor may be employed by more than one landscaping business.

(2) Upon application for and renewal of a license, a landscaping business will submit a verification form (supplied by the agency) that identifies each individual licensed landscape contractor employed by the landscaping business. Upon application and renewal of a license, the landscape business will also submit copies of all W-4 forms identifying licensed landscape contractors employed by the business.

(3) When an individual landscape contractor renews the landscape contractor's license, if the individual landscape contractor is employed by a business other than a business owned by the landscape contractor and the landscape contractor's phase of license is the basis for the landscape business' phase of license:

(a) The individual landscape contractor must sign and have notarized a statement on a form provided by the agency that verifies the individual landscape contractor:

(A) Is a paid employee of the landscape business;

(B) Knows and understands all of the current obligations for supervising the work based on the individual landscape contractor's phase of their license; and

(C) Understands that the individual licensed contractor shall attend all on-site investigations and appear at any hearings that are a consequence of any claims filed against the landscape business.

(b) The individual landscape contractor must notify the agency within ten (10) days of termination of employment with any landscaping business.

Stat. Auth.: ORS 183 & ORS 671

Stats. Implemented: ORS 671.660

Hist.: LC 1-1984, f. & ef. 7-17-84; LCB 1-1988, f. 1-26-88, cert. & ef. 2-1-88; Renumbered from 808-010-0023; LCB 4-2003, f. 5-27-03, cert. ef. 6-1-03

## 808-005-0020

### Schedule of Civil Penalties

The agency may assess civil penalties according to the following schedule:

(1) For operating as a landscaping business in violation of ORS 671.530(3) or (4), \$1,000; to be reduced to \$600 if the respondent obtains a landscaping business license within a specified time.

(2) For operating as a landscaping business in violation of ORS 671.530(3) or (4), when a claim has been filed for damages arising out of that work, \$2,000; to be reduced to \$600 if the respondent obtains a landscaping business license within a specified time and settles or makes reasonable attempts to settle with the claimant.

(3) For operating as a landscaping business in violation of ORS 671.530(3) or (4), when one or more previous violations have occurred, \$2,000.

(4) For advertising in violation of ORS 671.530(2) or (4), \$600; to be reduced to \$200 if the respondent obtains a landscaping business license within a specified time, or to \$50 if the advertisement is withdrawn immediately upon notification from the agency and no work was accepted as a result of the advertisement.

(5) For advertising in violation of ORS 671.530(2) or (4), when one or more previous violations have occurred, \$600.

(6) For operating as a landscaping business without employing at least one licensed landscape contractor licensed within the phase of work performed, in violation of OAR 808-003-0035, \$200.

(7) For performing landscaping work while not subject to a written contract, in violation of ORS 671.625(2) and these rules, \$200.

(8) For failure to include the license number in advertising, in violation of OAR 808-003-0010:

(a) First offense, \$100;

(b) Second offense, \$400; and

(c) Subsequent offenses, \$1000.

(9) For working in a specialty not licensed for, \$400.

(10) For installation of irrigation backflow prevention equipment or tapping into the potable water supply:

(a) In violation of OAR 808-003-0040, per offense, \$500; or

(b) In violation of a written agreement with the Board as provided in OAR 808-003-0035(3)(b) and 808-003-0040(3), \$1,000 and suspension of the license.

(11) For failure to maintain the insurance required by ORS 671.565 in effect continuously throughout the license period, \$200.

(12) For failure to maintain the insurance required by ORS 671.565 in effect continuously throughout the license period, if the licensee, in per-

# ADMINISTRATIVE RULES

formance of work subject to ORS 671.510 to 671.710, causes damage to another entity or to the property of another person for which that entity or person could have been compensated by an insurance company had the required insurance been in effect, \$2,000, in addition to such other action as may be authorized by statute.

(13) Failure to conform to information provided on the application in violation of ORS 671.510 to 671.710, \$1,000 and suspension of the license until the applicant provides the agency with proof of conformance with the application.

(14) Failure to comply with any part of ORS Chapters 316, 656, 657, and 671, as authorized by ORS 671.510 to 671.710, \$1,000 and suspension of the license until the applicant provides the agency with proof of compliance with the statutes.

(15) Violating an order to stop work as authorized by ORS 671.510 to 671.710, \$1,000 per day.

(16) For failure to obtain a permit to tap into a potable water supply and install irrigation backflow prevention equipment or failure to comply with applicable plumbing code requirements, \$500 per offense.

(17) For failure to comply with an investigative order issued by the Board, \$500, and suspension of the license until the license-holder complies with the order.

(18) When as set forth in ORS 671.610(8), the number of licensed landscaping businesses working together on the same task on the same job site, where one of the businesses is licensed exempt under ORS 671.525(2)(b), exceeded two sole proprietors, one partnership, or one limited liability company, penalties shall be imposed on each of the persons to whom the contract is awarded and each of the persons who award the contract, as follows:

- (a) \$1,000 for the first offense,
- (b) \$2,000 for the second offense,
- (c) Six month suspension of the license for the third offense, and
- (d) Three-year revocation of license for a fourth offense.

(19) Failure to notify the agency as required by OAR in 808-003-0045(4), \$500.00.

(20) Failure to provide a signed statement and notarized statement as required by OAR 808-003-0050 (3)(a), \$500.00.

Stat. Auth.: ORS 183.310 - ORS 183.500, ORS 670.310 & ORS 671.670  
Stats. Implemented: ORS 671.720

Hist.: LCB 1-1988, f. 1-26-88, cert. ef. 2-1-88; LCB 2-1990, f. 7-27-90, cert. ef. 8-1-90; LCB 2-1991(Temp), f. 9-27-91, cert. ef. 9-29-91; LCB 1-1992, f. 1-27-92, cert. ef. 2-1-92; LCB 2-1992, f. 7-14-92, cert. ef. 7-15-92; LSCB 2-1994, f. 11-8-94, cert. ef. 11-15-94; LSCB 2-1995, f. 8-8-95, cert. ef. 8-15-95; LSCB 2-1997, f. & cert. ef. 11-3-97; LCB 4-2002, f. & cert. ef. 12-4-02; LCB 4-2003, f. 5-27-03, cert. ef. 6-1-03

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## Oregon Department of Education Chapter 581

**Adm. Order No.:** ODE 8-2003

**Filed with Sec. of State:** 6-9-2003

**Certified to be Effective:** 6-10-03

**Notice Publication Date:** 5-1-03

**Rules Amended:** 581-015-1105, 581-015-1106

**Subject:** Authorization of Early Childhood Supervisor and Authorization of Early Childhood Specialist. For questions regarding this rule, please contact Suzy Harris at (503) 378-3600, ext. 2333 or e-mail suzy.harris@state.or.us. For a copy of the rules, please contact Debby Ryan at (503) 378-3600, ext. 2348 or e-mail debby.ryan@state.or.us

**Rules Coordinator:** Debby Ryan—(503) 378-3600, ext. 2348

### 581-015-1105

#### Authorization of Early Childhood Specialist

(1) This rule establishes an alternative to Teacher Standards and Practices Commission (TSPC) licensure or endorsements for individuals to serve as Early Childhood Specialists for Programs. Individuals with TSPC issued endorsements in EI/ECSE or a related field are not covered by sections (4) - (12).

(2) Responsibilities of the Early Childhood Specialist may include but are not limited to:

- (a) Coordination of EI/ECSE services to children and their families;
- (b) Assessment of children in EI/ECSE programs;
- (c) Development and implementation of IFSP;
- (d) Development and implementation of data collection systems;
- (e) Provision of Consultation and support, as necessary, to families and staff;
- (f) Training of instructional assistants;

(g) Compliance with procedural safeguards; and

(h) Provision of specialized instruction.

(3) Early Childhood Specialists shall possess a minimum of a bachelor degree in early childhood education, special education or a related field.

(4) Individuals without a TSPC endorsement in EI/ECSE or a related field shall successfully demonstrate competency at the specialist level in the following areas, which are described in the document, "Competencies for Professionals Working in EI/ECSE in Oregon":

(a) Typical/Atypical Childhood Development;

(b) Assessment;

(c) Family;

(d) Service Delivery;

(e) Program Management;

(f) Service Coordination;

(g) Research;

(h) Professional Development Values/Ethics.

(5) Candidates for the Early Childhood Specialist authorization shall complete an application and portfolio that documents their mastery level of each component within the competency areas listed in section (4) of this rule.

(6) The candidate shall submit the application and portfolio to the Oregon Department of Education for review. Specialist employed on or after October 1, 1998, must complete the authorization within 12 months of employment. The Office of Special Education shall convene a panel at least two times per year to review the candidate's portfolio. The panel shall consist of a minimum of three professionals representing the Oregon Department of Education, higher education, and EI/ECSE service providers. The panel will recommend approval or non-approval of the Early Childhood Specialist authorization for the candidate to the State Superintendent of Public Instruction.

(7) The Superintendent shall approve or deny the candidate's application considering the recommendation of the panel:

(a) Each approved candidate shall receive authorization from the Department as an Early Childhood Specialist;

(b) Each nonapproved candidate shall receive notice from the Department. The notice shall include the reasons for denial and the right of appeal to the State Board of Education.

(8) If a candidate is unable to complete the authorization process within a 12-month period, the EI/ECSE contractor shall request a waiver from the Oregon Department of Education for up to one year to allow for the candidate's completion of the authorization process.

(9) Initial authorization shall be valid for a period of three years. Subsequent authorization shall be valid for a period of five years.

(10) Applicant renewal of the Early Childhood Specialist authorization shall include the following:

(a) For initial renewal, a minimum of two years experience between issuance of initial authorization and renewal application;

(b) For subsequent renewal, a minimum of three years experience between previous renewal and current application.

(c) Written verification by the applicant's supervisor documenting:

(A) Completion of a minimum of 75 Professional Development Units for initial reauthorization or a minimum of 125 Professional Development Units for subsequent reauthorization;

(B) Completion of a Professional Development Plan developed with the applicant's supervisor; and

(C) Development of a new Professional Development Plan developed with the applicant's supervisor.

(11) The Department shall deny or revoke authorization of an Early Childhood Specialist under any of the following conditions:

(a) The individual has been convicted of any of the crimes listed in ORS 342.143, or the substantial equivalent of any of those crimes if the conviction occurred in another jurisdiction or in Oregon under a different statutory name or number; or

(b) The individual has made a false statement as to the conviction of a crime.

(12) The Department may deny or revoke authorization for an Early Childhood Specialist if the individual is charged with a breach of professional responsibilities, which is verified by his/her immediate supervisor.

(13) Individual whose authorization has been revoked shall receive notice from the Department. The notice shall include the reasons for denial and the right of appeal to the State Board of Education.

(14) All specialists employed by EI/ECSE contractors or subcontractors shall have a professional development plan based on the content of the EI/ECSE Competencies as listed in section (4) of this rule.

# ADMINISTRATIVE RULES

(15) A temporary waiver may be requested by the EI/ECSE contractor when an emergency arises due to a misassignment or unsuccessful recruitment efforts. The request for the waiver shall be submitted to the Oregon Department of Education and shall include:

(a) Documentation of efforts to employ personnel who meet the required competencies;

(b) The name, position, and qualifications of the employed personnel;

(c) A copy of the professional development plan as described in section (13) of this rule; and

(d) Assurances that the plan will be implemented.

Stat. Auth.: ORS 329.255 & ORS 329.275

Stats. Implemented: ORS 343.465 - ORS 343.534

Hist.: EB 15-1997, f. & cert. ef. 12-29-97; ODE 24-2000, f. & cert. ef. 10-16-00; ODE 8-2003, f. 6-9-03, cert. ef. 6-10-03

## 581-015-1106

### Authorization of Early Childhood Supervisor

(1) This rule establishes an alternative to a Teacher Standards and Practices Commission (TSPC) administrative license for individuals to serve as Early Childhood Supervisors for Programs. Individuals with a TSPC issued administrative license and who hold a masters degree in early childhood education, special education or a related field with three years of experience working with infants, toddlers, young children and families are not covered by sections (4) through (12) of this rule.

(2) Responsibilities of the Early Childhood Supervisor may include but are not limited to:

(a) Oversight of EI/ECSE services;

(b) Supervision and training of personnel in EI/ECSE programs;

(c) Serving as administrative representative at IFSP meetings;

(d) Facilitating meetings with personnel and families; and

(e) Facilitating interagency collaboration.

(3) Early Childhood Supervisors shall possess a minimum of a master's degree in early childhood education, special education or a related field.

(4) Individuals without a TSPC administrative license shall successfully demonstrate competency at the supervisor level in the following areas, which are described in the document, "Competencies for Professionals Working in EI/ECSE in Oregon":

(a) Typical/Atypical Childhood Development;

(b) Assessment;

(c) Family;

(d) Service Delivery;

(e) Program Management;

(f) Service Coordination;

(g) Research;

(h) Professional Development Values/Ethics.

(5) Candidates for the Early Childhood Supervisor authorization shall complete an application and portfolio that documents their mastery level of each component within the competency areas listed in section (4) of this rule.

(6) The candidate shall submit the application and portfolio to the Oregon Department of Education for review. Supervisors employed on or after October 1, 1998, must complete the authorization within 12 months of employment. The Office of Special Education shall convene a panel at least two times per year to review the candidate's portfolio. The panel shall consist of a minimum of three professionals representing the Oregon Department of Education, higher education, and EI/ECSE service providers. The panel will recommend approval or nonapproval of the Early Childhood Supervisor authorization for the candidate to the State Superintendent of Public Instruction.

(7) The Superintendent shall approve or deny the candidate's application considering the recommendation of the panel:

(a) Each approved candidate shall receive authorization from the Department as an Early Childhood Supervisor;

(b) Each nonapproved candidate shall receive notice from the Department. The notice shall include the reasons for denial and the right of appeal to the State Board of Education.

(8) Initial authorization shall be valid for a period of three years. Subsequent authorization shall be valid for a period of five years.

(9) Applicants renewal of the Early Childhood Supervisor authorization shall include the following:

(a) Development of a professional Development Plan with the applicant's supervisor of the EI/ECSE contractor;

(b) Completion of a minimum of 125 Professional Development Units; and

(c) Written verification by the applicant's supervisor or EI/ECSE contractor that the Professional Development Units are completed and a new Professional Development Plan developed.

(10) The Department shall deny or revoke authorization of an Early Childhood Supervisor under any of the following conditions:

(a) The individual has been convicted of any of the crimes listed in ORS 342.143, or the substantial equivalent of any of those crimes if the conviction occurred in another jurisdiction or in Oregon under a different statutory name or number; or

(b) The individual has made a false statement as to the conviction of a crime.

(11) The Department may deny or revoke authorization for an Early Childhood Supervisor if the individual is charged with a breach of professional responsibilities, which is verified by his/her immediate supervisor.

(12) Individuals whose authorization has been revoked shall receive notice from the Department. The notice shall include the reasons for denial and the right of appeal to the State Board of Education.

(13) All supervisors employed by EI/ECSE contractors or subcontractors shall have a professional plan based on the content of the EI/ECSE competencies as listed in section (4) of this rule.

(14) A temporary waiver may be requested by the EI/ECSE contractor when an emergency arises due to a misassignment or unsuccessful recruitment efforts. The request for the waiver shall be submitted to the Oregon Department of Education and shall include:

(a) Documentation of efforts to employ personnel who meet the required competencies;

(b) The name, position, and qualifications of the employed personnel;

(c) A copy of the professional development plan as described in section (13) of this rule; and

(d) Assurances that the plan will be implemented.

Stat. Auth.: ORS 329.255 & ORS 329.275

Stats. Implemented: ORS 343.465 - ORS 343.534

Hist.: EB 15-1997, f. & cert. ef. 12-29-97; ODE 24-2000, f. & cert. ef. 10-16-00; ODE 8-2003, f. 6-9-03, cert. ef. 6-10-03

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**Adm. Order No.:** ODE 9-2003

**Filed with Sec. of State:** 6-13-2003

**Certified to be Effective:** 6-13-03

**Notice Publication Date:** 4-1-03

**Rules Amended:** 581-023-0040

**Subject:** Approved Transportation Costs for Payments from the State School Fund. If you have questions regarding this rule, please contact Deborah Lincoln at (503) 378-3600, ext. 2664 or e-mail [deborah.lincoln@state.or.us](mailto:deborah.lincoln@state.or.us). For a copy of this rule, please contact Debby Ryan at (503) 378-3600, ext. 2348 or e-mail [debby.ryan@state.or.us](mailto:debby.ryan@state.or.us)  
**Rules Coordinator:** Debby Ryan—(503) 378-3600, ext. 2348

## 581-023-0040

### Approved Transportation Costs for Payments from the State School Fund

(1) Definitions for the purpose of this rule:

(a) "Elementary School Student" means, notwithstanding any other OAR or statute, pupils attending a school offering only an elementary curriculum, any combination of grades K through 8;

(b) "Secondary School Student" means, notwithstanding any other OAR or statute, pupils attending a school offering any secondary curriculum for grades 9, 10, 11, or 12. Additionally, all students attending a school designated by the local school board through board action as a junior high school or middle school may be considered secondary students;

(c) "Mile(s) from School" means the distance a student lives from school, measured from the closest, reasonable, and prudent point between the school property identified by the local board for that pupil's attendance and the property where the pupil lives. The distance will be measured over the shortest practicable route on maintained public roadways or over existing pedestrian facilities or pedestrian facilities capable of meeting the requirements listed in ORS 332.405(4);

(d) "Supplemental Plan" means a plan adopted by local school board resolution identifying groups or categories of students who live within the 1 and 1.5 mile limitations and require transportation based on health or safety reasons, including special education. Supplemental plan approvals may be ordered by the State Board of Education or its designated representatives. The State Board shall have the right of final review of any actions regarding supplemental plans. Appeals will be directed to the State Board for final consideration. The Plan must include the following:

# ADMINISTRATIVE RULES

(A) The approximate number of students to be transported based on the plan;

(B) The health or safety reasons cited for providing transportation;

(C) The local board resolution specifying the supplemental plan as submitted; and

(D) Any additional information or documentation supporting the supplemental plan deemed appropriate locally.

(e) "Local School Board" means, notwithstanding any other OAR or statute, the local school board for the district in which the student's legal residence is physically located. Local school boards are not required to provide transportation for students who have requested and received approval to attend a school other than that designated by the local school board for students living in their specified attendance area;

(f) "Bus Manufacturer's Rated Capacity" means the number of students to be used in the calculations specified in paragraph (5)(n)(B) of this rule and described below:

(A) Buses transporting only elementary students will have a passenger capacity as stated on the manufacturer's identification plate;

(B) Buses transporting only high school students, grades 9 through 12 will have a passenger capacity based on two students for each 39 inch bus seat;

(C) Buses transporting mixed groups from grades K-12 (in any combination) or groups of only junior high or middle school students will have a passenger capacity based on 2.5 students for each 39-inch bus seat.

**EXAMPLE:** A bus with a manufacturer's passenger capacity stated on the identification plate of 72 would have the following ratings: elementary - 72, high school only - 48, mixed groups - 60, middle school and junior high school - 60.

(2) Approved transportation costs shall include those costs incurred in transporting pupils to and from instructional programs during the regularly scheduled school term within the limitations specified by ORS 327.006 and 327.033. Approved transportation costs may include costs incurred in transporting students participating in extended school year programs eligible for funding from the State School Fund.

(3) Approved transportation costs shall include those district expenditures associated with:

(a) Home-to-school transportation of elementary school pupils who live at least one mile from school;

(b) Home-to-school transportation of secondary school pupils who live at least one and one-half miles from school;

(c) Transportation of pupils between educational facilities either within or across district boundaries, if the facilities are used as part of the regularly-scheduled instructional program approved by the Board;

(d) Transportation of pupils for in-state field trips when such represents an extension of classroom activities for instructional purposes, and shall include out-of-state destinations within 100 miles of the Oregon border;

(e) Transportation of pupils home to school for whom a supplemental plan has been approved by the State Board of Education in addressing safety, health, and special education needs;

(f) Transportation of preschool children in Early Childhood Special Education Services having an Individual Family Service Plan requiring transportation and preschool children receiving Early Intervention Services under the authority of ORS 343.533.

(g) School to home transportation following extended school day instructional programs for:

(A) Elementary school pupils who live at least one mile from school;

(B) Secondary school pupils who live at least one and one-half miles from school.

(4) Approved transportation costs shall exclude those district expenditures associated with transportation for the following unless the school program is required under provisions of the Individuals with Disabilities Education Act, ORS 343.533 or 339.010 through 339.090 and 339.250:

(a) Pupils living within the limits prescribed in ORS 327.006(2) for whom no supplemental plan has been approved by the State Board;

(b) Activity trips other than for instructional purposes;

(c) Athletic trips;

(d) School lunch purposes;

(e) Summer school;

(f) Adult education;

(g) Evening school;

(h) Preschool and/or nursery school;

(i) Board and room in lieu of transportation associated with field trips;

(j) Transportation facility and staff costs other than those directly related to approved pupil transportation activities.

(5) The computation shall be made as follows:

(a) Pupil Transportation Salaries;

(b) Pupil Transportation Supplies, Equipment, Repairs, and Maintenance;

(c) All contracted Transportation;

(d) Travel of Pupil Transportation Personnel;

(e) Employee Benefits on Pupil Transportation Salaries;

(f) Pupil Transportation Insurance;

(g) Payments in Lieu of Transportation;

(h) Other Expenses of Pupil Transportation;

(i) Payments to Other Districts for Pupil Transportation;

(j) Leases and Rentals;

(k) Depreciation:

(A) Depreciation of Garage;

(B) Depreciation of Buses.

(l) Total of subsections (5)(a) through (k) of this rule;

(m) Deduct (if cost is included in detail above):

(A) Payments Received from Other Districts and from Patrons for reimbursable transportation;

(B) Nonreimbursable Transportation Costs:

(i) For 2001-02:

(I) Number of miles @\$1.70 per mile for all school buses and school activity vehicles having a manufacturers' designed passenger capacity greater than 10 persons including driver, or

(II) Number of miles @\$0.85 per mile for all school activity vehicles having a manufacturers' designed passenger capacity 10 or less including driver; or

(ii) For 2002-03:

(I) Number of miles @ \$1.74 per mile for all school buses and school activity vehicles having a manufacturers' designed passenger capacity greater than 20 persons including driver, or

(II) Number of miles @\$0.87 per mile for all school activity vehicles having a manufacturers' designed passenger capacity 20 or less including driver; or

(iii) For 2003-04:

(I) Number of miles @\$1.80 per mile for all school buses and school activity vehicles having a manufacturers' designed passenger capacity greater than 20 persons including driver, or

(II) Number of miles @ \$0.90 per mile for all school activity vehicles having a manufacturers' designed passenger capacity 20 or less including driver; or

(iv) For 2004-05:

(I) Number of miles @\$1.85 per mile for all school buses and school activity vehicles having a manufacturers' designed passenger capacity greater than 20 persons including driver, or

(II) Number of miles @ \$0.925 per mile for all school activity vehicles having a manufacturers' designed passenger capacity 20 or less including driver; or

(v)(I) Those local school board certified marginal costs attributable to services described in section (4)(a) of this rule, calculated and documented as follows: Documentation maintained by local district shall include: bus and route identification, school(s) being served, number of eligible students on board, number of ineligible students on board;

(II) Calculation of marginal costs shall be as follows: District Cost Per Mile of bus operation divided by the total number of students transported on each bus to derive an average cost per student. The cost per student multiplied by the number of ineligible students and the number of miles inside the limits provides the amount for deduction. Example: Cost per student = district cost per bus mile - number of students on bus; Total Deduction = cost per student x ineligible students x number of miles inside limit.

(III) No deduction will be made for transportation inside prescribed limits if the local board certifies student demographics would require student bus rides to or from school of more than one hour if the bus is routed in a manner making it accessible to the number of eligible students living outside the prescribed mileage limit equal to 130 percent of the bus manufacturer's rated capacity, or;

(IV) The local school board certifies that buses are routed in a manner to serve at least the number of eligible students living outside the prescribed mileage limits equal to 130 percent of the bus manufacturer's rated passenger capacity, and;

(V) In either of the aforementioned situations, no additional costs have been incurred by the district for the identified service.

(C) State and Federal Receipts for Transportation, except those apportioned under ORS 327.006 or third party medicaid payments for transportation, if used to support expenditures in subsections (5)(a) through (l) of this rule;

(D) Rental or Lease Payments from Private Contractors;



# ADMINISTRATIVE RULES

(E) The percentage of transportation facility depreciation commensurate with the percentage of the total district fleet value based upon purchase price (see subsection (6)(k) of this rule) represented by nonpupil transportation equipment. Examples of nonpupil transportation equipment would include the following: lawnmowers, tractors, backhoes, trucks, pickups, cars, trailers, snowblowers, etc.

(n) Total Deductions ((5)(m)(A)+(m)(B)+(m)(C)+(m)(D)+ (m)(E));

(o) Approved Cost ((5)(l) minus (5)(n)).

(6) In the above computation, the following definitions apply:

(a) Pupil Transportation Salaries. Salaries and wages paid school bus drivers, assistants to driver, and that portion of salaries paid mechanics and other bus maintenance employees, supervisors of transportation, secretarial and clerical assistants, and persons assigned transportation oversight and coordination responsibilities attributable to the transportation program and documented through position descriptions and payroll records. No school district General Administration salaries may be included in this area;

(b) Pupil Transportation Supplies, Equipment, Repairs, and Maintenance. Costs of gasoline, oil, lubricants, tires, tire repair, batteries, vehicle diagnosis and repair equipment identified as capital expenditures in the "Program Budget Manual," vehicle repair parts and supplies, repair of vehicles by other than the school district, garage maintenance and operation, and garage equipment repair and maintenance;

(c) All Contracted Transportation. Payments to parents and independent public or private contractors for transporting pupils from home to school, between educational facilities and for nonreimbursable activities enumerated in paragraph (6)(l)(B) of this rule; and fares to public carriers for transporting pupils from home to school and between educational facilities;

(A) If a district retains ownership of buses and garages and contracts for the operation of the transportation system with provision in the contract for lease or rental of the buses and garages, the contracted transportation cost shown should reflect the gross bid including the lease or rental payment. The lease or rental payment shall be deducted in the computation as reported in paragraph (5)(n)(D) of this rule;

(B) If the district retains ownership of buses and garages and participates in a transportation cooperative or consortium through an intergovernmental agreement, depreciation apportionment provided under ORS 327.033 will be disbursed directly to the district. No depreciation component is approved for cooperative-owned buses or garages.

(d) Travel of Pupil Transportation Personnel. Meals, lodging, mileage, per diem and other travel expenses of pupil transportation personnel, and private car mileage if paid to bus drivers for travel to and from the point where school bus is parked if other than the central garage. The same travel expenses plus tuition or registration are included for attendance at Department of Education sponsored or presented pupil transportation training programs and seminars;

(e) Employee Benefits on Pupil Transportation Salaries. The district's contributions for employee benefits including social security and retirement, employee health insurance, workers' compensation, and unemployment insurance;

(f) Pupil Transportation Insurance. Payments for public liability and property damage, medical care, collision, fire and theft, and insurance on garages and shops;

(g) Payments in Lieu of Transportation. Payments for pupils' board and room in lieu of transportation, consistent with ORS 332.405(2);

(h) Other Expenses of Pupil Transportation. District-paid fees for school bus drivers' physical examinations; interest on bus or garage contracts payable including lease-purchase agreements if capitalized (see subsection (6)(k) of this rule);

(i) Payments to Other In-State or Out-of-State Districts for Transportation. Payments to other districts for approved pupil transportation costs;

(j) Leases and Rentals. Rental or lease payments for the use of land or buildings used for approved pupil transportation. Rental or lease payments for buses operated by district personnel for approved pupil transportation.

**NOTE:** Only those leases which do not contain an option to purchase or application of rentals to purchase should be included in subsection (5)(j) of this rule. See subsection (6)(k) of this rule as to the proper treatment of other lease-purchase agreements;

(k) Depreciation. For purposes of computing depreciation, capitalized cost is defined to include the unit cost of the asset, exclusive of interest, for such assets purchased outright, by conventional contract, or by lease-purchase agreement if such agreement contains any provision to acquire ownership at the end of the agreement by application of a portion of the rentals paid or a terminal payment. The computation of the capitalized cost and the depreciation shall be according to the following:

(A) Portions of Garages and Other Buildings Used for Approved Pupil Transportation:

(i) Outright purchase (including purchase by conventional contract). For each outright purchase or purchase by conventional contract, each district shall report to the Oregon Department of Education, on the forms provided, the unit cost of the garage or other building purchased and the dollar amount of interest payments associated with such purchase. The capitalized value shall represent the unit cost, exclusive of interest. Depreciation shall be computed at an annual rate of four percent;

(ii) Lease-purchase agreements. For each lease-purchase agreement, the district shall report to the Oregon Department of Education, on the forms provided, the dollar amount of the agreement, the interest payments contained in the agreement, and the schedule of such interest payments contained in the agreement. Subsequent to July 1, 1975, the capitalized value shall represent the lease-purchase price less any interest payments contained in the agreement. Depreciation shall be computed at an annual rate of four percent.

(B) Buses and Other Vehicles Used for Approved Pupil Transportation:

(i) Outright purchase (including purchase by conventional contract). For each outright purchase or purchase by conventional contract, each district shall report to the Oregon Department of Education, on the forms provided, the unit cost of the vehicle(s) purchased and the dollar amount of interest payments associated with such purchase. The capitalized value shall represent the unit cost, exclusive of interest. Depreciation shall be computed at an annual rate of ten percent;

(ii) Lease-purchase agreements. For each lease-purchase agreement, the district shall report to the Oregon Department of Education, on the forms provided, the dollar amount of the agreement, any applicable trade-in value, the dollar amounts of interest payments contained in the agreement, and the schedule of such interest payments contained in the agreement. The capitalized value of the vehicles shall represent the lease-purchase price including the trade-in allowance less interest payments contained in the agreement. Depreciation shall be computed at an annual rate of ten percent;

(iii) Lease agreements. If the district is leasing its buses under a lease agreement, the district shall report the annual lease cost. A lease agreement as used in this paragraph means an agreement whereby the lessor retains title to the buses being leased to the lessee school district and the title to the buses is never received by the lessee. Under such a lease agreement, the use of the buses by the lessee is limited by the term of the lease. If there is an auxiliary agreement either written or oral whereby at the end of the lease term, the title of the buses shall pass to the lessee school district, the agreement is not a lease agreement as described in this paragraph but is a lease-purchase agreement as outlined in subparagraph (ii) of this paragraph. The lease payment made by a school district obtaining the use of buses pursuant to a lease as defined in this paragraph shall be used in the computation of the reimbursement in place of the depreciation set forth in subparagraphs (i) and (ii) of this paragraph.

(l) Deductions:

(A) Payments Received from Other Districts and from Patrons. Money received from other school districts, parents, guardians, or students for transportation if paid in support of expenditures listed in subsections (5)(a) through (l) of this rule;

(B) Nonreimbursable Transportation Costs. Actual bus mileage of excludable trips shall include the actual mileage in district owned or contracted buses for transportation for activity trips, athletic trips, school lunch purposes, summer school, adult education, evening school, nursery school, and any other nonreimbursable purposes. Such mileage shall be deducted at the rate indicated in subsection (5)(m)(B) of this rule. The rate of deduction may be reviewed periodically by the State Board of Education and adjusted accordingly;

(C) State and Federal Receipts for Transportation. All state and federal receipts for transportation expenditures, exclusive of funds apportioned under ORS 327.006 and 327.033, that have been included in subsection (5)(a) through (l) of this rule;

(D) Rental or Lease Payments from Private Contractors. Payments received from private contractors for the use of district owned buses and garages in the operation of the pupil transportation system by the private contractor. This item must be shown as Revenue Code 1930 in the school district audit and the gross payments to the contractor must be included in subsection (5)(c) of this rule.

(7) Each district shall maintain a record, by purpose, of total pupil transportation miles and shall submit a report of such to the Oregon

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Department of Education on the form provided. The accuracy of such records shall be certified by the district clerk.

(8) If an education service district offers a special service under the provisions of section (4) of ORS 334.175, including home-to-school transportation that would qualify for reimbursement under the provisions of ORS 327.006 if provided by a local school district, the following procedure in crediting the transportation expenditure to the local district may be employed:

(a) The education service district shall compute approved home-to-school transportation costs as provided in section (4) of this rule;

(b) The approved costs so determined shall be billed to and paid by each of the local school districts. The expenditure shall be accounted for by the local district as a transportation expenditure paid to another education agency;

(c) The audited district expenditure shall be recognized by the State Superintendent of Public Instruction in computing the local district's entitlement under ORS 327.006;

(d) If the education service district reimburses the local district the difference between that portion billed and that paid under ORS 327.006, such reimbursement — if derived from property tax sources by education service district resolution — shall not be deducted by the state in determining the local district's approved costs. The local district shall account for the education service district reimbursement as other general receipts are accounted for from the education service district.

(9) For purposes of computing board and room entitlement for a district operating a dormitory under provisions of ORS 327.006, the state assumes responsibility for its proportionate share of costs associated with the provision of food, facilities, staff, operation, and maintenance necessary to provide students with safe and healthy living conditions. The state does not assume responsibility for costs associated with recreation or entertainment of students. The approved cost against which the computation is made for state liability shall not exceed the limit stated in ORS 332.405. In addition, the state will assume its proportionate share of the cost of field trips as defined in subsection (3)(c) of this rule.

(10) The computation of approved expenditures for board and room entitlement shall be made as follows:

- (a) Salaries;
- (b) Operation:
  - (A) Utilities;
  - (B) Supplies;
  - (C) Other Operational Costs.
- (c) Maintenance:
  - (A) Upkeep;
  - (B) Replacement.
- (d) Fixed Charges:
  - (A) Employee Benefits;
  - (B) Other Fixed Charges.
- (e) Food;
- (f) Operation of Buses and Other Vehicles--Supplies, Repairs and

Maintenance;

- (g) Depreciation:
  - (A) Dormitory;
  - (B) Buses and Other Vehicles.
- (h) Total Expenditures (Sum of subsections (10)(a) through (g) of this rule);
  - (i) Deductions (subtract if cost is included in cost above):
    - (A) Payments Received from Other Districts and from Patrons;
    - (B) Nonreimbursable Transportation Costs as indicated in subsection (5)(m)(B) of this rule;

(5)(m)(B) of this rule;

(C) State and Federal Receipts for Transportation, except those apportioned under ORS 327.006, 327.033, or third party medicaid payments, if used to support expenditures in subsections (10)(a) through (g) of this rule;

(D) Federal School Lunch, Breakfast, and Milk Reimbursements;

(E) Sales of Food.

(j) Total Deductions (sum (10)(i)(A) + (i)(B) + (i)(C) + (i)(D) + (i)(E));

(k) Approved Cost ((10)(h) minus (10)(j) of this rule).

(11) The items included in the board and room entitlement computation are defined as follows:

(a) Salaries. Salaries and wages paid dormitory personnel, including the dormitory manager, cooks, custodians, and other personnel directly concerned with operation of the dormitory, and that portion of salaries paid secretarial and clerical assistants and other personnel attributable to the dormitory program;

(b) Operation:

(A) Utilities. Heat for buildings, water and sewage, electricity, telephone, and other utilities necessary for the operation of the dormitory;

(B) Supplies. Custodial supplies, supplies for care of grounds, linens, and other supplies necessary for the operation of the dormitory including food services. Purchase of food is included in subsection (11)(e) of this rule;

(C) Other Operational Costs. Contracted custodial services, window washing, laundry or linen services, etc., necessary for the operation of the dormitory.

(c) Maintenance:

(A) Upkeep. Expenditures associated with maintaining the existing dormitory facilities in a safe, healthy, and efficient condition, including supplies and materials for upkeep of dormitory grounds and the dormitory building. Costs associated with maintenance of recreational or entertainment facilities are excluded;

(B) Replacement of Equipment. Expenditures associated with replacing equipment necessary to the safe, healthy, and efficient operation of the dormitory. Replacement of equipment used for recreational or entertainment purposes are excluded.

(d) Fixed Charges:

(A) Employee Benefits. Expenditures for dormitory employees' benefits including social security and retirement, employee health insurance, workers' compensation, and unemployment insurance;

(B) Other Fixed Charges. Expenditures for property insurance, liability insurance, rental of land and buildings for purposes associated with operation of the dormitory, and other fixed charges directly attributable to operation of the dormitory.

(e) Food. Expenditures for food necessary for the operation of the dormitory;

(f) Operation of Buses and Other Vehicles — Supplies, Repairs, and Maintenance. Expenditures for gasoline, oil, lubricants, tires, tire repair, batteries, vehicle repair parts and supplies, repair of vehicles by other than the school district, garage maintenance and operation, and garage equipment repair and maintenance necessary for the operation of buses utilized for purposes stated in section (3) of this rule and of other vehicles necessary for the operation of the dormitory;

(g) Depreciation:

(A) Dormitory. For purposes of computing dormitory depreciation, capitalized cost is defined as the unit cost of the asset (including the cost of original equipment), exclusive of interest, plus the cost of substantial improvements or remodeling. Costs associated with providing recreational or entertainment facilities are not included. Depreciation shall be computed at an annual rate of four percent;

(B) Buses and Other Vehicles. Depreciation for buses used for approved pupil transportation and that portion of other vehicles necessary for operation of the dormitory shall be computed in accordance with the formula and definition stated in paragraph (6)(k)(B) of this rule.

(h) Total. Sum of subsections (10)(a) through (g) of this rule;

(i) Deductions:

(A) Payments Received from Other Districts and from Patrons. Money received from other school districts, parents, guardians, or students for transportation or room and board if paid in support of expenditures listed in subsections (10)(a) through (f) of this rule;

(B) Nonreimbursable Transportation Costs. Costs for nonreimbursable transportation according to the formula and definition stated in paragraph (6)(l)(B) of this rule;

(C) State and Federal Receipts for Transportation. All state and federal receipts for transportation or room and board expenditures exclusive of funds apportioned under ORS 327.006 that have been included in subsections (10)(a) through (f) of this rule;

(D) Federal School Lunch, Breakfast, and Milk Reimbursements. All federal receipts for school lunch, breakfast, and milk expenditures that have been included in subsections (10)(a) through (f) of this rule;

(E) Sales of Food. Money received from teachers, students, or other individuals from food sales for which the expenditures are included in subsections (10)(a) through (f) of this rule.

(12) Such items of expenditure as may be questionable in applying the policy stated in this administrative rule shall be resolved by the State Superintendent of Public Instruction and such determination shall be final.

(13) Apportionment of the State School Fund for 2001-02 and subsequent years.

[Publications: Publications referenced are available from the agency.]

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

Stats. Implemented: ORS 327.013 & ORS 820.100 - 820.120

Hist.: 1EB 177, f. 10-2-74; 1EB 181, f. 1-17-75, ef. 7-1-75; 1EB 209, f. 12-5-75, ef. 1-16-76; 1EB 220, f. 2-17-76, ef. 3-15-76; 1EB 233, f. 6-11-76, ef. 6-18-76; 1EB 4-1978, f. 1-27-78, ef. 1-27-78; 1EB 10-1980, f. & ef. 5-5-80; 1EB 6-1981, f. 3-2-81, ef. 3-3-81; 1EB 4-1982, f.

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& ef. 2-10-82; 1EB 15-1982, f. 8-4-82, ef. 8-5-82; 1EB 17-1983, f. 11-23-83, ef. 11-25-83; 1EB 1-1985, f. 1-4-85, ef. 1-7-85; 1EB 5-1986, f. 1-30-86, ef. 2-1-86; EB 4-1987, f. & ef. 2-20-87; EB 32-1987, f. & ef. 12-10-87; EB 42-1988, f. & cert. ef. 11-15-88; EB 3-1992, f. & cert. ef. 2-21-92; EB 21-1993, f. & cert. ef. 6-2-93; EB 4-1997, f. & cert. ef. 4-25-97; ODE 9-2000, f. & cert. ef. 4-5-00; ODE 25-2001, f. & cert. ef. 11-7-01; ODE 9-2003, f. & cert. ef. 6-13-03

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**Adm. Order No.:** ODE 10-2003

**Filed with Sec. of State:** 6-13-2003

**Certified to be Effective:** 6-13-03

**Notice Publication Date:** 4-1-03

**Rules Amended:** 581-023-0230

**Subject:** Expands the timeframe for submitting facility grant applications to reflect the actual distribution period, effectively extending the period that applications may be submitted by an additional year. For questions regarding this rule, please contact Randy Harnisch at (503) 378-3600, ext. 2350 or e-mail randy.harnisch@state.or.us. For a copy of this rule, please contact Debby Ryan at (503) 378-3600, ext. 2348 or e-mail debby.ryan@state.or.us

**Rules Coordinator:** Debby Ryan—(503) 378-3600, ext. 2348

## 581-023-0230

### Facility Grant

(1) For purposes of this rule:

(a) "New School Building" means newly constructed school buildings, additions to existing school buildings, newly remodeled or converted structures and newly acquired premanufactured structures if those buildings or structures are to be used for instructing students. Newly remodeled structures may not have been used as classrooms in the prior five school years.

(b) "Construction Cost" means the cost of construction or remodeling excluding cost of land acquisition and cost of equipment not intrinsic to the structure or, for premanufactured structures, the purchase price excluding interest. Costs of site preparation and improvements, project management, and mandated utility and access upgrades may be included.

(A) Construction cost does not include structures such as athletic fields, stadiums, pools or any other structure whose primary purpose is not the instruction of students.

(2) A school district is eligible to receive a facility grant for a new school building in the year the new school building is first used for instruction for more than half of the district's regular school year or the following year.

(3) Facility grant shall equal a percentage of new school building construction cost as determined by statute. If the total amount to be distributed as facility grants exceed the limitation set in statute, the Department of Education shall prorate the amount of funds available for facility grants among those school districts that qualified for a facility grant. The proration percentage shall be adjusted to be the same for each year of the biennium.

(4) A school district may not use the portion of the State School Fund grant that is attributable to the facility grant for capital construction costs.

(5) Facility grant applications must be received at the Department of Education no later than February 15 of the school year following the school year in which the new school building is first eligible for the facility grant. The application shall include a summary of the construction cost as well as a copy of the parts of the contract(s) documenting the construction cost or purchase price.

(6) The Department of Education will distribute the facility grant with the March 15 State School Fund payment. Any necessary adjustments will be made on May 15, with final adjustment to be made in the second year.

(7) The State Superintendent of Public Instruction shall resolve any issues arising from the administration of the facility grant not specifically addressed by this rule and the Superintendent's determination shall be final.

Stat. Auth: ORS 327.125

Stat. Implemented: ORS 327.013 & ORS 327.008

Hist: ODE 6-2000, f. & cert. ef. 2-1-00; ODE 10-2003, f. & cert. ef. 6-13-03

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**Adm. Order No.:** ODE 11-2003

**Filed with Sec. of State:** 6-13-2003

**Certified to be Effective:** 6-13-03

**Notice Publication Date:** 4-1-03

**Rules Amended:** 581-053-0002

**Subject:** After tracking diabetic drivers for a year, the Department of Education finds it necessary to revise the rule to include only those drivers who are actually taking insulin, not drivers who control their diabetes with diet or oral agents. For questions regarding this rule,

please contact Deborah Lincoln at (503) 378-3600, ext. 2664 or e-mail deborah.lincoln@state.or.us. For a copy of this rule, please contact Debby Ryan at (503) 378-3600, ext. 2348 or e-mail debby.ryan@state.or.us

**Rules Coordinator:** Debby Ryan—(503) 378-3600, ext. 2348

## 581-053-0002

### Administration of Pupil Transportation

(1) Definitions of terms used in OAR 581-053-0002 through 581-053-0550 shall be as follows:

(a) A school bus shall be as defined in ORS 801.460;

(b) A school activity vehicle shall be as defined in ORS 801.455;

(c) For purposes of OAR 581-053-0006, a diabetic is a person who takes insulin.

(d) Pupil transporting vehicles shall include all school buses as well as other vehicles that are owned or under contract with the school districts, private or parochial schools and are used to transport pupils to or from school or an authorized school activity or function.

(2) School districts shall provide transportation in compliance with all applicable laws and administrative rules.

(3) School districts or other employers shall not require or knowingly permit any person to operate a school bus or other pupil transporting vehicle in violation of any applicable rules of the Oregon Department of Education or Oregon laws.

(4) School boards shall adopt and implement written policies that insure that transportation officials receive notification of students having special medical or behavioral protocols identified in student records and that drivers receive appropriate training related to specified protocols, including requirements of confidentiality.

(5) School districts shall adopt and implement written transportation policy, including provisions regarding student suspensions and expulsions from district-provided transportation.

(a) Written transportation suspension and expulsion policy shall include at least the following:

(A) Definitions for the terms "suspension" and "expulsion" from district-provided transportation services and identify the specific applicable time limits; and

(B) Identification of criteria used for student suspension and expulsion from district-provided pupil transportation services; and

(C) Special provisions for the application of the policy to students receiving services under the Individuals with Disabilities Education Act; ORS 339.250, and 343.363; or

(b) An adoption as local board policy all elements listed below:

(A) Students may be suspended from district-provided pupil transportation services when such suspensions are executed within the provisions contained in OAR 581-021-0065(1) through (3) and all applicable procedures are consistent with OAR 581-053-0002(9), 581-053-0010, and the Individuals with Disabilities Education Act;

(B) The school district board shall limit the term of a suspension for a specific incident to a specific number of days. The maximum shall not exceed 10 school days when transportation is provided;

(C) Upon the occurrence within one school year of a subsequent incident or any occurrence of a severe disciplinary problem constituting a demonstrable safety hazard for the pupil-transporting vehicle or persons inside/outside the vehicle, the student may be expelled from district-provided transportation services for a period not to exceed one school year. Parent notification and procedural rules for year-long length expulsions must be included in local board-approved transportation policy and must comply with those set forth for student expulsion in OAR 581-021-0070. An expulsion may extend into a second term or semester if the current term or semester ends within such a short period of time that the expulsion would be too short to be effective;

(D) Suspensions and expulsions shall be ordered by the school board, the executive officer of the school district or his or her designated representative. The district school board shall have the right of final review if the action is not taken by the school board itself. The school board may affirm, amend, modify, or rescind any suspension or expulsion order.

(6) School buses and all other pupil transporting vehicles shall be maintained in safe operating condition and shall meet or exceed the minimum standards in effect at the time of purchase, plus any subsequent rules applicable to the vehicle.

(7) Any additions of vehicle equipment or alterations in the vehicle construction not provided for in the applicable minimum standards for Oregon school buses or school activity vehicles are prohibited without prior approval from the Oregon Department of Education.

# ADMINISTRATIVE RULES

(8) All school buses and school activity vehicles that will be transporting students for the first time in a school system in Oregon must conform, or be made to conform within thirty days of notice of nonconformity, to the minimum standards for Oregon school buses or school activity vehicles currently in force as they apply to each vehicle. Written notification must be sent to the Superintendent of Public Instruction when relocating school or activity buses for a period exceeding 10 days. School and activity buses with a manufacture date prior to November 1, 1985 shall not be relocated. Oregon Department of Education personnel may give a written order that a vehicle is unsafe and shall not be used to transport students when there is reason to believe that a deficiency is such that continued operation of the vehicle may jeopardize the safety of students or the public. The vehicle owner shall notify the Oregon Department of Education that the deficiency is corrected before transporting students.

(9) Vehicle maintenance records shall be kept for each vehicle used to transport students. These records shall be available to Department of Education personnel upon request. The following minimum information shall be kept for each vehicle by date and mileage at the time of service, adjustment or repair:

- (a) Chassis lubrications;
- (b) Engine oil and filter changes;
- (c) Major engine tune-ups and repairs;
- (d) All adjustment, service and repair of brake system;
- (e) All adjustment, service and repair of steering mechanism and other related parts;
- (f) Tires; and
- (g) Drive train components.

(10) A seat that fully supports the passenger shall be provided for every passenger on all pupil-transporting vehicles. Seating is not permitted on any portion of the vehicle not designed for that purpose. Passengers shall not be permitted to stand while vehicle is in motion.

(11) Safety instruction:

(a) All regularly transported pupils in schools which provide pupil transportation shall receive the following instruction at least once within the first six (6) weeks of the first half and once within the first six (6) weeks of the second half of each school year:

(A) Safe school bus riding procedures, including but not limited to loading, unloading, crossing, etc.;

(B) Use of emergency exits; and

(C) Planned and orderly evacuation of the school bus in case of emergency, including participation in actual evacuation drills.

(b) All pupils in schools where pupil transportation is provided who are not regularly transported shall receive the following instruction at least once in the first half of each school year:

(A) Safe school bus riding procedures; and

(B) Use of emergency exits.

(c) Records listing safety instruction course content and dates of training shall be maintained locally.

(12) All school buses manufactured prior to September 1, 1979 shall be equipped to meet all requirements of the applicable minimum standards for Oregon school buses in effect on that date.

(13) School systems shall provide for the required training, examination, and testing of their school bus and school activity vehicle drivers to comply with Oregon Department of Education rules. Appropriate specialized training designed for special needs transportation shall be provided prior to allowing drivers to transport students with disabilities. Records to document training and testing shall be maintained by school districts. Such records shall be made part of each driver's driver-training record file. Records shall be made available to Oregon Department of Education personnel or the driver upon request.

(14) School districts or contractors employing school bus drivers or Type 10 or Type 20 school activity vehicle drivers shall immediately notify the Department of Education if they have reason to believe any change in the driver(s)' criminal or driving record has occurred which could affect their ability to:

(a) Maintain a school bus driver permit or certificate under the provisions of OAR 581-053-0006(8); or

(b) Meet the requirements listed in OAR 581-053-0545 and 581-053-0550 for activity vehicle drivers.

(15) Schools or contractors selling a used school bus shall be responsible for removing all markings that would identify it as a school bus including the school bus safety lights. Exception: If the school bus is sold for the purpose of transporting school children to and from school, the school bus identification and school bus safety lights need not be removed.

If sold for the purpose of transporting workers, the school bus safety lights need not be removed.

(16) Schools or contractors planning to rebuild a school bus shall first secure approval from the Pupil Transportation Section, Oregon Department of Education. (This does not apply to repair of damage.) All rebuilt school buses must meet current Oregon Minimum Standards for School Buses and applicable Federal Department of Transportation regulations.

(17) Special vehicles used for transportation of students with disabilities or for specific educational purposes that do not meet all current Oregon Minimum Standards for School Buses must be approved by the Pupil Transportation Section, Oregon Department of Education.

(18) Appeal for Variance.

(a) A school or contractor desiring to purchase a school bus or school activity vehicle which cannot meet all required minimum construction standards for school buses or school activity vehicles as applicable in Oregon must forward an "Appeal for Variance" request to the State Superintendent of Public Instruction, Salem, Oregon. This appeal must be made by the local school superintendent, and contain at least the following information:

(A) The need for such a vehicle;

(B) Why a standard school bus or school activity vehicle will not suffice;

(C) List of items which will not meet applicable standards; and

(D) Passenger capacity of vehicle.

(b) This variance provision is designed for unique changes or alterations necessary to accommodate special equipment or conditions.

(19) In case of an accident involving serious injury or death, the Oregon Department of Education shall be notified immediately.

(20) A school district or contractor shall notify the Department of Education in writing within 30 days of notification of any employee's conviction for driving violations or criminal offenses specified in OAR 581-053-0006(8).

(21) School district shall report to the Department of Education statistics related to pupil transportation: Information required shall be related to mileage, numbers and types of school buses, and numbers of students.

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

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

Hist.: 1EB 13-1978, f. 4-3-78, ef. 9-1-78; 1EB 5-1979, f. & ef. 3-30-79; EB 3-1987, f. & ef. 2-18-87; EB 43-1988, f. 12-16-88, cert. ef. 1-1-89; EB 5-1992, f. & cert. ef. 2-21-92; EB 21-1993, f. & cert. ef. 6-2-93; ODE 11-1999, f. & cert. ef. 2-12-99; ODE 30-1999, f. 12-13-99, cert. ef. 12-14-99; ODE 7-2002, f. & cert. ef. 3-11-02; ODE 1-2003(Temp), f. & cert. ef. 3-4-03 thru 8-1-03; ODE 11-2003, f. & cert. ef. 6-13-03

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## Oregon Economic and Community Development Department Chapter 123

**Adm. Order No.:** EDD 6-2003(Temp)

**Filed with Sec. of State:** 6-13-2003

**Certified to be Effective:** 6-13-03 thru 12-8-03

**Notice Publication Date:**

**Rules Adopted:** 123-068-0011, 123-068-0101, 123-068-0201, 123-068-0301

**Subject:** This rulemaking temporarily adopts administrative rules based on ones recently repealed as part of an overall updating of OAR Ch. 123 (EDD 4-2003, f. & cert. ef. 3-26-03). There remains, however, a residual statutory/fiscal basis to continue the program in question, for which similar rules must be restored immediately. The "Industrial Modernization Program" is for the purpose of operating an Industrial Extension Service, by which funds may be awarded to entities that will assist small to medium-sized manufacturers with accessing and incorporating technological, organizational and workforce development improvements to foster Oregon competitiveness.

**Rules Coordinator:** Margie N. Druery — (503) 986-0206

**123-068-0011**

**Purpose and Scope**

This division of administrative rules establishes the Industrial Modernization Program to manage the Industrial Extension Service under ORS 329.930(2). This service is intended to provide customer-directed assistance, so that traded-sector, small to medium-sized business firms can determine and adopt the appropriate technology, management technique, work organization and workforce strategies to become and stay competitive in the global economy.

Stat. Auth.: ORS 285A.075(5), ORS 285A.110(1) & ORS 329.930(2)

Stats. Implemented: ORS 329.930

Hist.: EDD 6-2003(Temp), f. & cert. ef. 6-13-03 thru 12-8-03

# ADMINISTRATIVE RULES

## 123-068-0101

### Definitions

For purposes of this division of administrative rules, unless the context demands otherwise:

(1) **Appropriate Technology** means the application of activities, manufacturing methods or products determined to best fulfill the competitive needs of Firms within a given industry or sector.

(2) **Department** means the State of Oregon Economic and Community Development Department organized under ORS 285A.070.

(3) Director means the director of the Department appointed under ORS 285A.070.

(4) **Firm** means a traded sector business firm as described in ORS 285B.360(5) with 500 or fewer full-time equivalent employees in this state

(5) **Industrial Extension Service** means problem-solving assessment, expertise and implementation for Firms, as authorized and described under ORS 329.930(2).

(6) **Industrial Modernization Program** or **Program** means the activities of the Department associated with the Industrial Extension Service.

(7) **Matching Funds** mean money or in-kind contributions used in conjunction with Program funds to complete a Project, including but not limited to private funds, other public funds, services, materials, labor or other items with discernible value directly related to the Project.

(8) **Project** means a task, improvement or action that implements the Program.

(9) **Technology Assessment** means an audit performed by Industrial Extension Service staff to determine the type of activity, product or expertise most appropriate to a firm.

Stat. Auth.: ORS 285A.075(5), ORS 285A.110(1) & ORS 329.930(2)

Stats. Implemented: ORS 329.930

Hist.: EDD 6-2003(Temp), f. & cert. ef. 6-13-03 thru 12-8-03

## 123-068-0201

### Program Administration

(1) The Department will manage the Industrial Extension Service through the Industrial Modernization Program, and as determined by the Department to be appropriate, the Program shall:

(a) Provide funding and administrative services to the Industrial Extension Service;

(b) Manage and promote technology transfer, appropriate manufacturing techniques and workforce development; and

(c) Focus on building partnerships among public and private sector organizations and Industrial Extension Service provider(s).

(2) The Department shall designate public or private entity or entities to provide access to and deliver the Industrial Extension Service throughout the state. Any such provider is accountable to the Industrial Modernization Program.

(3) To select the provider(s) of the Industrial Extension Service, the Department shall conduct an application process that in addition to other requirements of law for relevant public procurement, shall give preference to entities that:

(a) Are organized as a nonprofit or not-for-profit, with an executive board that is majority-represented by persons primarily employed in trad-ed-sector businesses; and

(b) Is judged to be best capable of fulfilling the responsibilities listed in section (4) of this rule.

(4) The responsibilities of an Industrial Extension Service provider are as follows:

(a) Engaging in one-on-one assistance with participating Firms, including Technology Assessment;

(b) Handling outreach and marketing of the Industrial Extension Service to Firms;

(c) Establishing a review process, with direct involvement by Department staff, to evaluate the appropriateness of services delivered to Firms and to monitor results in general;

(d) Receiving Program funds to contract for or directly provide services or products to participating Firms at a reasonable cost;

(e) Executing and fulfilling service agreements with participating Firms, such that a Firm requests services and the provider works with the Firm to:

(A) Define a performance-based Project;

(B) Identify and obtain Matching Funds; and

(C) Monitor the use all funds and the Project's completion;

(f) Maintaining organized, accessible data on participating Firms, activities and performance, including but not limited to the following:

(A) Type(s) of service provided;

(B) Name, location, industry and so forth of the Firm;

(C) Size attributes of Firm, such as number of employees or gross sales;

(D) Impact of service on Firm measured in terms of the Firm's output productivity, value added, revenues, market growth/penetration or similar quantified measures that demonstrate a return on investment from the Industrial Extension Service Project; and

(E) Number of participating Firms gaining formal industry recognition or certification, including supplier status from major customers;

(g) Providing ongoing follow-up assistance to participating Firms in the application and deployment of Appropriate Technology or services rendered; and

(h) Reporting regularly to the Department with respect to achievements as specified in the contract between the Department and the provider.

Stat. Auth.: ORS 285A.075(5), ORS 285A.110(1) & ORS 329.930(2)

Stats. Implemented: ORS 329.930

Hist.: EDD 6-2003(Temp), f. & cert. ef. 6-13-03 thru 12-8-03

## 123-068-0301

### Director's Waiver

The Director may waive non-statutory requirements described in this division of administrative rules, if it is demonstrated that such a waiver serves to further the goals and objectives of the Industrial Modernization Program.

Stat. Auth.: ORS 285A.075(5), ORS 285A.110(1) & ORS 329.930(2)

Stats. Implemented: ORS 329.930

Hist.: EDD 6-2003(Temp), f. & cert. ef. 6-13-03 thru 12-8-03

## Oregon Housing and Community Services Chapter 813

**Adm. Order No.:** OHCS 7-2003

**Filed with Sec. of State:** 5-16-2003

**Certified to be Effective:** 5-16-03

**Notice Publication Date:** 4-1-03

**Rules Adopted:** 813-047-0006

**Rules Amended:** 813-047-0001, 813-047-0005, 813-047-0010, 813-047-0015, 813-047-0020, 813-047-0025

**Rules Repealed:** 813-047-0001(T), 813-047-0005(T), 813-047-0006(T), 813-047-0010(T), 813-047-0015(T), 813-047-0020(T), 813-047-0025(T)

**Subject:** 813-047-0001 General housekeeping has been incorporated to clarify language. 813-047-0005 is amended to provide further clarification to definitions that are commonly used in the program. 813-047-0006 is a new rule that outlines how the resources of the program will be administered. 813-047-0010 Incorporates general housekeeping to clarify language. 813-047-0015 Establish a 30 calendar day deadline for the department to approve or request additional information in response to the receipt of an application. General housekeeping was incorporated to clarify language. 813-047-0025 Incorporates general housekeeping to clarify language.

**Rules Coordinator:** Sandy McDonnell—(503) 986-2012

### 813-047-0001

#### Purpose and Objectives

OAR chapter 813, division 47, is promulgated to accomplish the general purpose of ORS 456.515 to 456.725 and 458.210 to 458.240, specifically 458.210 through 458.240, which authorize the Department to establish the Community Development Corporation Program. The objective of this Program is to assist qualified nonprofit Community-Based Organizations (CBOs) to establish Community Development Corporations (CDCs). This objective:

(1) Expands the capacity of Community-Based Organizations to meet the housing and community development needs of their respective service areas by building, rehabilitating, and managing low- and moderate- income housing, and

(2) Provides Community-Based Social Services which provide training or employment for low- and moderate- income residents within target- ed areas.

Stat. Auth.: ORS 458.210 - ORS 458.240

Stats. Implemented: ORS 458.210 - ORS 458.240

Hist.: HSG 2-1990, f. & cert. ef. 2-5-90; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 3-1991, f. & cert. ef. 9-4-91; HSG 2-1992(Temp), f. & cert. ef. 1-9-92; HSG 7-1992, f. & cert. ef. 6-16-92; OHCS 14-2002(Temp), f. & cert. ef. 11-20-02 thru 5-17-03; OHCS 7-2003, f. & cert. ef. 5-16-03

# ADMINISTRATIVE RULES

## 813-047-0005

### Definitions

All words and terms used in OAR chapter 813, division 047 are defined in the Act, in OAR 813-005-0005 and below. As used in OAR chapter 813, division 047, unless the context indicates otherwise:

(1) "Capacity Building Grant" means a grant that is used to increase or broaden a Community Development Corporation's Local Capacity to meet the housing needs of the service area.

(2) "Community-Based Organization" or "CBO" means a nonprofit corporation organized under ORS Chapter 65, a housing authority established under ORS 456.055 to 456.235, a Community Action Agency, a Community Development Corporation, or other nonprofit or governmental entity representing or seeking to serve the housing, human services or Community Economic Revitalization needs of a clearly-defined population and area.

(3) "Community-Based Social Services" means comprehensive client-centered services delivered within a Targeted Area that promotes Community Economic Revitalization. The purpose of these services is to assist individuals and families to become more functional and self-reliant.

(4) "Community Development Corporation" or "CDC" means a nonprofit 501(c)(3) corporation organized (under ORS Chapter 65 which has its purpose, as stated in its articles of incorporation, to serve the needs of low and moderate income people for community development and self-help; is governed by a board of directors that has no fewer than five members, 51 percent of which are from the CDC's Service Area; and which has a clearly defined geographic Service Area.

(5) "Community Economic Revitalization" means community-oriented strategy that targets resources in order to address problems in a Targeted Area, that is controlled by residents of the Targeted Area, and that uses tangible development activities to increase the amount of investments made and retained in the Targeted Area.

(6) "Service Area" means the specific area or region which the nonprofit Community-Based Organization or Community Development Corporation has identified or targeted to receive development activity.

(7) "Human Investment Strategies Grant" means a grant that is used to increase or broaden a Community Development Corporation's Local Capacity to deliver Community-Based Social Services through the training or employment of residents of a Targeted Area.

(8) "Initial Planning Grant" means a grant that is used to incorporate and establish a Community Development Corporation.

(9) "In-Kind Contribution" means a contribution to a project other than cash, including, but not limited to, office equipment, working space, office supplies, staff time, telephone and automobile use, donated project materials or labor, and non-board volunteer time.

(10) "Local Capacity" means the ability or competency of organizations in an identified geographic area to address housing, human services, or Community Economic Revitalization issues or problems.

(11) "Low Income" means an adjusted annual household income, as defined in **24 CFR, Part 91.5**, which exceeds 50 percent but does not exceed 80 percent of the median household income for the area, as determined by the U.S. Department of Housing and Urban Development, with allowances for family size.

(12) "Moderate Income" means an adjusted annual household income, as defined in **24 CFR, Part 91.5**, which is between 81 and 95 percent of the median household income for the area, as determined by the U.S. Department of Housing and Urban Development, with allowances for family size.

(13) or "Program" means the Community Development Corporation Program.

(14) "Targeted Area" means a defined county or multi-county area, a town or city, or neighborhoods that receives public program services.

(15) "Very Low Income" means an adjusted annual household income, as defined in **24 CFR, Part 91.5**, which does not exceed 50 percent of the median household income for the area, as determined by the U.S. Department of Housing and Urban Development, with allowances for family size.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 458.210 - ORS 458.240

Stats. Implemented: ORS 458.210 - ORS 458.240

Hist.: HSG 2-1990, f. & cert. ef. 2-5-90; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 3-1991,m f. & cert. ef. 9-4-91; HSG 2-1992(Temp), f. & cert. ef. 1-9-92; HSG 7-1992, f. & cert. ef. 6-16-92; OHCS 14-2002(Temp), f. & cert. ef. 11-20-02 thru 5-17-03; OHCS 7-2003, f. & cert. ef. 5-16-03

## 813-047-0006

### Administration

(1) The Department may provide Initial Planning Grants, Capacity Building Grants or Human Investment Strategies Grants. The Department may restrict the availability of Program funds for each grant category at the time it solicits applications.

(a) Initial Planning Grants. The maximum award for an Initial Planning Grant will be \$5,000.

(b) Capacity Building Grants. The Department will not award Capacity Building Grants to cover 100 percent of the costs of the activities funded by the grant. The maximum award for a Capacity Building Grant will be \$50,000.

(c) Human Investment Strategies Grants. The Department will not award grants to cover 100 percent of the costs of the activities funded by the grant. The maximum award will be \$50,000.

(2) The Department may further restrict the use of available funds for specific Local Capacity building activities related to housing needs or for specific Human Investment Strategies Grant activities in the Service Area of a CBO, restrict the amount or type of assistance available, or restrict the type of applicant eligible for assistance.

(3) A CBO may not receive more than one grant per biennium under each category of grant.

Stat. Auth.: ORS 458.210 - ORS 458.240

Stats Implemented: ORS 458.210 - ORS 458.240

Hist.: OHCS 14-2002(Temp), f. & cert. ef. 11-20-02 thru 5-17-03; OHCS 7-2003, f. & cert. ef. 5-16-03

## 813-047-0010

### Application Procedure and Requirements

(1) The Department will , as Program funds are available, support or solicit applications for Program grants and will consider only applications received in response to such solicitations.

(2) All applications for Program grants shall be submitted in writing to the Department and shall contain at a minimum the following information:

(a) Name, address, and telephone number of the applicant;

(b) Amount and type of assistance requested;

(c) A description of how the assistance will be used including whether the funds are:

(A) For an Initial Planning Grant to start up a Community Development Corporation;

(B) For a Capacity Building Grant to expand an existing Community Development Corporation; or

(C) For a Human Investment Strategies Grant to expand an existing Community Development Corporation's Local Capacity to provide Community-Based Social Services within a Targeted Area; and

(d) A description of the desired outcomes and how the applicant will achieve those outcomes:

(A) In the case of a Capacity Building Grant, a CDC applicant must demonstrate the usefulness and supportive effect such a grant provides to the realization of overall objectives of the anticipated project/activity;

(B) In the case of a Human Investment Strategies Grant, a CDC applicant must demonstrate how the proposed project supports the needs of individuals and families residing in a Targeted Area; how the proposed project will promote Community Economic Revitalization through the delivery of Community-Based Social Services within the Targeted Area; and how the Community-Based Social Services funded by such a grant will provide training or employment programs to Low- and Moderate- Income residents of the Targeted Area;

(c) A description of the Community Development Corporation's present or proposed Service Area or a description of the Targeted Area as it applies to a Human Investment Strategies Grant; and

(f) In the case of an Initial Planning Grant, evidence of matching funds or In-Kind Contributions in a minimum amount (expressed as a percentage of a grant request) that will be specified in the applicable Program solicitation, which minimum amount shall not exceed 50 percent of a grant request. However, a CBO may indicate greater In-Kind Contributions in support of its application.

Stat. Auth.: ORS 458.210 - ORS 458.240

Stats. Implemented: ORS 458.210 - ORS 458.240

Hist.: HSG 2-1990, f. & cert. ef. 2-5-90; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 3-1991, f. & cert. ef. 9-4-91; HSG 2-1992(Temp), f. & cert. ef. 1-9-92; HSG 7-1992, f. & cert. ef. 6-16-92; OHCS 14-2002(Temp), f. & cert. ef. 11-20-02 thru 5-17-03; OHCS 7-2003, f. & cert. ef. 5-16-03

# ADMINISTRATIVE RULES

## 813-047-0015

### Application Review

(1) The Department may, within 30 calendar days of receipt of an application, approve the application or request additional information from the applicant. If within this 30-day period, the Department takes no formal action on the application or has not requested additional information, the application will be deemed denied.

(2) In reviewing applications, the Department may consider, in addition to any special evaluation criteria described in the applicable solicitation, the following (as appropriate or required):

(a) Amount of available funds in the Program;

(b) Availability of other sources of assistance, including In-Kind Contributions, in excess of the minimum required;

(c) An applicant's ability to leverage public or private funds;

(d) Compliance with any statutorily-required geographic preferences;

(e) In the case of the Human Investment Strategies Grants, the appropriateness and effectiveness of the proposed activities for the Targeted Area;

(f) Appropriateness of the organizational development proposed;

(g) Appropriateness of the proposed activities to meet the housing, human services, or Community Economic Revitalization needs of residents within the Service Area;

(h) The number of Low and Moderate Income persons to be assisted;

(i) Documentation of local coordination efforts focused at avoiding duplication of existing services and meeting the unmet needs; and

(j) In the case of the Human Investment Strategies Grants, documentation of coordination with local housing interests including, but not limited to, Community Action Agencies, Community Development Corporations, housing development corporations, and the local governing jurisdiction or jurisdictions.

(3) The Department will select those applications which, in the judgment of the Department, comply with the requirements and best achieve the purposes of the Program, the Act, OAR chapter 813, division 047, and any evaluation criteria outlined in the applicable program solicitation.

(4) The Department will give preference to a Community Development Corporation that:

(a) Has a defined geographic service area in Multnomah, Washington, Clackamas, Lane, Linn, Douglas, Jackson or Marion counties that does not include more than 50,000 people; or

(b) Has a defined geographic service area in any other county that does not include more than 75,000 people; and

(c) Can demonstrate support from the community. Acceptable demonstrations of support must be in writing and may include, but are not limited to, organizational letters, personal statements, or written commitments of project contributions.

Stat. Auth.: ORS 458.210 - ORS 458.240

Stats. Implemented: ORS 458.210 - ORS 458.240

Hist.: HSG 2-1990, f. & cert. ef. 2-5-90; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 3-1991, f. & cert. ef. 9-4-91; HSG 2-1992(Temp), f. & cert. ef. 1-9-92; HSG 7-1992, f. & cert. ef. 6-16-92; OHCS 14-2002(Temp), f. & cert. ef. 11-20-02 thru 5-17-03; OHCS 14-2002(Temp), f. & cert. ef. 11-20-02 thru 5-17-03; OHCS 7-2003, f. & cert. ef. 5-16-03

## 813-047-0020

### Grant

(1) The Department will confirm to the applicant in writing the amount of assistance, if any, to be provided from the Program. In the grant award letter, the Department will inform grant recipients of their eligibility to apply for additional grant funding from the Program within the same biennium. A grant is awarded subject to execution by the grant recipient and the Department of a grant award contract in form and substance satisfactory to the Department and such other documents as the Department considers appropriate or necessary to evidence the type and amount of assistance provided.

(2) Grant funds will be used:

(a) In the case of Initial Planning Grants, to provide funds for the purpose of payment of rent, staff salaries and benefits, office supplies and expenses, legal fees, filing fees, and other such expenses incurred by or on behalf of a CBO during its initial planning phase;

(b) In the case of Capacity Building Grants, to provide funds for the purpose of payment of expenses incurred by or on behalf of a CBO for development or expansion of projects or programs, or expanding the organizational capacity of a CBO, such as expenses for additional staff, training, or capital outlay; and

(c) In the case of Human Investment Strategies Grants, to provide funds for training and employment programs directly involved with the delivery of Community-Based Social Services (including, but not limited to, early childhood development, health care, services for the elderly, serv-

ices for youth, services for substances abuse, and services for the developmentally disabled) to residents of a Targeted Area; additional staff for the development of a Human Investment Strategies Grant project; expanding a CBO's organizational capacity to administer a Human Investment Strategies Grant; and overhead, training, or capital outlay costs associated with the development of a Human Investment Strategies Grant project.

(3) The Department may establish such performance criteria, reporting requirements, termination provisions, remedies, including but not limited to suspension or termination of funding, and any other terms and conditions as the Department considers appropriate or necessary for the type and use of assistance provided.

Stat. Auth.: ORS 458.210 - ORS 458.240

Stats. Implemented: ORS 458.210 - ORS 458.240

Hist.: HSG 2-1990, f. & cert. ef. 2-5-90; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 3-1991, f. & cert. ef. 9-24-91; HSG 2-1992(Temp), f. & cert. ef. 1-9-92; HSG 7-1992, f. & cert. ef. 6-16-92; OHCS 14-2002(Temp), f. & cert. ef. 11-20-02 thru 5-17-03; OHCS 7-2003, f. & cert. ef. 5-16-03

## 813-047-0025

### Waiver

The Director may waive or modify any requirements of OAR chapter 813, division 047, including any waiver or modification as may be necessary or convenient to comply with the rules, regulations or procedures prescribed by any source of funds for the Program, unless such waiver or modification would violate applicable federal or state statutes or regulations.

Stat. Auth.: ORS 458.210 - ORS 458.240

Stats. Implemented: ORS 458.210 - ORS 458.240

Hist.: HSG 2-1990, f. & cert. ef. 2-5-90; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 3-1991, f. & cert. ef. 9-24-91; HSG 2-1992(Temp), f. & cert. ef. 1-9-92; OHCS 14-2002(Temp), f. & cert. ef. 11-20-02 thru 5-17-03; OHCS 7-2003, f. & cert. ef. 5-16-03

## Oregon Liquor Control Commission Chapter 845

**Adm. Order No.:** OLCC 7-2003(Temp)

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**Subject:** The 2003 legislature passed House bill 2295, which was signed by the Governor on April 1, 2003. The House Bill has an emergency clause, and the statutory changes are no in effect.

The subject of the legislation and rule changes is alcoholic cider and how OLCC regulates its delivery, sale and service. We need to amend these 12 rules on a temporary basis in order to comply with the requirements of HB 2295.

**Rules Coordinator:** Katie Hilton—(503) 872-5004

## 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 and cider at retail for consumption on or off the licensed premises at a location other than that designated as the winery's licensed premises for a period not to exceed five consecutive days.

(2) ORS 471.227 authorizes the Commission to issue a Special Events Grower Sales license to a Grower Sales Privilege licensee. The special license may allow the licensee to sell wine and cider at retail for consumption on or off the licensed premises at a location other than that designated as the grower's licensed premises for a period not to exceed five consecutive days.

(3) Any special license application shall be made in writing and include:

(a) A control plan for managing patronage by minors and alcohol consumption by adults;

(b) Identification of the individuals to be employed by the licensee to manage events applied for under this section;

(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, extent of expected patronage overall and by minors, type of food service to be offered, proposed hours of food service, and proposed hours of operation;

(f) License fees as established by ORS 471.311.

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(4) Applicants must apply in writing using the Commission form provided for this purpose. The Commission may reject any application not completed fully and accompanied by the documents or disclosures required by the form. The Commission shall give applicants the opportunity to be heard if an application is rejected. A hearing under this subsection is not subject to the requirements for contested case proceedings under ORS 183.310 to 183.550.

(5) 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.

(6) Commission staff investigates non-routine applications for special licenses. Non-routine applications include those that propose electronically amplified entertainment, a drinking environment as defined in OAR 845-006-0340(8), an operation that staff concludes requires employment of security personnel, or that has not received an unqualified grant recommendation from the local governing body or its delegated department. Commission staff assesses each application to determine if it is routine or non-routine. Applications must be submitted enough in advance of the event date to allow staff assessment and investigation.

(a) The Commission may refuse to process any routine application not submitted at least five business days in advance of the proposed event date.

(b) The Commission may refuse to process any non-routine application not submitted at least fifteen business days prior to the proposed event date if the applicant will operate a drinking environment as defined by OAR 845-006-0340(8).

(c) The Commission may refuse to process any non-routine application not submitted at least twenty-five business days prior to the proposed event date if prior to the submission of the application Commission staff provide notice to the applicant or the applicant's representative that investigation of the application will require assessment of public safety or neighborhood impact matters, or the risk of disturbances or liquor law violations at the location proposed to be licensed.

(7) Submission of an application within the time lines stated in subsection (6) of this rule does not guarantee the Commission will have the resources to complete investigation of the application prior to the applicant's requested date(s).

(8) 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.

Stat. Auth.: ORS 471, ORS 471.030, ORS 471.040, ORS 471.730(1) & (5)  
Stats. Implemented: ORS 471.223 & ORS 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 thur 11-16-03

## 845-005-0422

### Next-Day Delivery of Package Alcohol; Wine and Cider Delivery by Winery Licensee

(1) ORS 471.305 restricts retail wine, cider, and malt beverage sales to the licensed premises. It allows deliveries within Oregon "made by the licensee to customers pursuant to bona fide orders received on the premises prior to delivery."

(2) The licensee's license must include off-premises sales privileges for malt beverages to deliver malt beverages, off-premises sales privileges for wine to deliver wine or cider.

(3) A Winery licensee is authorized to ship not more than two cases of wine or cider containing not more than nine liters per case per month to any resident of this state who is at least 21 years of age, for personal use and not for resale.

(4) Before making the first delivery, the licensee must notify the Commission on a Commission-supplied form that the licensee plans to provide this delivery service.

(5) The licensee may not deliver kegs without prior written approval for each delivery.

(6) As used in this rule, "made by the licensee" includes deliveries by the licensee's employee who holds a current Service Permit and by a common carrier who has a Commission-approved delivery plan. Common carrier delivery plans are assessed under the guidelines of OAR 845-005-0424.

(7) The licensee may make deliveries only in compliance with the requirements of OAR 845-006-0398.

Stat. Auth.: ORS Ch. 471, including 471.030, 471.305, and 471.730(1),(5), & (6)  
Stats. Implemented: ORS 471.223 & ORS 471.305  
Hist.: OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01; OLCC 7-2003(Temp), f. & cert. ef. 5-20-03 thur 11-16-03

## 845-005-0423

### Wine Shipment by Out-of-State Licensee

(1) A retailer or winery licensed in another state that wants to ship wine or cider to Oregon residents as ORS 471.229 allows must complete a Commission-supplied application for an Out-of-State Wine Shipper license. There is no fee for this license. The license is valid for five years and expires at 12 midnight on December 31 of the fifth year following issuance.

(2) An Out-of-State Wine Shipper licensee:

(a) Is authorized to ship not more than two cases of wine or cider containing not more than nine liters per case per month to any resident of this state who is at least 21 years of age, for personal use and not for resale;

(b) May accept written or telephone orders for wine or cider. The licensee must wait until the next day to ship a telephone order;

(c) May use only a common carrier that has a Commission-approved delivery plan. Requests for approval of common carrier delivery plans are evaluated under the guidelines of OAR 845-005-0424;

(d) Must prominently label each shipping container of any wine or cider shipped under this subsection: "Alcoholic Beverages - Do not deliver to a person who is under 21 years of age or visibly intoxicated."

(3) The Commission may cancel or suspend a wine shipper's license:

(a) If the delivery person delivers to a minor or a visibly intoxicated person or does not comply with subsection (2)(c) of this rule;

(b) If the licensee fails to comply with the requirements of ORS 471.229 and all other Oregon alcoholic beverage statutes and rules applicable to the sale of wine or cider in Oregon.

Stat. Auth.: ORS 471, 471.030, ORS 471.229, 471.730(1), (5) & (6)  
Stat. Implemented: ORS 471.229

Hist.: OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01; OLCC 7-2003(Temp), f. & cert. ef. 5-20-03 thur 11-16-03

## 845-005-0427

### Retail On-Premises Malt Beverage or Wine Sampling Involving Manufacturer or Certificate of Approval Holder

(1) Certificate of Approval holders and Oregon Winery, Grower Sales Privilege, Brewery-Public House, Brewery, and Warehouse licensees may conduct or assist at tasting events at Full On-Premises Sales and Limited On-Premises Sales licensed premises, and at Off-Premises Sales licensed premises which sell petroleum products in compliance with OAR 845-006-0450, for the purpose of promoting their wine, cider, and malt beverage products to the public.

(2) Sample tasting events permitted under this rule:

(a) Do not require a special or temporary license;

(b) Must be conducted in compliance with OAR 845-006-0450.

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

Stats. Implemented: ORS 471.402

Hist.: OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01; OLCC 7-2003(Temp), f. & cert. ef. 5-20-03 thur 11-16-03

## 845-006-0390

### Transportation by Licensed Retailer from Licensed Wholesaler Premises

A licensed malt beverage or wine retailer may transport the malt beverages, cider, or wine the retailer purchases from a licensed wholesaler from the wholesaler's premises to the retailer's premises. The purchase price of such malt beverages, cider, or wine shall be the price listed pursuant to OAR 845-010-0210.

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

Stats. Implemented: ORS 471.305 & ORS 471.398

Hist.: LCC 40, f. 8-2-72, ef. 8-5-72; Renumbered from 845-010-0211; LCC 32-1980, f. 12-22-80, ef. 2-1-81; OLCC 7-1990, f. 3-16-90, cert. ef. 4-1-90; OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01, Renumbered from 845-006-0090; OLCC 7-2003(Temp), f. & cert. ef. 5-20-03 thur 11-16-03

## 845-006-0395

### Shipments of Alcoholic Beverages to Oregon Residents

(1) Definitions for purposes of this rule:

(a) "Alcoholic beverage" and "alcoholic liquor" mean any liquid or solid containing more than one-half of one percent alcohol by volume, and capable of being consumed by a human being;

(b) "Distilled liquor" means any alcoholic beverage other than cider, a wine or malt beverage. "Distilled liquor" includes distilled spirits;

(c) "Malt beverage" means an alcoholic beverage obtained by the fermentation of grain that contains not more than 14 percent alcohol by volume. "Malt beverage" includes beer, ale, porter, stout and similar alcoholic beverages containing not more than 14 percent alcohol by volume. "Malt beverage" does not include an alcoholic beverage obtained by fermentation of rice;



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(d) To “ship” includes any one or more of the following acts: To import, transport, deliver and sell alcoholic beverages to any resident of this state;

(e) “Wine” means any wine containing not more than 21 percent alcohol by volume and produced in all respects in conformity with the laws of the United States and the regulations of the Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury. “Wine” does not include cider;

(f) “Cider” means an alcoholic beverage made from the fermentation of the juice of apples or pears that contains not more than ten percent of alcohol by volume.

(2) Wine or cider may be shipped to Oregon residents from out-of-state wine shipper licensees pursuant to ORS 471.229 and OAR 845-005-0423. Wine or cider may be shipped to Oregon residents from in-state licensees pursuant to ORS 471.223, 471.229, OAR 845-005-0422 and 845-006-0398.

(3) Malt beverages may not be shipped to Oregon residents from out-of-state. Malt beverages may be shipped to Oregon residents from in-state licensees pursuant to OAR 845-005-0422 and 845-006-0398.

(4) Distilled liquor may not be shipped to Oregon residents from out-of-state or from within the state, except in-person sales from state agents are permitted.

Stat. Auth.: ORS 471, ORS 471.030, ORS 471.040, ORS 471.730(1), ORS 471.730(5) & ORS 471.730(6)

Stats. Implemented: ORS 471.229 & ORS 471.404

Hist.: OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01; OLCC 7-2003(Temp), f. & cert. ef. 5-20-03 thur 11-16-03

## 845-006-0396

### Same-Day Retail Delivery of Alcoholic Beverages with Meal Service

(1) Requirements for Same Day Delivery. A licensee must qualify for this privilege under the standards of OAR 845-005-0420. A qualified licensee may make deliveries the same day the licensee receives the order only under the following conditions:

(a) A licensee must have an Off-Premises Sales license and either a Full On-Premises Sales or a Limited On-Premises Sales license, or a Brewery-Public House license, and must be in the business of preparing and serving regular meals on the licensed premises, must submit a complete written request for the privilege as specified in section (4) of this rule, and be approved by the Commission in writing;

(b) Before making any deliveries, the licensee must notify the Commission on a Commission supplied form that the licensee plans to provide this delivery service;

(c) Malt beverages, cider, and wine may account for no more than 25 percent of the retail cost of the delivered order; at least 75 percent must be food unless the licensee has received written Commission approval of a different alcohol-to-food retail cost ratio;

(d) The licensee must use delivery vehicles that prominently display the licensee’s trade name;

(e) The licensee must make all deliveries before 9:00 p.m.;

(f) The licensee must prominently label each shipping container: “Alcoholic Beverages — Do not deliver to a person who is under 21 years of age or visibly intoxicated”;

(g) The licensee must deliver only to a person who is at least 21 years old and must not deliver to a visibly intoxicated person;

(h) The licensee must deliver only to a home or business;

(i) The licensee must not deliver kegs;

(j) At the time of delivery, the delivery person must complete a Commission-approved form. The delivery person must use the form to record the verification that the person who receives the delivery is at least 21 years old, the delivery address and the identity of the delivery person. The delivery person must give the completed form to the retail licensee who must keep this verification record for two years.

(2) Sanction. The sanction for a violation of this rule is a Category III violation. The sanction may include a restriction that prohibits further deliveries.

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

Stats. Implemented: ORS 471.305

Hist.: OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01; OLCC 7-2003(Temp), f. & cert. ef. 5-20-03 thur 11-16-03

## 845-006-0398

### Next-Day Retail Shipment of Alcoholic Beverages by Oregon Licensees to Oregon Residents

(1) A licensee may deliver wine, cider, or malt beverages on any day after the day the licensee receives the order only under the following conditions:

(a) The licensee’s license must include off-premises sales privileges for malt beverages to deliver malt beverages, and off-premises sales privileges for wine to deliver wine or cider;

(b) Before making the first delivery, the licensee must notify the Commission on a Commission supplied form that the licensee plans to provide this delivery service;

(c) The licensee must prominently label each shipping container: “Alcoholic Beverages — Do not deliver to a person who is under 21 years of age or visibly intoxicated” or similar message that the Commission approves;

(d) The licensee must deliver only to a person who is at least 21 years old and must not deliver to a visibly intoxicated person;

(e) The licensee must deliver only to a home or business;

(f) The licensee must not deliver kegs unless the licensee gets prior written Commission approval for the delivery;

(g) The delivery vehicles driven by the licensee or the licensee’s employee must prominently display the licensee’s trade name;

(h) If the licensee or licensee’s employee makes the delivery, he/she must record the signature of the person who receives the delivery, proof of age (if age verification is required), the delivery address and the identity of the delivery person. (See OAR 845-006-0335 for age verification requirements.) The licensee must keep these records for at least 18 months after the delivery;

(i) If the licensee delivers through a common carrier, the licensee may use only a common carrier who has a Commission-approved delivery plan. The Commission requires plan approval to assure appropriate alcoholic beverage delivery. The Commission evaluates common carrier delivery plans under the standards of OAR 845-005-0424.

(2) Sanction. Violation of this rule is a Category III violation. The sanction may include a restriction that prohibits further deliveries.

(3) Any person who knowingly or negligently delivers wine or cider which has been shipped under the provisions of ORS 471.229 to a person under 21 years of age, or who knowingly or negligently delivers wine or cider which has been shipped under the provisions of ORS 471.229 to a visibly intoxicated person, violates ORS 471.410 and commits a Class A misdemeanor, whether or not the person is licensed or appointed under the provisions of ORS Chapter 471.

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

Stats. Implemented: ORS 471.223, ORS 471.229 & ORS 471.305

Hist.: OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01; OLCC 7-2003(Temp), f. & cert. ef. 5-20-03 thur 11-16-03

## 845-006-0430

### Alcohol Management in Public Venues

(1) Purpose. The Commission is charged with regulating the sale and service of alcoholic beverages in a way which protects the safety and welfare of the citizens, and helps ensure that alcohol is used legally. The purpose of this rule is to set minimum standards to help licensees manage large public events, ensuring that minors and visibly intoxicated persons do not get or consume alcohol. The Commission may place additional requirements on individual events to help ensure legal, well-managed events.

(2) Definitions.

(a) “Attendance” means reasonably projected attendance.

(b) “Confined area” means an area within the event to which alcohol sales and consumption are restricted and where minors are prohibited. Alcohol Monitors are required if 2000 or more people are allowed in the confined area at any one time.

(c) “Alcohol Monitor” means a licensee’s employee or agent who monitors the sale and consumption of alcoholic beverages, supplementing alcohol servers and security staff.

(d) “Walk around” means an event where people are allowed to walk around the entire event or some defined part of the event while consuming alcohol, and minors are allowed. Alcohol Monitors are required if there will be a daily attendance at the event of 2000 or more.

(3) This rule applies to:

(a) All annually licensed premises that do not have a Commission-approved operating plan and have any event with a daily attendance of 2000 or more. Annual licensees with a Commission-approved operating plan are exempt from this rule no matter what size events are held at the premises;

(b) All off premises events held by a regular or temporary licensee with a daily attendance of 2000 or more. If such licensee holds an event at another regular licensed premises that has a Commission-approved operating plan, the event holder must comply with the operating plan that is approved for the subject premises;

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(c) To determine if this rule applies to an event, the licensee counts the total daily attendance (It does not matter how many people may consume alcohol or how many people are allowed in a confined area; what matters is the total daily attendance). To determine if an event needs Alcohol Monitors, see Section (2), Definitions, and Section (5), Assignment of Alcohol Monitors.

(4) Responsibilities and Requirements for Alcohol Monitors:

(a) Alcohol Monitors are responsible for ensuring that unlawful sales, service and consumption of alcoholic beverages do not occur on the licensed premises. Alcohol Monitor's duties include observing people, monitoring their alcohol consumption, looking for minors who are consuming alcoholic beverages, and preventing visibly intoxicated persons and minors from consuming alcoholic beverages;

(b) Alcohol Monitors must wear clothing or other designation, such as a button, which readily identifies them to the public as Alcohol Monitors;

(c) Alcohol Monitors must have completed Alcohol Server Education and hold a valid service permit. For annual licensees, this requirement applies to volunteer Alcohol Monitors and to compensated Alcohol Monitors;

(d) Despite Section (4)(c), Alcohol Monitors do not need to hold a service permit if they are uncompensated volunteers for a Temporary Sales licensee and are directly supervised on premises by an individual who has completed Server Education successfully within the last five years.

(5) Assignment of Alcohol Monitors. When determining the required number of Alcohol Monitors, licensees must use the total daily attendance if all or part of the event is a walk around event. See Section (2)(d) for a definition of walk around event. However, if alcohol sales and consumption will be limited to a confined area, the licensee uses the number of people allowed in the confined area at any one time to determine how many Alcohol Monitors are required. See Section (2)(b) for a definition of confined area. Alcohol Monitors must be on duty at all times of alcohol service as follows:

(a) For 2000 to 7500 people, at least three Alcohol Monitors;

(b) For each additional one to 2,500 people, at least one more Alcohol Monitor. For example, 7,501 to 10,000 people require at least four Alcohol Monitors; 10,001 to 12,500 people require at least five Alcohol Monitors; and

(c) One additional Alcohol Monitor for each point of sale that is not readily visible to the minimum number of Alcohol Monitors required in Section (5)(a) and (b). Point of sale means each stand, booth or other concession area where alcoholic beverages are sold and served.

(6) Approved Containers for On-Premises Consumption.

(a) Container sizes. Alcoholic beverages for consumption on the premises must be served as follows:

(A) Malt beverages:

- (i) In a container no larger than 16 ounces;
- (ii) For tastings, no more than 3 ounces of product.

(B) Wine:

(i) By the glass, a standard pour of no more than 4 ounces of product in a container no larger than 24 ounces;

(ii) For tastings, no more than 1 1/2 ounces of product in a container no larger than 24 ounces;

(iii) A bottle of wine no larger than 750 ml sold for more than one person and for on-premises consumption only, with containers no larger than 24 ounces.

(C) Distilled Spirits:

(i) Up to 1 ounce of distilled spirits without mixer in a container no larger than 4 ounces;

(ii) Up to 1 ounce of distilled spirits with mixer served in a container no larger than 9 ounces.

(D) Cider:

(i) In a container no larger than 16 ounces;

(ii) For tastings, not more than 3 ounces of product;

(iii) A bottle of cider no larger than 750 ml sold for more than one person and for on-premises consumption only.

(b) Container color or type. Containers used to serve alcoholic beverages must be of a visibly and distinctively different color or type when compared to containers used to serve nonalcoholic beverages.

(7) Limits on Alcohol Sales.

(a) Each purchaser of alcoholic beverages may buy no more than two drinks at any one time, or one bottle of wine or cider for consumption on the premises that is no larger than 750 ml at any one time.

(b) Alcoholic beverages must be sold and served consistent with Section (6).

(c) If it is reasonably projected that 30 percent or more of the people at the event will be between 15 and 20 years of age, the licensee must limit the sale of alcoholic beverages to a confined area where minors are prohibited unless the licensee gets a variance under Section (9).

(d) Walk around events must have sufficient lighting to ensure that Alcohol Monitors, alcohol servers, security staff, OLCC staff, and law enforcement staff can observe and monitor for over consumption, minors consuming or in possession, and other liquor law violations.

(8) Transportation. The Commission encourages messages before and at events reminding people of the risks of drinking and driving, and encourages alternatives such as designated drivers and, when possible, offering alternate transportation.

(9) Request for Variance. The Commission may grant a variance to part or all of this rule if the request is consistent with the intent of the rule. Any licensee or applicant who requests a variance from any of the criterion stated above must submit the request along with a detailed security plan at least 30 days prior to the event. The Commission will discuss requests for variances with the recommending authority when appropriate. When the Commission grants a variance, the Commission may add other requirements to ensure that the event operates in a way consistent with the intent of the rule. For example, if the Commission were to allow the sale of bottles of wine larger than 750 ml, the Commission might require that the licensee increase the number of Alcohol Monitors to help ensure that the larger bottles did not result in over consumption or in alcohol getting to minors. Other examples of when the Commission will consider granting a variance include events where minors are not permitted to attend and family events (events where minors are accompanied by adults).

(10) Sanction for Violation.

(a) A licensee who violates this rule with respect to the proper training, assignment and use of Alcohol Monitors or by failing to comply with Section (6) related to containers, commits a Category IV violation under the Commission's sanction schedule (OAR 845-006-0500).

(b) If a licensee holds a walk around event and violations related to the sale or service of alcoholic beverages to minors or visibly intoxicated persons occur, or a violation of Section (7)(d) occurs, the next time this event or similar event is held, alcohol must be limited to a confined area unless the licensee get a variance under Section (9).

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

Stats. Implemented: ORS 471.030, ORS 471.040, ORS 471.115, ORS 471.360, ORS 471.410, ORS 471.412, ORS 471.430 & ORS 471.730(1)

Hist.: OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01; OLCC 14-2002, f. 10-25-02 cert. ef. 11-1-02; OLCC 7-2003(Temp), f. & cert. ef. 5-20-03 thur 11-16-03

## 845-006-0433

### Minibars in Hotel Guest Rooms

ORS 471.180 allows a Limited On-Premises Sales or Full On-Premises Sales licensee who operates a hotel to make alcoholic beverages, stored in locked cabinets (minibars) in individual guest rooms, available to guests. Licensees may provide these alcoholic beverages under the conditions identified in this rule.

(1) Only a service permittee or trained employee may give guests the key to minibars. A trained employee is one who has participated in a training program that meets, at least, the requirements in the Commission's Alcohol Server Education Model Curriculum on identifying minors and recognizing the signs of visible intoxication.

(2) The licensee must not give a minibar key to minors or visibly intoxicated persons. The licensee may not give a minibar key to a guest if the licensee has reason to believe the guest is accompanied by a minor and is not the minor's parent or caretaker.

(3) Restocking:

(a) Any employee who is at least 18 years old may restock a minibar when restocking is not in response to guest request for immediate restocking;

(b) Only a service permittee may restock a minibar in response to guest request for immediate restocking (restocking is the same as selling/serving in this instance);

(c) In response to guest request for restocking, employees will not restock a minibar:

(A) If there are visibly intoxicated persons or minors unaccompanied by their parents in the room;

(B) After 2 a.m.;

(C) With amounts of alcohol that the people in the room cannot reasonably consume by 2:30 a.m.

(4) Limitations:

(a) On container size: The individual containers in a minibar may be no larger than 50 milliliters for distilled spirits, 12 ounces for malt beverages and 375 milliliters for wine or cider;

# ADMINISTRATIVE RULES

(b) On number of containers: The total number of alcoholic beverage containers in a minibar may not exceed 30.

(5) Each minibar will have a clearly visible sign on the outside or inside of the minibar. The sign will explain the following liquor laws: minors and visibly intoxicated persons may not drink alcohol from the minibar; guests/visitors may not drink alcohol from the minibar between 2:30 a.m. and 7 a.m.; and guests/visitors may not take alcohol from a minibar off the premises.

(6) Food: At a minimum, the licensee must have a variety of snacks available during the hours that a guest may lawfully access the minibar.

(7) The Commission will hold a licensee responsible for liquor law violations that occur in guest rooms only if the licensee or employee permitted the violation.

Stat. Auth.: ORS 471.030, ORS 471.040, 471.730(1) & (5)  
Stats. Implemented: ORS 471.180  
Hist.: OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01; OLCC 7-2003(Temp), f. & cert. ef. 5-20-03 thur 11-16-03

## 845-006-0434

### Minibars in Arena Suites

(1) ORS 471.180 allows a Limited On-Premises or Full On-Premises Sales licensee who operates suites in an arena to store alcoholic beverages in a minibar and to make those beverages available to guests of arena suites. The purpose of this rule is to regulate the use of minibars in arena suites. The Commission reserves the right to add restrictions regarding the service of alcohol from minibars to the license of any arena licensee when those restrictions are considered by the Commission to be a reasonable response to a potential public safety problem or concern.

(2) Definitions:

(a) "Adults": Persons 21 years of age or older;

(b) "Arena suite": An enclosed, leased, private suite which is separate from the general admission area in an arena. The Commission considers an arena suite as a part of the arena;

(c) "Containers": For purposes of this rule, an individual container of each alcoholic beverage listed below must contain no more than the following amount of alcohol:

(A) Distilled spirits: 1.7 ounces or 50 milliliters;

(B) Bottles or cans of malt beverage: 12 ounces or approximately 355 milliliters;

(C) Malt beverage in kegs: 8 liters;

(D) Wine or cider: 25.4 ounces or 750 milliliters;

(d) "Licensee": For purposes of this rule, licensee refers to an arena which has been issued a Limited On-Premises or Full On-Premises Sales license under the provisions of ORS chapter 471;

(e) "Minibar": A locked cabinet and/or locked refrigerator used to store alcoholic beverages;

(f) "Monitoring": An observation of suite guests for a reasonable amount of time by a service permittee who must serve food, alcoholic beverages, non-alcoholic beverages, or perform related duties in the suite during the period of monitoring to provide an opportunity for the permittee to observe whether minors are consuming alcohol, whether guests show any signs of visible intoxication and whether any unlawful acts are occurring;

(g) "Service Permittee": An individual who has successfully completed an approved Alcohol Server Education course and has a valid Service Permit;

(h) "Suite Holder": A person or entity that has entered an agreement to occupy an arena suite. Where such suite holder is a business or a corporation, that suite holder will designate at least one adult as the suite holder's representative for each event.

(3) Operational Rules for Arena Suites: The licensee may provide alcoholic beverages only under the following conditions in arena suites:

(a) Maximum Containers Allowed Per Suite:

(A) Each suite must be stocked with no more than:

(i) One 8 liter keg of malt beverage and 60 additional containers of a variety of alcoholic beverages; or

(ii) Eighty (80) containers of a variety of alcoholic beverages; no keg of malt beverage is permitted.

(B) Only one 8 liter keg of malt beverage may be present in a suite at any one time. Alcoholic beverages which are brought into the suite from other areas in the arena for immediate consumption by suite guests will not be counted in the maximum number of containers of alcohol allowed in the arena suite.

(b) Responsibilities of Suite Holder and Suite Guests:

(A) When the suite holder will not be present for an event, the suite holder must designate one adult as the suite holder's representative for that

event. The suite holder or suite holder's representative must be present in the suite throughout each event;

(B) For purposes of OAR 845-006-0362 and 845-006-0345, the suite holder or suite holder's representative and suite guests are deemed to be the licensee's agents or representatives. The Commission holds the suite holder, the suite holder's representative and suite guests to the same standard of care in serving alcohol as the licensee.

(c) Responsibilities of the Licensee:

(A) A service permittee must monitor each suite for alcohol-related problems a minimum of four times each hour while the suite is occupied. However, the Commission may enter an agreement with a licensee to defer enforcement of this provision and to require less frequent monitoring when the Commission has reason to believe that less frequent monitoring will be adequate to insure that alcohol-related problems will not occur. The Commission will reserve the right to revoke the agreement and to require compliance with this subsection of the rule if the Commission has reason to believe more frequent monitoring is necessary to prevent alcohol-related problems;

(B) No alcohol may be consumed in an arena suite from one hour after an arena event has ended until 7:00 a.m. Notwithstanding this portion of the rule, if the arena suite is used for a private party when no arena event is occurring, no alcohol may be consumed in the arena suite from 12:00 midnight until 7:00 a.m. Under no circumstances may alcohol be served or consumed between 2:30 and 7:00 a.m.

(C) If a service permittee observes a minor or visibly intoxicated person being served or consuming alcoholic beverages, the service permittee must:

(i) Remove the alcohol from the minor or visibly intoxicated person;

(ii) Lock the minibar;

(iii) Notify the licensee about the minor or visibly intoxicated person who was consuming alcohol;

(iv) Call arena security to carry out the arena's operational plan with regard to minors or visibly intoxicated persons; and

(v) Serve all alcohol in the suite during the remainder of the event. After locking the minibar, a service permittee may either remain in the suite to serve alcohol throughout the remainder of the event or a permittee may serve alcohol to suite guests when monitoring the suite.

(D) If a minor has consumed alcohol in an arena suite, the minor must be removed from the arena suite.

(d) Keys to a Minibar: Only the licensee or a service permittee may unlock a minibar. The licensee or a service permittee must unlock a minibar only for a suite holder or suite holder's representative.

(e) Restocking a Minibar:

(A) Any employee who is at least 18 years old may restock a minibar when there are no suite guests present and no event is occurring;

(B) Only a service permittee may restock a minibar during an event or when guests are present in the suite;

(C) Before restocking a minibar during an event or when guests are present in the suite, the service permittee must observe the guests to insure that there are no visibly intoxicated persons or minors consuming alcohol in the suite. A service permittee must not restock after 10 p.m.

(f) Posted Signs: Each minibar must have a clearly visible sign on the outside or inside of the minibar. The sign must explain the following liquor laws and rules: minors and visibly intoxicated persons must not drink alcohol; the suite holder, suite holder's representative and suite guests must remove the alcohol from any visibly intoxicated person; and no alcohol may be consumed in the suite from one hour after an event in the arena has ended until 7:00 a.m., or if no event is occurring in the arena, between 12 midnight and 7:00 a.m.

(g) Food in Arena Suites: At a minimum, each suite must contain a variety of snacks for guests to eat during the hours the minibar is unlocked.

(4) Records:

(a) The licensee must keep records of all sales of alcohol and food for each suite during the license term and must maintain the records for a period of at least two years;

(b) The licensee must make available for inspection by Commission staff on an annual basis the average total food and total alcohol sales for all arena suites.

(5) Violations: Violation of the provisions of paragraph (3)(c)(C) (response to minor or visibly intoxicated person consuming) and subsection (3)(e) (restocking minibar) of this rule are Category III violations in the Commission's sanction schedule. All other violations of sections (3) and (4) of this rule are Category IV violations under the Commission's sanction schedule:

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(a) The licensee is responsible for knowing when minors and visibly intoxicated persons are present in arena suites and for taking reasonable steps to insure that they do not consume alcohol. If a minor or visibly intoxicated person consumes alcohol in an arena suite, the licensee is responsible for permitting the minor or visibly intoxicated person to consume alcohol in violation of liquor laws;

(b) Adherence to the provisions of this rule is not a defense to a charge of violating liquor laws. If the Commission determines that minibar use causes or creates liquor law violations or a public safety problem, the Commission reserves the right to require the licensee to use service permittees to serve all alcohol in arena suites.

Stat. Auth.: ORS 471, ORS 471.030, ORS 471.040, 471.730(1) & (5)  
Stats. Implemented: ORS 471.180  
Hist.: OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01; OLCC 7-2003(Temp), f. & cert. ef. 5-20-03 thur 11-16-03

## 845-006-0450

### Retail On-Premises Malt Beverage or Wine Sampling: Operating Requirements and Limits

The Commission allows certain other Oregon licensees to conduct or participate in malt beverage, cider, or wine sample tasting on Full On-Premises Sales, Limited On-Premises Sales, and Off-Premises Sales licensed premises as specified in OAR 845-005-0427, subject to the requirements and limits identified in this rule.

(1) Sample Sizes. The size of each sample must not exceed one and a half ounces for wine or cider and three ounces for malt beverages.

(2) Identified Tasting Area. Any Off-Premises Sales retailer who conducts tastings or who allows manufacturers to conduct tastings on the retail premises must identify a specific tasting area or areas. The area/s must be of a size and design such that the person/s conducting the tasting can observe and control persons in the area to ensure no minors or visibly intoxicated persons possess or consume alcohol. Customers must remain in the tasting area or areas until they have finished consuming the sample. The retailer must keep on file at the premises a floor plan identifying the tasting area(s). If a retailer does not have an identified tasting area or areas, the Commission may require prior approval of an area or areas before the retailer conducts any more tastings or allows any more manufacturer-conducted tastings on the premises.

(3) Number of In-Store Tastings.

(a) A manufacturer may be in each retail premises no more than eight times per calendar year for the purpose of tastings, including both manufacturer-conducted tastings and retail-conducted tastings where the manufacturer assists.

(b) There is no limit on the number of tastings a retailer may conduct, but the retailer must not allow a manufacturer on the retailer's premises more than eight times per calendar year for the purpose of tastings.

(4) Manufacturer-Conducted Tastings. A manufacturer may hold tastings on consecutive days in one premises, but the tastings must not exceed two consecutive days. Tastings must be conducted at least four weeks apart. If a manufacturer holds tastings on two consecutive days, they must not hold another tasting on that retail premises for at least four weeks.

(5) Server Requirements. Alcohol servers must have service permits.

(6) Record Keeping. The manufacturer or wholesaler must keep a record of each tasting they conduct, including the date and location of each event, the products served and the names of the servers.

(7) Manufacturer-Conducted Sample Tastings: Oregon law allows Oregon Winery, Grower Sales Privilege, Brewery, Brewery-Public House and Warehouse licensees and Oregon Certificate of Approval holders, for the product for which they hold the certificate, to conduct tastings if they:

(a) Provide the product to be tasted, and remove any remaining product at the end of the tasting;

(b) Provide or pay for a person to serve the wine, cider, or malt beverages. The server must be the manufacturer's employee or agent. The manufacturer may not compensate any employee or agent of the retail licensee to participate in the tasting; and

(c) Do not advertise the tasting. The retailer may advertise the tasting only inside the licensed premises.

(8) Retailer-Conducted Tastings. Retailers with Full On-Premises Sales, Limited On-Premises Sales and Off-Premises Sales licenses may conduct tastings on their licensed premises and may:

(a) Accept assistance from manufacturers, wholesalers and warehouse licensees, and from certificate of approval holders if:

(A) The only assistance provided is an employee to assist. Assist includes pouring if the person meets the requirements in subsection (5);

(B) The retailer pays for the wine, cider, or malt beverages; and

(C) The retailer is responsible for any advertising.

(b) Sponsor an unlimited number of tastings if there is no manufacturer, wholesaler, warehouse or certificate holder involved. The retailer may advertise these events.

(9) Prohibitions. Off-Premises Sales licensees at locations where petroleum products are sold shall not conduct or allow sample tasting on the licensed premises or otherwise at the licensed location, unless the licensee operates a fully enclosed retail area encompassing at least 20,000 square feet and tastings take place within that retail area.

Stat. Auth.: ORS 471, ORS 471.030, ORS 471.040, 471.730(1) & (5)  
Stats. Implemented: ORS 471.398 & ORS 471.402  
Hist.: OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01; OLCC 16-2002, f. 12-19-02, cert. ef. 1-1-03; OLCC 7-2003(Temp), f. & cert. ef. 5-20-03 thur 11-16-03

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**Adm. Order No.:** OLCC 8-2003

**Filed with Sec. of State:** 5-20-2003

**Certified to be Effective:** 6-1-03

**Notice Publication Date:** 3-1-03

**Rules Amended:** 845-010-0915

**Subject:** This rule describes the grape variety names the Commission has approved for wine labels in Oregon. The agency was petitioned by an Oregon winegrower to add the Albarino grape to the approved list. The Commission has amended the rule to add the Albarino grape variety.

**Rules Coordinator:** Katie Hilton—(503) 872-5004

## 845-010-0915

### Grape Variety Names

(1) A person may use a single grape variety name as a type designation on a wine brand label only if the wine derives at least 90 percent of its volume from that grape variety.

(2) A person may use the names of two or three grape varieties as the type designation on a wine brand label if:

(a) The wine is made from only the grape varieties named;

(b) The brand label shows the percentage of wine derived from each variety from each county or state if a wine has a multi-county or multi-state appellation of origin.

(3) As an exception to section (1) of this rule, a person may use any of the following type designations for a wine that derives from 75 to 90 percent of its volume from grapes of the named variety, if:

(a) The only other grapes used in its production are those listed in the same section; that is, listed either in section (3)(a)(A) or in section (3)(a)(B):

(A) Cabernet franc, Merlot, Cabernet Sauvignon, Petite Verdot, or Malbec; or

(B) Semillon or Sauvignon blanc; and

(b) The brand label lists all grape varieties used. The listing must be less prominent than the type designation, and arranged in descending order of predominance.

(4) If a grape variety is not used as the type designation but grape variety names appear anywhere on the wine label, the brand label must list all grape varieties used in the wine, arranged in descending order of predominance. This listing must use the same lettering size and style and be less prominent than the class or type designation.

(5) All uses of grape variety names on wine labels other than in type designation must be less prominent than the wine's class or type designation. Only those grape variety names appearing on the brand label of a wine may be mentioned elsewhere on the label.

(6) A person may use only the grape variety names listed in this section on wine labels. The parentheses list acceptable synonyms for the primary name for that grape variety:

(a) Albarino;

(b) Aligote;

(c) Arneis;

(d) Aurora;

(e) Auxerrois;

(f) Bacchus;

(g) Barbera;

(h) Baco noir;

(i) Cabernet franc;

(j) Cabernet Sauvignon;

(k) Carigan Carmenere;

(l) Carmenere;

(m) Carmine;

(n) Carnelan;

(o) Cascade;

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- (p) Chancellor;
- (q) Chardonnay;
- (r) Chasselas blanc;
- (s) Chasselas dore;
- (t) Chasselas rouge;
- (u) Chelois;
- (v) Chenin blanc;
- (w) Colombard;
- (x) Dolcetto;
- (y) Durif;
- (z) Early Muscat;
- (aa) Ehrenfelser;
- (bb) Flora;
- (cc) Folle blanche;
- (dd) Furmint;
- (ee) Gamay noir;
- (ff) Gewurztraminer;
- (gg) Grand noir;
- (hh) Grenache;
- (ii) Grignolino;
- (jj) Kerner;
- (kk) Lemberger (Limberger);
- (ll) Madeleine Angevine;
- (mm) Malbec;
- (nn) Malvasia bianca;
- (oo) Marechal Foch;
- (pp) Melon;
- (qq) Merlot;
- (rr) Morio-Muskat;
- (ss) Muller-Thurgau;
- (tt) Muscat blanc;
- (u) Muscat of Alexandria;
- (vv) Muscat Ottonel;
- (ww) Muscadelle;
- (xx) Nebbiolo;
- (yy) Petit Verdot;
- (zz) Pinot blanc;
- (aaa) Pinot gris;
- (bbb) Pinot Meunier;
- (ccc) Pinot noir;
- (ddd) Royalty;
- (eee) Sangiovese;
- (fff) Sauvignon blanc (Fume blanc);
- (ggg) Scheurebe;
- (hhh) Semillon;
- (iii) Seyval;
- (jjj) Siegerrebe;
- (kkk) Sylvaner (Silvaner);
- (lll) Symphony;
- (mmm) Syrah;
- (nnn) Tempranillo;
- (ooo) Trebbiano;
- (ppp) Trousseau gris;
- (qqq) Valdiguie
- (rrr) Viognier;
- (sss) White Riesling (Riesling);
- (ttt) Zinfandel.

(7) The Commission may revise the list in section (6) of this rule.

(8) A person may not use in any manner on a wine label a name that might be mistaken for a grape variety name listed in section (6) of this rule.

(9) The following limitations apply to the use of certain approved names in section (6) of this rule:

(a) A person may not use the approved name "Gamay noir" for the variety Pinot noir (such as the so-called "Gamay Beaujolais" clones) or for the variety Valdiguie (called "Napa Gamay" in California);

(b) A person may not use the approved name "Pinot blanc" for the variety Melon or "Syrah" for the variety Durif (called "Petit Sirah" in California);

(c) A person may not use the term "Riesling":

(A) As a type designation for a wine unless the wine derives at least 90 percent of its volume from the grape variety, White Riesling; or

(B) In conjunction with any word except "White" to designate a grape variety name. Some examples of prohibited names are: "Emerald Riesling," "Franken Riesling," "Grey or (Gray) Riesling," "Johannisberg Riesling,"

"Kleinberger Riesling," "Missouri Riesling," "Okanagan Riesling" and "Walshriesling" ("Welshriesling").

(10) As an exception to section (6) and subsection (9)(c) of this rule, a winery may use the term "Johannisberg Riesling" as the type designation of a wine that derives at least 90 percent of its volume from White Riesling grapes, if the winery has used that term on its approved labels since prior to January 1, 1977.

(11) A person may not use the following federally permitted grape variety names: "Early Burgundy", "French Columbard," "Muscadelle de Bordelais," "Pineau (or Pinot) de la Loire," "Pinot Chardonnay," "Pinot Saint George," "White Pinot" "Gamay," "Gamay Beaujolais" and "Napa Gamay."

Stat. Auth.: ORS 471.030, ORS 471.730(1) & ORS 471.730 (5)  
Stats. Implemented: ORS 471.340, ORS 471.345 & ORS 471.445  
Hist.: LCC 59, f. 2-18-77, ef. 3-1-77; LCC 17-1978, f. 12-26-78, ef. 1-1-79; OLCC 26-1987, f. 12-30-87, cert. ef. 1-1-88; Renumbered from 845-10-292; OLCC 2-1995, f. & cert. ef. 4-4-95; OLCC 8-1995, f. 11-24-95, cert. ef. 12-1-95; OLCC 5-1999, f. 3-18-99, cert. ef. 4-1-99; OLCC 8-2003, f. 5-20-03, cert. ef. 6-1-03

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## Oregon Public Employees Retirement System Chapter 459

**Adm. Order No.:** PERS 2-2003

**Filed with Sec. of State:** 6-13-2003

**Certified to be Effective:** 6-13-03

**Notice Publication Date:** 3-1-03

**Rules Adopted:** 459-005-0058, 459-005-0060

**Subject:** The PERS Board had requested that staff develop a new rule to specify the standards for the adoption of new actuarial equivalency factors. This concept has been developed into two new rules, one rule that lists the Board's standards for adoption of the new actuarial equivalency factors and one that specifies which actuarial equivalency factor tables the Board is adopting and establishes the effective date of new factors. Language that specified this in OAR 459-005-0055, *Actuarial Equivalency Factors*, has now been deleted from that rule.

**Rules Coordinator:** Yvette S. Elledge—(503) 603-7713

### 459-005-0058

#### Adoption of New Actuarial Equivalency Factors

Pursuant to OAR 459-005-0055, the Board adopts the factors as described in the 2001 Actuarial Equivalency Factors report to be effective on July 1, 2003.

Stat. Auth: ORS 238.630 & ORS 238.650  
Stats. Implemented: ORS 238.630(3)(g)  
Hist.: PERS 2-2003, f. & cert. ef. 6-13-03

### 459-005-0060

#### Standards for the Adoption of New Actuarial Equivalency Factors

The Board shall adopt the actuarial equivalency factors used by PERS as described in OAR 459-005-0055(4) according to the following:

(1) Changes in mortality to reflect the best actuarial information on mortality available at the time that new actuarial tables are adopted;

(2) Changes in the assumed rate adopted by the Board for the latest actuarial valuation if they are determined by the Board, in consultation with the PERS actuary, to be statistically significant; and

(3) The mortality tables shall be combined with respect to gender and membership classification to derive unisex actuarial equivalency factors. The blending of the mortality assumptions shall be performed by the Board's consulting actuary in accordance with generally recognized and accepted actuarial principles and practices.

Stat. Auth: ORS 238.630 & ORS 238.650  
Stats. Implemented: ORS 238.630(3)(g)  
Hist.: PERS 2-2003, f. & cert. ef. 6-13-03

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**Adm. Order No.:** PERS 3-2003(Temp)

**Filed with Sec. of State:** 6-13-2003

**Certified to be Effective:** 7-1-03 thru 12-26-03

**Notice Publication Date:**

**Rules Amended:** 459-005-0001, 459-005-0320, 459-045-0001

**Subject:** The rule modifications conform existing rules with the provisions of HB 2003 (2003) relating to employee contributions and the new definition of the term "vested." In addition, other miscellaneous changes were made to update the rules.

**Rules Coordinator:** Yvette S. Elledge—(503) 603-7713

# ADMINISTRATIVE RULES

## 459-005-0001

### Definitions, Generally

The words and phrases used in Chapter 459, Oregon Administrative Rules, have the same meaning given them in ORS 238.005 to 238.750. Specific and additional terms used in Chapter 459 generally are defined as follows unless context of a particular division or rule within this chapter requires otherwise:

(1) "Ad hoc" means one-time for a specific purpose, case, or situation without consideration of a broader application.

(2) "Annuity" has the same meaning as provided in ORS 238.005(1).

(3) "After-tax" contributions means: Member contributions required or permitted by ORS 238.200 or 238.515 which a participating employer has not elected to "pick up," assume or pay in accordance with ORS 238.205 and 238.515(b). "After-tax" contributions are included in the member's taxable income for purposes of state or federal income taxation at the time paid to PERS. "After-tax" contributions are included in computing FAS and in computing the employer's contributions paid to PERS.

(4) "Before-tax" contributions means member contributions required or permitted by ORS 238.200 or 238.515 which a participating employer has elected to "pick up," assume or pay in accordance with ORS 238.205 and 238.515(b). "Before-tax" contributions are not included in the member's taxable income for purposes of state or federal income taxation at the time paid to PERS. "Before-tax" contributions are included in computing FAS and in computing the employer's contributions paid to PERS.

(5) "Board" has the same meaning as the Public Employees Retirement Board in ORS 238.630.

(6) "Calendar month" means the Julian Calendar beginning with the first calendar day of a month through the last calendar day of that month.

(7) "Calendar year" has the same meaning as ORS 238.005(2).

(8) "Casual employee" means a person whose employment is at incidental, occasional, irregular, and unscheduled intervals.

(9) "Contributions" means any contributions required or permitted pursuant to ORS 238.200.

(10) "Creditable service" has the same meaning as provided in ORS 238.005(4).

(11) "Elected official" means a person who is a public official holding an elective office or an appointive office with a fixed term for the state or for a political subdivision of the state who has elected to participate in PERS pursuant to ORS 238.015(6).

(12) "Emergency employee" means a person employed on a temporary basis in case of fire, storm, earthquake, flood, or other similar emergency.

(13) "Employee" has the same meaning as provided in ORS 238.005(5) and shall be determined in accordance with OAR 459-010-0030.

(a) For the purposes of ORS 238.005 to 238.750 the term "employee" includes public officers whether elected or appointed for a fixed term.

(b) The term "employee" does not include:

(A) A member of the governing board of a political subdivision unless the individual qualifies for membership under ORS 238.015.

(B) An individual who performs services for a public employer as a contractor in an independently established business or as an employee of that contractor in accordance with OAR 459-010-0030.

(C) A person providing volunteer service to a public employer without compensation for hours of service as a volunteer, except for volunteer firefighters who establish membership in accordance with ORS 238.015(7).

(14) "Employment" is compensated service to a participating employer as an employee whose:

(a) Period or periods of employment mean the actual hours of compensated service with a participating employer as an employee, and

(b) Compensated service includes, but is not limited to, paid vacation, paid sick leave, or other paid leave.

(15) "Estimate" means a projection of benefits prepared by staff of a service or disability retirement allowance, a death or a refund payment. An estimate is not a guarantee or promise of actual benefits that eventually may become due and payable, and PERS is not bound by any estimates it provides. (ORS 238.455(6))

(16) "FAS" and "final average salary" have the same meaning as provided in:

(a) ORS 238.005(15) for all PERS Tier One members;

(b) ORS 238.435(2) for all PERS Tier Two members; or

(c) ORS 238.535(2) for judge members of PERS for service as a judge.

(17) "Firefighter" has the same meaning as provided in ORS 238.005(16).

(18) "Fund" has the same meaning as the Public Employees Retirement Fund in ORS 238.660.

(19) "General service member" means membership in PERS as other than a judge member, a police officer, a firefighter, or a legislator.

(20) "Good cause" means a cause beyond the reasonable control of the person. "Good cause" exists when it is established by satisfactory evidence that factors or circumstances are beyond the reasonable control of a rational and prudent person of normal sensitivity, exercising ordinary common sense.

(21) "Independent Contractor" means an individual or business entity that is not subject to the direction and control of the employing entity as determined in accordance with OAR 459-010-0032.

(22) "Judge member" has the same meaning as provided in 238.500(3). For purposes of this chapter, active, inactive, and retired membership of a judge member shall have the same meaning as ORS 238.005(7)(b), (c), and (d), respectively.

(23) "Legislator" means a person elected or appointed to the Oregon Legislative Assembly who has elected to participate in PERS pursuant to ORS 238.015(6) as a member of the Oregon Legislative Assembly as provided in ORS 238.068.

(24) "Member" has the same meaning as provided in ORS 238.005(7).

(25) "Member cost" means after-tax member contributions and payments made to PERS.

(26) "Participating employer" means a public employer who has one or more employees who are active members of PERS.

(27) "PERS" and "system" has the same meaning as the Public Employees Retirement System in ORS 238.600.

(28) "Police Officer" shall have the same meaning as provided in ORS 238.005(14).

(29) "Public employer" has the same meaning as provided in ORS 238.005(17).

(30) "Regular account" means the account established under ORS 238.250 for each active and inactive member who has made contributions to the fund.

(31) "Retirement credit" has the same meaning as provided in ORS 238.005(10).

(32) "Salary," "remuneration" and "compensation" have the same meaning as provided in ORS 238.005(11).

(a) For a Tier One member, the lump sum payment for accrued vacation pay is considered salary:

(A) In determining employee and employer contributions.

(B) In determining final average salary for the purpose of calculating PERS benefits.

(b) For a Tier Two member, the lump sum payment for accrued vacation payment:

(A) Is considered salary in determining employee and employer contributions.

(B) Is not considered salary in determining final average salary for the purpose of calculating PERS benefits.

(33) "School year" has the same meaning as ORS 238.005(13).

(34) "Seasonal employee" means a person whose employment is characterized as recurring for defined periods that are natural divisions of the employer's business cycle or services.

(35) "Staff" means the employees of the Public Employees Retirement System as provided for in ORS 238.645.

(36) "Tier One member" means a member who established in the system before January 1, 1996, as defined in ORS 238.430(2).

(37) "Tier Two member" means a member who established in the system on or after January 1, 1996, in accordance with ORS 238.430.

(38) "Vacation pay" means a lump sum payment for accrued leave in a Vacation Leave Program provided by a public employer which grants a period of exemption from work for rest and relaxation with pay, and does not include:

(a) Sick leave programs;

(b) Programs allowing the accumulation of compensatory time, holiday pay or other special leaves unless the public employer's governing body indicates by resolution, ordinance, or other legislative process, that such leave is intended to serve as additional vacation leave; and

(c) Other programs, such as a Personal Time Off (PTO) plan, which are a combination of vacation, sick, bereavement, personal and other leaves of pay as defined and described by a public employer unless the employer has a written policy that clearly indicates the percentage of the plan that represents vacation leave. If the employer's PTO has a cash option, the

# ADMINISTRATIVE RULES

employer shall report to PERS the amount of any lump sum pay-off for the percentage that represents vacation leave.

(39) "Variable annuity" has the same meaning as provided in ORS 238.260.

(40) "Vested" has the same meaning as provided in ORS 238.005(23).

(41) "Volunteer" means a person who performs a service for a public employer as other than an employee, an independent contractor or employee of an independent contract, and who receives no compensation for the service performed and there is not an expectation by the employer for any continuity of service performed.

(42) "Year" means any 12 consecutive calendar months.

Stat. Auth.: ORS 238.650

Stats. Implemented: ORS 238.005 - ORS 238.715, OL 2003 Ch.67 (Enrolled HB 2003

Hist.: PERS 2-1998, f. & cert. ef. 3-16-98; PERS 3-2003(Temp), f. 6-13-03, cert. ef. 7-1-03 thru 12-26-03

## 459-005-0320

### Employer Contributions to an Optional Retirement Plan — OSSHE

(1) Upon request by the State Board of Higher Education, (OSSHE), the Public Employees Retirement System (PERS) shall determine the appropriate employer contribution rate to an Optional Retirement Plan (ORP) based on the tier of benefits that an employee would otherwise be eligible for had the employee not elected to participate in an ORP as follows:

(a) If the employee was eligible for benefits under Tier One, the applicable employer contributions that are actuarially determined to fund Tier One benefits; or

(b) If the employee was eligible only for Tier Two benefits, the applicable employer contributions that are actuarially determined to fund Tier Two benefits.

(2) For purposes of this rule, an employee is eligible for:

(a) Tier One benefits if the person establishes membership in PERS before January 1, 1996, as described in ORS 238.430(2).

(b) Tier Two benefits if the person establishes membership in PERS on or after January 1, 1996, as described in ORS 238.430(2).

(3)(a) Pursuant to ORS 238.105, a former PERS member may elect to obtain a restoration of membership rights in PERS within one year after being employed by OSSHE whether or not the employee elects to participate in an ORP.

(b) If a former member restores membership rights under ORS 238.105, that restoration shall establish the tier of benefits the member is entitled to under ORS 238.430, and the corresponding employer contributions as provided in sections (1) and (2) of this rule.

(c) If a former PERS member participating in an ORP restores membership rights under ORS 238.105, PERS shall determine and advise OSSHE of the appropriate employer contribution rate to an ORP based on the tier of benefits the member has restored.

(4)(a) In the event a former PERS member participating in an ORP restores membership rights under ORS 238.105 and the former member is not vested, the member shall be subject to the provisions of ORS 243.800(6)(a) and (7), and would have no rights to Tier One benefits from PERS.

(b) In the event a former PERS member participating in an ORP restores membership right under ORS 238.105 and the former member is vested, the member shall be subject to the provisions of ORS 243.800(6)(b) and (7).

Stat. Auth.: ORS 238.650

Stats. Implemented: ORS 238.105 & ORS 243.775, OL 2003 Ch.67 (Enrolled HB 2003

Hist.: PERS 3-1996, f. & cert. ef. 6-11-96; PERS 1-1999, f. & cert. ef. 5-13-99; PERS 3-2003(Temp), f. 6-13-03, cert. ef. 7-1-03 thru 12-26-03

## 459-045-0001

### Definitions

The words and phrases used in this Division shall have the same meaning given them in ORS Chapter 238. Specific and additional terms are defined as follows unless context requires otherwise.

(1) "Board" shall have the same meaning as the Public Employees' Retirement Board as defined in ORS 238 .630.

(2) "PERS" shall have the same meaning as the Public Employees' Retirement System as defined in ORS 238 .600.

(3) "Fund" shall have the same meaning as the Public Employees' Retirement Fund in ORS 238 .660.

(4) "Staff" means the employees of the Public Employees' Retirement System as provided in ORS 238 .645.

(5) "Member" means a person described in ORS 238 .005(7) and 238.500(3), and who is the current or former spouse of an alternate payee.

(6) "Alternate payee" means a spouse or former spouse of a PERS member, who is awarded a portion of the member's PERS benefits by a court.

(7) "Member's PERS account" means:

(a) The member's individual account in the Fund as defined in ORS 238 .250, and

(b) The member's account in the Variable Annuity Account in the Fund as defined in ORS 238.260.

(c) The accounts described in subsections (a) and (b) of section consist of:

(A) Member before-tax contributions paid to PERS under ORS 238.200,

(B) Member after-tax contributions paid to PERS under ORS 238.205, and

(C) Interest and earnings credited to each of the accounts described in paragraphs (A) and (B) of this subsection.

(d) Shall apply only to an active or an inactive member, and shall not apply to a retired member.

(8) "PERS funds" means the member's PERS account as defined in section (7) of this rule and the member's vested interest in employer contributions paid into the Fund in accordance with ORS 238 .225, but shall not include:

(a) Employer contributions for police and fire benefit units pursuant to ORS 238.440.

(b) Employer contributions paid into the Fund that the member is not vested in pursuant to ORS 238.265.

(9) "Alternate Payee Account" means a court-ordered separate account created under ORS 238.465 in the name of an alternate payee, and established as of the award date stated in the court order. The award date shall be before, or at the time refund, death, service or disability retirement benefits become payable to the member or the member's beneficiary.

(10) "Alternate payee's award" is the portion of a member's PERS account or of the member's PERS funds awarded to an alternate payee by a court order, and may include the creation of a separate account in the Fund in the name of the alternate payee.

(11) "Member Release" means a written statement that is signed by a member and received by staff authorizing the release of information, and directing to whom and where information is to be sent:

(a) Pertaining to the member's PERS account,

(b) Pertaining to the member's interest in the Fund; or

(c) Pertaining to benefit information applicable to either subsection (a) or (b) of this section.

(d) Pertaining to award information contained in any draft or final court order in regard to the member on record with PERS.

(12) "Alternate Payee Release" means a written statement that is signed by the alternate payee and received by staff authorizing the release of information, and directing to whom and to where the information is to be sent:

(a) Pertaining to the alternate payee's interest in the member's PERS account or member's vested interest in the Fund,

(b) Pertaining to the alternate payee's account and benefit information if a separate account has been created in the name of the alternate payee; or

(c) Pertaining to benefit information applicable to either subsection (a) or (b) of this section.

(d) Pertaining to award information contained in any draft or final court order in regard to the alternate payee on record with PERS.

(13) A "Member Release" and an "Alternate Payee Release" shall include a valid subpoena or court order requiring PERS to provide information to someone other than the member or the alternate payee.

(14) "Vested" has the same meaning as provided in ORS 238.005(23). Whether or not a member is considered to be vested shall be determined solely by ORS 238.265 regardless of any language that may be contained in any type of court order received by PERS.

(15) "Separation from service" means the member separates from PERS covered employment due to death, service retirement, disability retirement, or termination of employment for which the requirements set forth in ORS 238.265 have been met.

(16) "Service retirement" shall have the same meaning as provided in ORS 238.300.

(17) "Disability retirement" shall have the same meaning as provided in ORS 238.320.

(18) "Joint and survivor annuity" shall mean any retirement annuity option under which a monthly lifetime annuity is payable to a surviving beneficiary of a member. The current joint and survivor annuities payable

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under PERS are Options 2, 2A, 3, and 3A described in ORS 238.305, and 238.325.

(19) "Integration" shall have the same meaning as provided in ORS 238.035, 238.680 and 238.690.

(20) "Estimate" means a projection of benefits prepared by staff of a service or disability retirement allowance, a death or a refund payment. An estimate is not a guarantee or promise of actual benefits that eventually may become due and payable and PERS is not bound by any estimates it provides.

(21) "The earliest date the member would be eligible to receive retirement" shall have the same meaning as provided in ORS 238.005(17), or 238.280, or the date the member is approved for disability retirement prior to reaching earliest service retirement eligibility.

(22) "PERS Plan Year" means a calendar year beginning January 1, and ending December 31.

(23) "PERS Administrative Fee" means the fee, not to exceed \$300, that shall be charged in accordance with ORS 238.465(9) to the member and/or alternate payee for actual and reasonable administrative cost incurred by PERS for establishing benefits for an alternate payee.

(24) "Fraction of the benefit" used to allocate expenses and costs under ORS 238.465(9) means the percentage or ratio of a member's PERS account or member's vested interest in the Fund that is awarded by court decree or order to the alternate payee and the member as of the date of divorce, separation or annulment.

(25) "Court Order" means a court decree or judgment of dissolution of marriage, separation, or annulment, or the terms of any court order or court approved marital property settlement agreement, incident to any court decree or judgment of dissolution of marriage, separation, or annulment.

(26) "Final Court Order" means a court order or judgment that has been signed by a judge, and which shows the stamp of the court clerk or trial court administrator indicating the order is a certified copy of the original record that is on file with the court.

(27) "Draft Court Order" means an order for dividing a PERS account or benefits has been prepared but not approved or signed by the court or filed with the court clerk that contains proposed language on how PERS benefits are to be divided.

Stat. Auth.: ORS 238.465(3) & ORS 238.650  
Stats. Implemented: ORS 238.465, OL 2003 Ch.67 (Enrolled HB 2003)  
Hist.: PERS 5-1996, f. & cert. ef. 6-11-96; PERS 3-2003(Temp), f. 6-13-03, cert. ef. 7-1-03 thru 12-26-03

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**Adm. Order No.:** PERS 4-2003(Temp)

**Filed with Sec. of State:** 6-13-2003

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**Notice Publication Date:**

**Rules Amended:** 459-007-0001, 459-007-0025, 459-007-0040, 459-007-0050, 459-007-0060, 459-007-0110, 459-007-0530, 459-007-0900

**Subject:** These rule modifications conform existing rules with the provisions of HB 2001 (2003), as amended by HB 2003 (2003), effective July 1, 2003, and state that no earnings may be credited to Tier One regular accounts in any year in which there is a deficit, and no earnings may be credited that would result in a deficit. This provision becomes effective with the crediting of earnings in calendar year 2003, but does not affect members who retire before April 1, 2004.

**Rules Coordinator:** Yvette S. Elledge—(503) 603-7713

## 459-007-0001

### Definitions

For purposes of Division 007 the following words shall have the following meanings:

(1) "Board" shall have the same meaning as provided in OAR 459-005-0001(1).

(2) "PERS" shall have the same meaning as provided in OAR 459-005-0001(2).

(3) The "effective date of retirement" means the first of the calendar month following the last day worked as an active member or the first of the calendar month in which an application for a service retirement is filed with the Public Employees Retirement System (PERS) whichever is the later.

(4) The "time of retirement" and "date of retirement" shall have the same meaning as the effective date of retirement in section (2) of this rule.

(5) The "date of distribution" is the date inscribed on the check, warrant, or electronic transfer issued to the member or on behalf of the mem-

ber, to the beneficiary of the member or on behalf of the member's beneficiary, or to an alternate payee or on behalf of the alternate payee.

(6) "Individual member accounts" and "member's individual account" shall have the same meaning as provided in ORS 238.250.

(7) The "member's account in the Variable Annuity Account" shall have the same meaning as provided in ORS 238.260.

(8) "In-service death" of an active member shall have the same meaning as provided in ORS 238.395.

(9) "Member" shall have the same meaning as provided in OAR 459-005-0001(7).

(10) "Tier One" shall have the same meaning as provided in OAR 459-005-0001(14).

(11) "Tier Two" shall have the same meaning as provided in OAR 459-005-0001(15).

(12) "Fund" shall have the same meaning as provided in OAR 459-005-0001(3).

(13) "Earnings" shall mean all income to the Fund from investments and other sources, but shall not include member or employer contributions.

(14) "Date of withdrawal calculation" shall mean the first of the calendar month in which PERS receives the completed documents required of the member who is requesting a withdrawal of the member's individual account balance and the member's account in the Variable Annuity Account, if member participated in the Variable Annuity, or the first of the calendar month in which PERS receives the required notice of separation from the member's former employer(s), whichever is the later.

(15) "Assumed earnings rate" shall mean the actuarial assumed rate of return on investments as approved by the Board for the most recent actuarial valuation.

(16) The "latest year-to-date calculation" means the distribution factor calculated by staff on a monthly basis using the market value of investments in the Public Employees Retirement Fund supplied by the Oregon State Treasury. Separate distribution factors are calculated for the Variable Annuity Account, Tier One member's regular accounts and for Tier Two members' regular accounts. These factors provide for the prorata distribution of year-to-date earnings to a member's account in the Variable Annuity Account, and to a Tier Two member's regular account. The "latest year-to-date calculation" for Tier One members is determined as follows:

(a) In any year in which there is a deficit in the reserve account established pursuant to ORS 238.255, the factor shall be calculated so that no earnings are credited to the regular accounts of Tier One members or of alternate payees of those members.

(b) The factor shall be calculated so that the regular account for Tier One members, and for alternate payees of those members, will not be credited with earnings in excess of a prorate of the assumed interest rate until such crediting is permitted by the provisions of ORS 238.255(3), as amended by HB 2001 and HB 2003.

(c) The board shall credit the accounts of those Tier One members who retire before April 1, 2004, and alternate payees of those members, in accordance with the rules adopted the Public Employees Retirement Board as in effect on June 30, 2003.

(17) "Is available" and "if available" refer to the period between January 1 and February 28 of each calendar year when no "latest year-to-date calculation" is available.

(18) The "effective date of benefits" for a disability retirement allowance, means the first of the calendar month following the last day the member actually performed work, or the first of the calendar month following the last day the member received salary or paid leave, exclusive of the cash payoff for accrued vacation or compensatory time, whichever is the later.

Stat. Auth.: ORS 238.650  
Stats. Implemented: ORS 238, OL 2003 Ch. 3 & Ch. 67 (Enrolled HB 2001 & 2003)  
Hist.: PER 8, f. 12-15-55; PER 4-1980(Temp), f. 11-26-80, ef. 12-1-80; PER 1-1984(Temp), f. & ef. 6-29-84; PER 2-1984(Temp), f. & ef. 9-26-84; PER 1-1985, f. & ef. 3-22-85; PER 1-1995, f. 9-12-95, cert. ef. 1-1-96; PERS 1-1996, f. & cert. ef. 3-26-96; Renumbered from 459-010-0135(1); PERS 6-1998, f. & cert. ef. 5-22-98, Renumbered from 459-007-0010; PERS 4-2003(Temp), f. 6-13-03, cert. ef. 7-1-03 thru 12-26-03

## 459-007-0025

### Crediting Earnings To Member Lump Sum Payments In The Fund

(1) Definitions.

(a) Definition of member lump sum payment.

(A) "Member lump sum payment" means any payment that:

(i) Is not regularly scheduled;

(ii) Is not paid as a percentage of salary; and

(iii) The contributor has control over the timing or whether to make the payment.

(B) Member lump sum payments include, but are not limited to:



# ADMINISTRATIVE RULES

- (i) Retirement credit purchases.
- (ii) Voluntary redeposit, as defined in ORS 238.105.
- (iii) P & F Unit purchases, as defined in ORS 238.440(2).
- (iv) A member's account balance that is transferred through an integration under ORS 238.680.

(C) Exclusions. The definition of member lump sum payment as used in this rule excludes all payments made in the 90 day period before and after the effective date of retirement or benefits.

(b) Definition of Actual Distributable Earnings. "Actual distributable earnings" means earnings based on the change of value of the PERS investment portfolio, less deductions allowed by law, during the period the payment is held. Actual distributable earnings may be negative.

(2) Crediting of earnings on a member's lump sum payment will be based the latest year-to-date factor related to the account credited ("factor") and on the number of days held from the date of receipt through December 31 or the effective date of retirement or benefits, whichever occurs first, and will be based on:

(a) For the month in which the payment is received: The factor as of the first of the calendar month following the date of the payment less the factor as of the first of month in which the payment is received divided by the number of calendar days in the month the payment is received, multiplied by the number of days beginning with the date received through the end of the calendar month the payment is received, plus

(b) For the remainder of the year: The difference between the factor for the calendar year or the effective date of retirement or benefits, and the factor as of the first of the calendar month following the date the payment was received.

(4) The portion of a member lump sum payment as described in section (1)(a) of this rule that represents employer contributions and interest and which are subsequently credited to an employer account(s) in the Fund will be credited with earnings or losses in the same manner as the member's lump sum payment as stated in this rule.

Stat. Auth.: ORS 238.650

Stats. Implemented: ORS 238, OL 2003 Ch. 3 & Ch. 67 (Enrolled HB 2001 & 2003)

Hist.: PERS 9-2000, f. 12-15-00 cert. ef. 1-1-01; PERS 4-2003(Temp), f. 6-13-03, cert. ef. 7-1-03 thru 12-26-03

## 459-007-0040

### Distribution of Earnings for Withdrawal of Member's Account — Tier One

For withdrawal of contributions of a terminated Tier One member, not eligible for a retirement allowance, during a period for which no annual distribution of earnings has been made, earnings shall be credited to date of distribution as follows:

(1) Earnings on a Tier One member's regular account balance shall be credited as follows:

(a) If earnings for the calendar year prior to the effective date of withdrawal calculation have not been credited to the Tier One member's regular account as of December 31 of that prior year, earnings shall be credited for that year based on the latest year-to-date calculation, for that year.

(b) Earnings credited for the calendar year of the Tier One member's effective date of withdrawal calculation shall be based on the latest year-to-date calculation for that year as of the effective date of withdrawal calculation.

(c) Earnings to be credited to the adjusted balance of the Tier One member's individual account from date of withdrawal calculation to date of distribution shall be prorated based on the latest year-to-date calculation

(2) If a Tier One member is participating in the Variable Annuity Account, earnings or losses of the Variable Annuity Account shall be applied to the Tier One member's account in the Variable Annuity Account on a calendar year basis as follows:

(a) If earnings or losses for the calendar year prior to the effective date of withdrawal calculation have not been applied to the Tier One member's account in the Variable Annuity Account as of December 31 of that year, earnings or losses for that year shall be applied based on the latest year-to-date calculation for that year.

(b) Earnings or losses for the calendar year of the effective date of withdrawal calculation shall be applied based on:

(A) The latest year-to-date calculation for that year, if available, as of the first of the month of the effective date of withdrawal calculation.

(B) In the event that no calendar year-to-date calculation is available, the Board's assumed earnings rate, prorated from January 1 to the effective date of withdrawal calculation.

(c) Earnings to be credited to the adjusted balance of the Tier One member's account in the Variable Annuity Account in the Fund from the

effective date of withdrawal calculation to date of distribution shall be prorated based on the Board's assumed earnings rate.

Stat. Auth.: ORS 238.650

Stats. Implemented: ORS 238.265, OL 2003 Ch. 3 & Ch. 67 (Enrolled HB 2001 & 2003)  
Hist.: PER 8, f. 12-15-55; PER 4-1980(Temp), f. 11-26-80, ef. 12-1-80; PER 1-1984(Temp), f. & ef. 6-29-84; PER 2-1984(Temp), f. & ef. 9-26-84; PER 1-1985, f. & ef. 3-22-85; PER 1-1995, f. 9-12-95, cert. ef. 1-1-96; PERS 1-1996, f. & cert. ef. 3-26-96; Renumbered from 459-010-0135(5); PERS 9-1998, f. 5-22-98, cert. ef. 1-1-00; PERS 1-2000, f. & cert. ef. 1-7-00; PERS 4-2003(Temp), f. 6-13-03, cert. ef. 7-1-03 thru 12-26-03

## 459-007-0050

### Distribution of Earnings for a Deceased Active or Inactive Member — Tier One

When death of an active or inactive Tier One member occurs during a period for which no annual distribution of earnings has been made, earnings shall be credited to date of distribution as follows:

(1) For a Tier one member whose date of death is on or after July 1, 2003:

(a) Earnings on a Tier One member's regular account balance shall be credited as follows:

(A) If earnings for the calendar year prior to the first of the month of the Tier One member's death have not been credited to the Tier One member's regular account as of December 31 of that prior year, earnings shall be credited for that year based on the latest year-to-date calculation as of the first of the month of the Tier One member's death.

(B) Earnings credited for the calendar year of the Tier One member's death shall be based on the latest year-to-date calculation as of the first of the month of the Tier One member's death.

(b) If a Tier One member was participating in the Variable Annuity Account, earnings or losses of the Variable Annuity Account shall be applied to the Tier One member's account in the Variable Annuity Account on a calendar year basis as follows:

(A) If earnings or losses for the calendar year prior to the first of the month of the Tier One member's death have not been applied to the Tier One member's account in the Variable Annuity Account as of December 31 of that year, earnings or losses available for distribution to Tier One members participating in the Variable Annuity Account for that year shall be applied based on the latest year-to-date calculation for that year.

(B) Earnings or losses for the calendar year of the Tier One member's death shall be applied based on:

(i) The latest year-to-date calculation for that year as of the first of the month of the Tier One member's death, if available; or

(ii) In the event that no calendar year-to-date calculation is available, the Board's assumed earnings rate, prorated from January 1 to the first of the month of the member's death.

(C) Upon applying the earnings or losses as provided in subsections (b)(A) and (b)(B) of this section, the adjusted balance of the deceased member's account in the Variable Annuity Account shall be transferred to the member's regular account in the Fund, as of the first of the month in which death occurs.

(c) Earnings on the deceased Tier One member's account, including the transferred amount of the Tier One member's adjusted account in the Variable Annuity Account as provided in subsection (2)(c) of this rule from the first of the month of the Tier One member's death to the date of distribution shall be simple interest on the basis of the latest year-to-date calculation prorated for that period.

(2) Tier One members whose date of death is prior to July 1, 2003, shall receive earnings as follows:

(a) In accordance with the provisions of this rule in effect as of the date of the Tier One member's death through December 31, 1999, Earnings so calculated shall be credited to the deceased Tier One member's account as of December 31, 1999.

(b) Earnings on the deceased Tier One member's adjusted account as provided in subsection (a) of this section from January 1, 2000, through June 30, 2003, shall be simple interest on the basis of the Board's assumed earnings rate prorated for that period.

(c) Earnings on the deceased Tier One member's adjusted account as provided in subsection (a) of this section from July 1, 2003, to the date of distribution shall be simple interest based on the latest year-to-date calculation as of the first of the month of the date of distribution, prorated for that period.

Stat. Auth.: ORS 238.650

Stats. Implemented: ORS 238.390, ORS 38.430 & ORS 238.435, OL 2003 Ch. 3 & Ch. 67 (Enrolled HB 2001 & 2003)

Hist.: PER 8, f. 12-15-55; PER 4-1980(Temp), f. 11-26-80, ef. 12-1-80; PER 1-1984(Temp), f. & ef. 6-29-84; PER 2-1984(Temp), f. & ef. 9-26-84; PER 1-1985, f. & ef. 3-22-85; PER 1-1995, f. 9-12-95, cert. ef. 1-1-96; PERS 1-1996, f. & cert. ef. 3-26-96; Renumbered from 459-010-0135(6); PERS 9-1998, f. 5-22-98, cert. ef. 1-1-00; PERS 1-2000, f. & cert. ef. 1-7-00; PERS 4-2003(Temp), f. 6-13-03, cert. ef. 7-1-03 thru 12-26-03

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## 459-007-0060

### Distribution of Earnings on the Employer Death Benefit — Tier One

(1) For a Tier One member whose death is on or after July 1, 2003, earnings on the employer death benefit provided for in ORS 238.395 shall be prorated simple interest credited from the first of the month of the date of the Tier One member's death to date of distribution based on the latest year-to-date calculation as of the first of the month of the Tier One member's death.

(2) For a Tier One member whose date of death is prior to July 1, 2003, earnings on the employer death benefit provided for in ORS 238.395 shall be credited as follows:

(a) In accordance with the provision of this rule in effect as of the date of the Tier One member's death through December 31, 1999. Earnings so calculated shall be credited to the employer death benefit as of December 31, 1999.

(b) Earnings on the adjusted value of the employer death benefit as provided for in subsection (a) of this section from January 1, 2000, through June 30, 2003, shall be simple interest prorated for that period on the basis of the Board's assumed earnings rate.

(c) Earnings on the deceased Tier One member's adjusted account as provided in subsection (a) of this section from July 1, 2003, to the date of distribution shall be simple interest prorated for that period based on the latest year-to-date calculation as of the first of the month of the date of distribution.

Stat. Auth.: ORS 238.650  
Stats. Implemented: ORS 238.395, ORS 238.430 & ORS 238.435, OL 2003 Ch. 3 & Ch. 67 (Enrolled HB 2001 & 2003)  
Hist.: PER 8, f. 12-15-55; PER 4-1980(Temp), f. 11-26-80, ef. 12-1-80; PER 1-1984(Temp), f. & ef. 6-29-84; PER 2-1984(Temp), f. & ef. 9-26-84; PER 1-1985, f. & ef. 3-22-85; PERS 1-1995, f. 9-12-95, cert. ef. 1-1-96; PERS 1-1996, f. & cert. ef. 3-26-96; Renumbered from 459-010-0135(7); PERS 9-1998, f. 5-22-98, cert. ef. 1-1-00; PERS 1-2000, f. & cert. ef. 1-7-00; PERS 4-2003(Temp), f. 6-13-03, cert. ef. 7-1-03 thru 12-26-03

## 459-007-0110

### Distribution of Earnings at Loss of Membership — Tier One

In the event a Tier One member loses membership under ORS 238.095(2) during a period for which no annual distribution of earnings has been made, earnings shall be credited to the former member's account to the first of the calendar month following the month a member loses membership as follows:

(1) Earnings on a Tier One member's regular account balance, upon loss of membership, shall be credited as follows:

(a) If earnings for the calendar year prior to the date of loss of membership have not been credited to the Tier One member's regular account as of December 31 of that prior year, earnings shall be credited for that year based on the latest year-to-date calculation as of the first of the month of the date of loss of membership.

(b) Earnings to be credited for the calendar year of the Tier One member's date of loss of membership, shall be the latest year-to-date calculation as of the first of the month of the date of loss of membership for that year.

(2) If a former Tier One member is participating in the Variable Annuity Account, earnings or losses of the Variable Annuity Account shall be applied to the Tier One member's account in the Variable Annuity Account on a calendar year basis as follows:

(a) If earnings or losses for the calendar year prior to the date of loss of membership have not been applied to the Tier One member's account in the Variable Annuity Account as of December 31 of that year, earnings or losses for that year shall be applied based on the latest year-to-date calculation for that year.

(b) Earnings or losses for the calendar year of the date of loss of membership shall be applied as of the end of the calendar month of the date of loss of membership based on:

(A) The latest year-to-date calculation as of the first of the month of the date of loss of membership, if available.

(B) In the event that no calendar year-to-date calculation is available, the Board's assumed earnings rate, prorated from January 1 to the first of the calendar month following the date of loss of membership.

(3) Upon entering loss of membership in PERS, as described in ORS 238.095(2), an individual ceases being a member of PERS, and shall not have any earnings credited to his or her account after that point.

(a) The account of the former member in the Fund, shall have earnings credited as provided in section (1) of this rule within 30 days following loss of membership.

(b) The account of the former member in the Variable Annuity Account in the Fund, with earning and losses applied as provided in section (2) of this rule, shall be deemed transferred to the regular account in the

Fund of the former member, and that transfer shall occur within 30 days following loss of membership.

(c) There shall be no distribution of earnings or losses for any period following the end of the calendar month in which the individual is no longer a member of PERS.

(d) A request for a withdrawal of the account of a former member shall be the amount credited to the former member upon loss of membership in PERS as provided in sections (1) and (2) of this rule.

Stat. Auth.: ORS 238.650  
Stats. Implemented: ORS 238.095 & ORS 238.435, OL 2003 Ch. 3 & Ch. 67 (Enrolled HB 2001 & 2003)  
Hist.: PERS 9-1998, f. 5-22-98, cert. ef. 1-1-2000; PERS 4-2003(Temp), f. 6-13-03, cert. ef. 7-1-03 thru 12-26-03

## 459-007-0530

### Crediting Earnings To Employer Lump Sum Payments In The Fund

(1) Definitions.

(a) Definition of employer lump sum payment. "Employer lump sum payment" means any employer payment that:

(A) Is not regularly scheduled;

(B) Is not paid as a percentage of salary; and

(C) The contributor has control over the timing or whether to make the payment.

(b) Definition of employer contribution account. "Employer contribution account" means that portion of the Fund designated by the Board, as a portion of the net assets of the Fund, that is funded by employer contributions which are to be used for the sole benefit of members of the trust with the purpose of paying future retirement and death benefits.

(c) Definition of Actual Distributable Earnings. "Actual distributable earnings" means the earnings based on the change of value of the PERS investment portfolio, less deductions allowed by law, during the period the payment is held. Actual distributable earnings may be negative.

(2) Crediting of earnings on the employer's lump sum payment will be based on the number of days held from the date of receipt through December 31 and will be based on:

(a) For the month in which the payment is received: The latest-year-to-date Tier Two factor as of the first of the calendar month following the date of the payment less the latest-year-to-date Tier Two factor as of the first of month in which the payment is received divided by the number of calendar days in the month the payment is received, multiplied by the number of days beginning with the date received through the end of the calendar month the payment is received, plus

(b) For the remainder of the year: The difference between the Board adopted Tier Two rate for the calendar year and the latest-year-to-date Tier Two factor as of the first of the calendar month following the date the payment was received.

Stat. Auth.: ORS 238.650  
Stats. Implemented: ORS 238, OL 2003 Ch. 3 & Ch. 67 (Enrolled HB 2001 & 2003)  
Hist.: PERS 9-2000, f. 12-15-00 cert. ef. 1-1-01; PERS 4-2003(Temp), f. 6-13-03, cert. ef. 7-1-03 thru 12-26-03

## 459-007-0900

### Crediting Earnings To Integration Lump Sum Payments In The Fund

(1) Definitions.

(a) Definition of an integration lump sum payment. "Integration lump sum payment" means any funds received from an employer as the transfer of any prior plan assets under ORS 238.680, excluding any member account balances.

(b) Definition of employer contribution account. "Employer contribution account" means that portion of the Fund designated by the Board, as a portion of the net assets of the Fund, that is funded by employer contributions which are to be used for the sole benefit of members of the trust with the purpose of paying future retirement and death benefits.

(c) Definition of Actual Distributable Earnings. "Actual distributable earnings" means earnings based on the change of value of the PERS investment portfolio, less deductions allowed by law, during the period the payment is held. Actual distributable earnings may be negative.

(2) No prior plan assets. For the purposes of this rule, if the integrating employer's members have no prior plan assets to transfer, the integration contract will state what portion of the integration lump sum payment is attributable to Tier One and Tier Two member accounts.

(3) Crediting of earnings. Earnings on the integration lump sum payment will be based on the change of value of the PERS investment portfolio from the date of receipt through December 31 as follows:

(a) For the month in which the payment is received: The latest-year-to-date Tier Two factor as of the first of the calendar month following the date of the payment less the latest-year-to-date Tier Two factor as of the first of month in which the payment is received divided by the number of

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calendar days in the month the payment is received times the number of days beginning with the date received through the end of the calendar month payment is received, plus

(b) For the remainder of the year: The difference between the Board adopted Tier Two rate for the calendar year and the latest-year-to-date Tier Two factor as of the first of the calendar month following the date the payment was received.

Stat. Auth.: ORS 238.650  
Stats. Implemented: ORS 238, OL 2003 Ch. 3 & Ch. 67 (Enrolled HB 2001 & 2003)  
Hist.: PERS 9-2000, f. 12-15-00 cert. ef. 1-1-01; PERS 4-2003(Temp), f. 6-13-03, cert. ef. 7-1-03 thru 12-26-03

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**Adm. Order No.:** PERS 5-2003(Temp)  
**Filed with Sec. of State:** 6-13-2003  
**Certified to be Effective:** 7-1-03 thru 12-26-03  
**Notice Publication Date:**

**Rules Adopted:** 459-009-0105

**Subject:** This temporary rule requires employers to submit a special mid-year report, which is necessary for PERS to comply with the "look-back" provisions of Enrolled HB 2004 (2003). The due date of the mandatory report is July 15, 2003.

**Rules Coordinator:** Yvette S. Elledge—(503) 603-7713

## 459-009-0105

### Special Mandatory Report

(1) Unless otherwise agreed upon between the Retirement Board and the employer, the employer shall transmit to the Retirement Board, not later than July 15, 2003, on forms furnished by the Board or in a compatible format, an itemized statement of all salary information and employee contributions (payroll deductions and employer pick-up) for the period January 1, 2003, through June 30, 2003.

(2) Failure of any public agency to submit the report required by this rule within the time limit specified will make the agency liable for penalties as specified in OAR 459-009-0110.

Stat. Auth.: ORS 238.650  
Stat. Implemented: OL 2003 Ch 68 (Enrolled HB 2004)  
Hist.: PERS 5-2003(Temp), f. 6-13-03 cert. ef. 7-1-03 thru 12-26-03

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**Adm. Order No.:** PERS 6-2003(Temp)  
**Filed with Sec. of State:** 6-13-2003  
**Certified to be Effective:** 7-1-03 thru 12-26-03  
**Notice Publication Date:**

**Rules Adopted:** 459-013-0300

**Subject:** This new rule implements and clarifies section 10 of HB 2003 (2003) which requires the PERS Board to perform retirement allowance recalculations for certain retirees. It specifies to whom the rule applies, describes the calculations of the "revised service retirement allowance" and the "fixed service retirement allowance," indicates that the member will receive the higher of the two calculations, and specifies that the provisions of the rule are effective July 1, 2003.

**Rules Coordinator:** Yvette S. Elledge—(503) 603-7713

## 459-013-0300

### HB 2003 Retirement Allowance Recalculations

(1) The provisions of this section apply to Tier One members who receive a service retirement allowance calculated under ORS 238.300(2)(b)(A) and who have an effective retirement date that is on or after April 1, 2000, and before April 1, 2004.

(2) **Revised service retirement allowance.** The "revised service retirement allowance" provided for in section 10 of chapter 67, Oregon Laws 2003 (Enrolled HB 2003) shall be calculated as follows:

(a) An account balance for the member as of the member's effective date of retirement shall be determined as though the balance in member's regular account as of December 31, 1999, had been credited with 11.33 percent earnings for that year.

(b) A service retirement allowance shall then be calculated under ORS 238.300 for that member as of his or her effective date of retirement using the account balance established in subsection (a) of this section and converted to form of benefit selected by the member under ORS 238.305, if any.

(c) The allowance calculated under subsection (b) of this section will then be adjusted as if the cost of living adjustment provided for in ORS 238.360 had applied to that benefit from the member's effective date of retirement forward.

(3) **Fixed service retirement allowance.** The "fixed service retirement allowance" provided for in section 10 of chapter 67, Oregon Laws 2003 (Enrolled HB 2003) shall be the amount payable to or on account of the member on July 1, 2003. The fixed service retirement allowance includes any benefit increases such as those provided by ORS 238.375, 238.385, or 238.387, and cost of living adjustments that have been made to the member's actual retirement allowance prior to July 1, 2003.

(4) As of the first day of the month following the date when the revised service retirement allowance determined under section (3) above would exceed the fixed service retirement allowance determined under section (4) above, the member shall be entitled to the revised service retirement allowance.

(5) The provisions of this rule are effective July 1, 2003.

Stat. Auth.: ORS 238.650  
Stats. Implemented: OL 2003 Ch. 67  
Hist.: PERS 6-2003(Temp), f. 6-13-03 cert. ef. 7-1-03 thru 12-26-03

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## Oregon State Lottery Chapter 177

**Adm. Order No.:** LOTT 5-2003(Temp)  
**Filed with Sec. of State:** 5-28-2003  
**Certified to be Effective:** 5-28-03 thru 11-21-03  
**Notice Publication Date:**

**Rules Adopted:** 177-051-0000, 177-051-0010, 177-051-0020, 177-051-0030, 177-051-0040, 177-051-0050, 177-051-0060, 177-051-0070, 177-051-0080, 177-051-0090, 177-051-0100, 177-051-0110, 177-051-0120, 177-051-0130

**Subject:** The proposed rules authorize and set forth the provisions for promotions and giveaways that the Oregon Lottery may conduct from time to time for promotional purposes.

**Rules Coordinator:** Mark W. Hohlt—(503) 540-1417

## 177-051-0000

### Purpose

The purpose of this Division of OAR Chapter 177 is to authorize and set forth the provisions for promotions and giveaways that the Oregon Lottery may conduct from time to time for promotional purposes.

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4), ORS 461  
Stats. Implemented: ORS 461.200  
Hist.: LOTT 5-2003(Temp), f. & cert. ef. 5-28-03 thru 11-21-03

## 177-051-0010

### Definitions

For purposes of Division 51, the following definitions apply except as otherwise specifically provided in OAR Chapter 177, or unless the context requires otherwise:

(1) "Entry requirements" means the additional instructions that specify how to enter a specific promotion, which the Lottery makes available at the website or other points of entry.

(2) "Electronic entry" means an entry in a promotion that is submitted using a computer and connecting to a website through the Internet.

(3) "Giveaway" means an item given by the Lottery to a person as a means of promoting the Lottery without entry in a drawing.

(4) "Promotion" means a drawing among entries to award a prize to the person whose entry is drawn. A promotion may be a second chance drawing.

(5) "Second chance drawing" means a promotion conducted by the Lottery in which an entrant must possess a non-winning Oregon Lottery ticket from a Lottery game identified by the Lottery in the entry requirements.

(6) "Website" means the Oregon Lottery's Internet address at [www.oregonlottery.org](http://www.oregonlottery.org), or any other website that may be specified by the Lottery.

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4), ORS 461  
Stats. Implemented: ORS 461.200  
Hist.: LOTT 5-2003(Temp), f. & cert. ef. 5-28-03 thru 11-21-03

## 177-051-0020

### Giveaways

From time to time, the Lottery may provide giveaways to members of the public. The location of a giveaway and the number of items provided is within the discretion of the Lottery. A person may be required to provide information or engage in a promotional activity to receive a giveaway. No person may claim a right to receive a giveaway item.

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4), ORS 461  
Stats. Implemented: ORS 461.200  
Hist.: LOTT 5-2003(Temp), f. & cert. ef. 5-28-03 thru 11-21-03

# ADMINISTRATIVE RULES

## 177-051-0030

### Promotions

From time to time, the Lottery may conduct promotions, including, but not limited to, second chance drawings. Second chance drawings conducted by the Lottery require a prior purchase from the Lottery. A promotion may require a non-winning ticket or tickets from any Oregon Lottery game as a condition of entry to the promotion. The Lottery may also conduct promotions that require no prior purchase from the Lottery by an entrant.

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4), ORS 461  
Stats. Implemented: ORS 461.200  
Hist.: LOTT 5-2003(Temp), f. & cert. ef. 5-28-03 thru 11-21-03

## 177-051-0040

### Eligibility

(1) To be eligible to win a prize in a Lottery promotion, a person must meet the following requirements:

(a) Be present in Oregon at the time of entry in the promotion if it is a second chance drawing;

(b) Be a natural person 18 years of age or older, unless a specific promotion requires the entrant to be 21 years of age or older;

(c) Must not be:

(A) An employee or representative of the Oregon State Lottery, or the spouse, child, brother, sister, or parent of any such employee or representative;

(B) An employee or representative of the Oregon State Police, Gaming Enforcement Division; or

(C) A Lottery vendor who is prohibited by contract with the Lottery from participating in the promotion or is prohibited from playing Oregon Lottery games.

(d) Submit an entry with the required information provided accurately in all blanks on the form whether manually or electronically. Illegible entries are not valid. All entry forms must be submitted by the deadline specified in the promotion.

(2) If at any time the Lottery determines that a person who submitted an entry in a promotion does not meet the requirements listed above, that person is disqualified. If the Lottery determines that a person is disqualified before any drawing is held, any entries submitted by that person are void and shall be removed from the drawing or disregarded. A person who receives a prize in a drawing, and is later disqualified, forfeits any prize won in that drawing.

(3) Each entry must contain only one entrant's name. An entry with multiple names on it is not valid.

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4), ORS 461  
Stats. Implemented: ORS 461.200  
Hist.: LOTT 5-2003(Temp), f. & cert. ef. 5-28-03 thru 11-21-03

## 177-051-0050

### Promotion Entries

(1) General: A player may enter a promotion by following the instructions in the entry requirements provided for the promotion. This may include, but is not limited to, using the website, mailing an entry, or delivering an entry to the Lottery headquarters in Salem, Oregon, or another location as specified by the Lottery in the entry requirements. Entries must be received by the Lottery before the deadline specified in the entry requirements.

(2) All entries submitted to the Lottery become the property of the Lottery. Entries will not be returned to entrants. Entries submitted for one promotion will not be entered into any other promotion by the Lottery.

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4), ORS 461  
Stats. Implemented: ORS 461.200  
Hist.: LOTT 5-2003(Temp), f. & cert. ef. 5-28-03 thru 11-21-03

## 177-051-0060

### Internet Entries

(1) Internet Entry: In addition to the requirements of OAR 177-051-0040 and 177-051-0050, a player may enter a promotion by visiting the website and completing and submitting an electronic entry for any promotion that may be offered electronically at that time. To be eligible to win a prize in a promotion done through the Internet, a person must be an Oregon resident. An electronic entry may require the entrant's:

(a) Name;

(b) Address;

(c) Telephone number (if available);

(d) Date of birth;

(e) Specific promotions may require that the entrant complete a questionnaire, and/or provide identifying information from a specified non-winning ticket to enter the promotion; and

(f) Any additional information as required by the Lottery to enter the promotion.

(2) In case of a dispute as to the identity of a prize winner, the Lottery will deem an electronic entry to have been submitted by the person whose name appears on the electronic entry and who is able to present a valid, matching identification card or driver's license.

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4), ORS 461  
Stats. Implemented: ORS 461.200  
Hist.: LOTT 5-2003(Temp), f. & cert. ef. 5-28-03 thru 11-21-03

## 177-051-0070

### Mail or Walk-In Entries

(1) Mail Entries: Unless specified otherwise in the entry requirements, a person may enter a promotion by mailing an entry to the Oregon Lottery at the address specified in the entry requirements. The entry requirements may specify the format required for mailed entries to be eligible such as using a postcard or a business envelope. Each entry must include any information requested in the entry requirements. The entry must be received by the deadline for the drawing as specified by the Lottery. The Lottery will not accept postage due entries.

(2) Walk-In Entries: Unless specified otherwise in the entry requirements, a person may enter a promotion by delivering an entry to the Oregon Lottery, 500 Airport Road SE, Salem, Oregon during the Lottery's business hours, Monday through Friday, 8:00 am to 5:00 pm PST, excluding observed holidays. Each entry must include any information requested in the entry requirements. The entry must be received by the deadline for the drawing as specified by the Lottery.

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4), ORS 461  
Stats. Implemented: ORS 461.200  
Hist.: LOTT 5-2003(Temp), f. & cert. ef. 5-28-03 thru 11-21-03

## 177-051-0080

### Additional Requirements

(1) Second Chance Drawings in which a Ticket Must be Presented to Claim a Prize: If a second chance drawing does not require that a non-winning Lottery ticket be submitted with the entry, an entrant must retain the original, non-winning ticket used to enter the promotion. If the ticket is included with the entry, the entry is void.

(a) An entrant must not mail or deliver the non-winning ticket to the Oregon Lottery before receiving notification that the entrant is a winner. If selected as a winner, the entrant must present the Lottery with the original, non-winning ticket that includes the matching ticket identification number on the winning entry to receive a prize.

(b) The ticket identification number from a non-winning ticket shall only be used once by the person possessing that ticket. Any other entry by the same person, or a third party, using a duplicate number, is ineligible.

(2) Second Chance Drawings that Require a Ticket be Included with the Entry: The Lottery may conduct promotions that require the entrant to mail a non-winning Lottery ticket to the Lottery with the entry form as a condition of entry in the promotion.

(3) Limits on Entries: Unless a promotion provides otherwise, a person may enter a promotion as many times as desired, but each entry must be separately submitted.

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4), ORS 461  
Stats. Implemented: ORS 461.200  
Hist.: LOTT 5-2003(Temp), f. & cert. ef. 5-28-03 thru 11-21-03

## 177-051-0090

### Prizes and Odds of Winning

(1) Prizes that will be awarded in a promotion will be identified on the website during the promotion or listed in the entry requirements.

(2) If the prize is a motor vehicle, the Oregon Lottery may pay the initial license, title, and registration fees. Insurance, service contracts, and any other costs are the responsibility of the winner.

(3) If a prize involves travel, the Oregon Lottery shall pay applicable airfare and basic hotel lodging, and may provide a stipend for expenses. Unless otherwise specified in writing for a specific promotion, the Lottery will not pay any additional fees or expenses including, but not limited to, hotel taxes or fees, travel agent fees, or any other taxes, fees, or expenses that the winner may incur.

(4) The odds of winning a prize depend on the number of eligible entries received by the applicable deadline.

(5) Prizes are not transferable. A prize winner may not assign the right to receive a prize. The Lottery will not make substitutions at the request of a winner.

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4), ORS 461  
Stats. Implemented: ORS 461.200  
Hist.: LOTT 5-2003(Temp), f. & cert. ef. 5-28-03 thru 11-21-03

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## 177-051-0100

### Selection of Winners

(1) Winners will be selected in a drawing held at the Lottery headquarters in Salem, Oregon or at any other location selected by the Lottery. A drawing will be held within a reasonable time after the Lottery's deadline for entries in a promotion. The date and time will be identified on the website or listed in the entry requirements.

(2) Lottery personnel will conduct drawings using a random number generator, any manual selection process approved by the Lottery, or any other selection process allowed under ORS 461.230.

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4), ORS 461  
Stats. Implemented: ORS 461.200  
Hist.: LOTT 5-2003(Temp), f. & cert. ef. 5-28-03 thru 11-21-03

## 177-051-0110

### Notification of Winners and Award of Prizes

(1) The Lottery will notify a top prize or grand prize winner of the prize by e-mail or telephone, and by certified mail. The effective date of notification is the date the certified mail is sent by the Lottery to the winner.

(2) The Lottery will notify other prize winners by e-mail, telephone, or certified mail. Notice is effective upon transmission of the e-mail, contact through telephone, or deposit in the U.S. mail.

(3) The Lottery will advise each winner of any time limitation in which the winner has to respond to the notification and claim the prize.

(4) If a top prize or grand prize winner is determined by the Lottery to be ineligible or the winner fails to respond within the time limitation set by the Lottery, the Lottery will notify an alternate winner. This practice will continue until the list of entrants is exhausted or an eligible winner responds or the prize expires.

(5) If any other prize winner is ineligible or fails to respond to the notification within the time limitation set by the Lottery, the prize is forfeited and will not be awarded to entrants in that promotion.

(6) As a condition of receiving any prize, the Lottery may require each winner to execute a prize claim form and an affidavit of eligibility.

(7) The Lottery may require that all prizes be claimed in person. The Lottery may require that a prize winner present a valid Oregon driver's license, a valid Oregon identification card, or other valid proof of identity, and Oregon residency. The name and address information on the identification must match the person's entry information. If it does not, the person is ineligible to receive a prize. A prize winner in a second chance drawing must also verify that the winning entry was submitted in Oregon.

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4), ORS 461  
Stats. Implemented: ORS 461.200  
Hist.: LOTT 5-2003(Temp), f. & cert. ef. 5-28-03 thru 11-21-03

## 177-051-0120

### Limitation of Liability

(1) The State of Oregon, its agents, officers and employees, and the Oregon State Lottery Commission, its agents, officers, and employees, are not liable for any late, lost, misrouted, garbled, distorted, or damaged entries or transmissions, any telephone, electronic, hardware, software, network, Internet, or other computer, or communications-related malfunctions or failures, any promotion disruptions, any printing or typographical errors in any materials associated with a promotion, any entries lost in the mail or delivered elsewhere, or other injuries, losses, or damages arising from, related to, or caused by a promotion, or any claims arising from or related to the acceptance, possession, or use of any prize.

(2) In the event an entrant disagrees with the Lottery's determination as to the amount or nature of a prize, the validity of an entry, whether an entry is a winner, or whether it was submitted in error, the Lottery shall provide the person with the opportunity to enter another promotion, or shall provide the person a ticket or share from any current Lottery game. This is the person's sole and exclusive remedy.

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4), ORS 461  
Stats. Implemented: ORS 461.200  
Hist.: LOTT 5-2003(Temp), f. & cert. ef. 5-28-03 thru 11-21-03

## 177-051-0130

### Miscellaneous

(1) The decisions of the Director, including, but not limited to, the amount or nature of a prize, the validity of an entry, whether an entry is a winner, or whether it was submitted in error, are final.

(2) The Director may cancel or postpone any promotion at any time before a drawing in the exercise of the Director's sole discretion. The Lottery shall provide notice on the website or at the point of entry for the promotion when a promotion is cancelled or postponed.

(3) In the event of a conflict between the provisions contained in the rules in this Division and any entry requirements, the provisions of these rules control.

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4), ORS 461  
Stats. Implemented: ORS 461.200  
Hist.: LOTT 5-2003(Temp), f. & cert. ef. 5-28-03 thru 11-21-03

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**Adm. Order No.:** LOTT 6-2003(Temp)

**Filed with Sec. of State:** 6-5-2003

**Certified to be Effective:** 6-5-03 thru 11-28-03

**Notice Publication Date:**

**Rules Amended:** 177-100-0000, 177-100-0010, 177-100-0080, 177-100-0090, 177-100-0095, 177-100-0130, 177-100-0160, 177-100-0180, 177-100-0185

**Rules Suspended:** 177-100-0070, 177-100-0170

**Subject:** The proposed amendments update definitions, suspend certain rules for redundancy, and make general housekeeping and grammar changes. OAR 177-100-0170 is suspended and is being moved to Division 200 – General Video Lottery Game Rules on advice from the Attorney General.

**Rules Coordinator:** Mark W. Hohlt—(503) 540-1417

## 177-100-0000

### Video Lottery Games

The Director may operate a video lottery game system using video lottery terminals approved under this Division. The rules in this Division are effective beginning June 2, 2003.

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4)  
Stats. Implemented: OR 461.215  
Hist.: LC 8-1991, f. & cert. ef. 11-25-91; LOTT 6-2003(Temp), f. & cert. ef. 6-5-03 thru 11-28-03

## 177-100-0010

### Definitions

For purposes of Division 100, the following definitions apply except as otherwise provided in OAR Chapter 177, or unless the context requires otherwise.

(1) "Certification" means the inspection process used by the Lottery to approve video lottery terminals and games.

(2) "Decal" means the stamp displayed by the Lottery upon a video lottery terminal to provide notice that the terminal is authorized by the Lottery.

(3) "Display" means the visual presentation of video lottery game features shown on the screen of a video lottery terminal.

(4) "Gray machine" has that definition as defined in ORS 167.117(9).

(5) "Manufacturer" means any individual, partnership, corporation, trust, association, joint venture, limited liability company, or other business entity that manufactures, assembles, or produces video lottery terminals or gray machines.

(6) "Video lottery" or "Video lottery game" means a lottery conducted through video lottery terminals which are monitored by a central computer system.

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4)  
Stats. Implemented: ORS 461  
Hist.: LC 8-1991, f. & cert. ef. 11-25-91; LOTT 6-2000, f. 7-26-00, cert. ef. 8-1-00; LOTT 6-2003(Temp), f. & cert. ef. 6-5-03 thru 11-28-03

## 177-100-0070

### Application for Certification of a Video Lottery Terminal

(1) A manufacturer shall not distribute a video lottery game or terminal for placement in the state unless the manufacturer and the game have been approved and the terminal has been certified by the Director. Only approved manufacturers may apply for certification of a video lottery terminal.

(2) The manufacturer shall supply the Lottery with a guideline and time-table for accomplishing tasks involved in the acceptance testing of the video lottery terminals. This includes all system functionality and communication of all information to and from the video lottery terminals.

(3) The manufacturer must provide a person to work with the Lottery and Lottery's consultants as needed in establishing, planning, and executing acceptance test. Manufacturer assistance may also be requested in trouble-shooting communication and technical problems that are discovered when video lottery terminals are initially placed at licensed establishments.

(4) The manufacturer must submit terminal illustrations, schematics, block diagrams, circuit analysis, technical and operation manuals, program source codes and hexadecimal dumps (the compiled computer program rep-

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resented in base 16 format), and any other information requested by the Lottery for purposes of analyzing and testing the video lottery terminal.

(5) Testing of video lottery terminals will require working models of a video lottery terminal, associated equipment, and documentation described above transported to locations the Lottery designates for testing, examination, and analysis. The manufacturer shall pay all costs of any testing, examination, analysis, and transportation of the video lottery terminals. The testing, examination, and analysis of the video lottery terminals may include entire dismantling of the video lottery terminal and some tests that may result in damage or destruction to one or more electronic components of the video lottery terminal. The Lottery may require that the manufacturer provide specialized equipment or the services of an independent technical expert to test the video lottery terminal.

(6) All video lottery terminal manufacturers must submit all hardware, software, and test equipment necessary for testing of their video lottery terminals.

(7) Hardware which does not meet the Lottery's standards shall not be acceptable.

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4)  
Stats. Implemented: ORS 461.215  
Hist.: LC 8-1991, f. & cert. ef. 11-25-91; Suspended by LOTT 6-2003(Temp), f. & cert. ef. 6-5-03 thru 11-28-03

## 177-100-0080

### Certification Decal

(1) Each video lottery terminal certified for operation by the Lottery must bear a certification decal and must conform to the specifications of the prototype terminal of the same model that has been tested and certified by the Lottery.

(2) No person other than an authorized Lottery employee or agent may affix or remove a decal. The placement of the decal represents that the terminal has been certified, inspected, and approved for operation in Oregon.

(3) No terminal may be transported out of Oregon until the decal has been removed.

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4)  
Stats. Implemented: ORS 461.330  
Hist.: LC 8-1991, f. & cert. ef. 11-25-91; LOTT 6-2003(Temp), f. & cert. ef. 6-5-03 thru 11-28-03

## 177-100-0090

### External Terminal Specifications and Use Requirements

(1) Terminals operated by the Lottery may only display information on the screen or terminal housing that has been approved by the Lottery.

(2) At no time may any person place stickers or other removable devices on the terminal for any reason.

(3) Each terminal must display an Oregon Lottery logo.

(4) The following age restriction must clearly be shown on the face of the terminal: "No person under 21 years of age may play" or "Must be 21 years of age or older to play" or "Anyone under 21 years of age must not play".

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4)  
Stats. Implemented: ORS 461.217  
Hist.: LC 8-1991, f. & cert. ef. 11-25-91; LOTT 6-2003(Temp), f. & cert. ef. 6-5-03 thru 11-28-03

## 177-100-0095

### Procurement of Terminals

(1) Only the Lottery shall possess and operate terminals in Oregon.

(2) The Lottery may select and procure terminals as necessary by contracting with manufacturers approved pursuant to OAR chapter 177, division 35, and may provide the terminals to video lottery retailers.

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4)  
Stats. Implemented: ORS 461  
Hist.: LC 8-1991, f. & cert. ef. 11-25-91; LOTT 6-2000, f. 7-26-00, cert. ef. 8-1-00; LOTT 6-2003(Temp), f. & cert. ef. 6-5-03 thru 11-28-03

## 177-100-0130

### Duties of Manufacturers

(1) Manufacturers, their employees, representatives, and agents shall:

(a) Promptly report to the Lottery any violation or any facts or circumstances that may result in a violation of ORS Chapter 461 or these rules.

(b) Provide immediate access to all records and the entire physical premises of the business for inspection at the request of the Lottery or its auditors.

(c) Not conduct any advertising or promotional activities in Oregon (or directed at Oregon residents) that are false or misleading regarding video lottery games.

(d) Promptly report to the Lottery their knowledge or suspicion of any gray machine located within Oregon.

(e) Attend all trade shows or conferences as required by the Lottery.

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4)

Stats. Implemented: ORS 461.400

Hist.: LC 8-1991, f. & cert. ef. 11-25-91; LOTT 6-2003(Temp), f. & cert. ef. 6-5-03 thru 11-28-03

## 177-100-0160

### Transportation of Video Lottery Terminals Within, Into, or Through Oregon

(1) No person shall ship or transport video lottery terminals within or into Oregon without first obtaining a written authorization for transport from the Director. Transporting or shipping within Oregon means the starting point of a trip is within the boundaries of the state and the termination point is either within or outside the boundaries of the state. Transporting or shipping into Oregon means the starting point of a trip is outside the boundaries of the state and terminates within the boundaries of the state.

(2) No person shall ship or transport video lottery terminals through Oregon without first obtaining a written authorization from the nearest port of entry immediately upon arrival in the state. Transporting or shipping through Oregon means the starting point and termination point of a trip are outside the boundaries of the state and the route between the starting and termination points enters the state.

(3) Notwithstanding section (1) of this rule, authorization to transport a video lottery terminal within or into Oregon for purposes of display or demonstration at a trade show conducted within the boundaries of the state must be obtained as described in OAR 177-010-0120.

(4) The written authorization required under sections (1) and (2) of this rule shall include:

(a) The manufacturer of each terminal being transported;

(b) The model and serial number of each terminal being transported;

(c) The full name, address, and telephone number of the person or establishment from which the terminals are obtained;

(d) The full name, address, and telephone number of the person or venue to whom the machines are being sent or transported; and

(e) The dates of shipment or transport within, into, or through the state.

(5) At all times, a copy of the written authorization shall accompany the terminal or terminals in transport.

Stat. Auth.: Or. Const. Art. XV, Sec. 4 & ORS 461

Stats. Implemented: OL 1999, Ch. 193 & ORS 461.215

Hist.: LC 8-1991, f. & cert. ef. 11-25-91; LOTT 12-1999(Temp), f. & cert. ef. 12-27-99 thru 6-20-00; LOTT 3-2000, f. 3-31-00, cert. ef. 4-3-00; LOTT 6-2003(Temp), f. & cert. ef. 6-5-03 thru 11-28-03

## 177-100-0170

### Liability for Terminal Malfunction

The Lottery, the Commission, and the State of Oregon are not responsible for any terminal or central system malfunction that causes prizes to be wrongfully awarded or denied to players. The manufacturer of the terminal or the central system is solely responsible for any wrongful award or denial of prizes. A manufacturer's liability is limited to the number of tickets for the game displayed in the game rules and may not be greater than \$600 for any game played.

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4)

Stats. Implemented: ORS 461.250

Hist.: LC 8-1991, f. & cert. ef. 11-25-91; LC 6-1993, f. & cert. ef. 7-2-93; Suspended by LOTT 6-2003(Temp), f. & cert. ef. 6-5-03 thru 11-28-03

## 177-100-0180

### Instate Manufacturing of Gray Machines Shipped Out-of-State

(1) A manufacturer shall apply to the Lottery for approval to manufacture or service gray machines. The Director shall determine whether a person qualifies as a manufacturer under these rules.

(2) A manufacturer may only obtain approval for gray machines that will not be operated in Oregon and that are intended for export from the state. The Director shall only approve gray machines that are to be placed in operation in jurisdictions where they are legal. The Director shall require a manufacturer to cite the law of the jurisdiction that makes them legal, and may require additional evidence that operation of the gray machines is lawful in that jurisdiction.

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(3) The applicant is subject to the same disclosure requirements required of an applicant for a major procurement. The applicant shall reimburse the Lottery for the costs of all background investigations.

(4) A manufacturer's premises, and all production, shipping, service, and financial records, shall be made available for routine and unannounced inspections and audits by the Assistant Director of Security. A manufacturer shall provide to the Lottery a monthly report listing the types and numbers of gray machines manufactured, the types and number in storage, the number of shipments, destinations of all shipments, and methods of shipment, including carrier used. Shipment or transport of gray machines outside of Oregon also must comply with OAR 177-100-0160.

(5) The Director may issue temporary approval for the manufacture of gray machines upon submission and satisfactory review of the following information:

(a) Information required by ORS 461.410(1);

(b) Applicant's written statement of the proposed use of the gray machines;

(c) Citation of the law that states such use is legal; and

(d) The individuals or entities that have expressed an interest in purchasing, leasing, or operating the gray machines.

(6) If the Director issues a temporary approval, it is effective for no longer than 180 days.

(7) The Director may cancel any approval if the Director determines that the manufacturer has failed to adhere to the conditions required for approval of the manufacturer or otherwise poses a threat to the integrity, security, or honesty of the Lottery. Approval also may be cancelled if the transaction for which approval was issued is not completed within a reasonable period and no other purchaser, lessor, or operator has been found.

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4)

Stats. Implemented: ORS 167.117 & ORS 167.164

Hist.: LC 7-1991(Temp), f. & cert. ef. 10-28-91; LC 8-1991, f. & cert. ef. 11-25-91; LOTT 6-2003(Temp), f. & cert. ef. 6-5-03 thru 11-28-03

## 177-100-0185

### Instate Manufacturing of Video Lottery Terminals Operated in Oregon

(1) A manufacturer of video lottery terminals approved by the Lottery for the Lottery's own use under OAR chapter 177, division 35, may manufacture such terminals in Oregon.

(2) The Director may issue temporary approval for the manufacture of video lottery terminals upon submission and satisfactory review of the following information:

(a) Information required by ORS 461.410(1);

(b) Applicant's written statement of intent to manufacture video lottery terminals to be operated in Oregon solely by the Lottery; and

(c) Copy of a letter from the Lottery expressing an interest in purchasing video lottery terminals from the applicant.

(3) If the Director issues a temporary approval, it shall be effective for no longer than 180 days.

(4) No video lottery terminal shall leave the premises of the approved manufacturer until it is shipped to a destination authorized by the Lottery.

(5) All video lottery terminals whose manufacture has been approved by the Lottery shall be operated only under the authority of the Lottery.

(6) A manufacturer's premises, and all production, shipping, service, and financial records, shall be made available for routine and unannounced inspections and audits by the Assistant Director of Security. A manufacturer shall provide to the Lottery a monthly report listing the types and numbers of terminals manufactured, the types and number in storage, the number of shipments of these terminals, the destinations of all shipments, and methods of shipment, including carrier used.

(7) The Director may cancel any approval if the Director determines that the manufacturer has failed to adhere to the conditions required for approval of the manufacturer or otherwise poses a threat to the integrity, security, or honesty of the Lottery. Approval also may be revoked if the Lottery does not enter into a contract with the applicant for the purchase of the video lottery terminals within a reasonable period, or if such a contract is cancelled.

(8) Notwithstanding sections (1) through (3) of this rule, any Oregon manufacturer who has previously submitted a bid in response to a request for proposal issued by the Lottery may continue to perform video lottery terminal research and development. If the manufacturer is not successful in providing video lottery terminals in any subsequent request for proposal issued by the Lottery, the Director may cancel the manufacturer's approval to manufacture video lottery terminals.

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4)

Stats. Implemented: ORS 167.117 & ORS 167.164

Hist.: LC 7-1991(Temp), f. & cert. ef. 10-28-91; LC 8-1991, f. & cert. ef. 11-25-91; LC 13-1992, f. & cert. ef. 10-29-92; LOTT 6-2000, f. 7-26-00, cert. ef. 8-1-00; LOTT 6-2003(Temp), f. & cert. ef. 6-5-03 thru 11-28-03

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**Adm. Order No.:** LOTT 7-2003(Temp)

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**Notice Publication Date:**

**Rules Adopted:** 177-200-0005, 177-200-0011, 177-200-0012, 177-200-0032, 177-200-0055, 177-200-0065, 177-200-0080, 177-200-0090

**Rules Amended:** 177-200-0000, 177-200-0010, 177-200-0015, 177-200-0020, 177-200-0050, 177-200-0060, 177-200-0070

**Rules Suspended:** 177-200-0030, 177-200-0040

**Subject:** The proposed amendments update the rules covering definitions and video game requirements, ticket price, lottery validation and payment requirements including hours of redemption, randomness testing, and specifications for poker games on video lottery terminals. New sections proposed to be adopted include Definitions, Accuracy of Wagers, Ownership of Cash Slips, Retailer Payment Credit/Debit, Video Lottery Game Management and Sales Requirements, Discharge of Lottery from Liability and Governing Law. Other changes include general grammar and housekeeping.

**Rules Coordinator:** Mark W. Hohlt—(503) 540-1417

## 177-200-0000

### Authorized Video Lottery Games

Video lottery terminals operated by the Lottery may offer any type of video lottery games authorized by the Oregon State Lottery Commission. The rules in this Division are effective beginning June 2, 2003.

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4)

Stats. Implemented: ORS 461.210

Hist.: LC 8-1991, f. & cert. ef. 11-25-91; LOTT 7-2003(Temp), f. & cert. ef. 6-5-03 thru 11-28-03

## 177-200-0005

### Definitions

For purposes of division 200, the following definitions apply except as otherwise provided in OAR chapter 177, or unless the context requires otherwise.

(1) "Cash slip" means the receipt issued by a video lottery terminal for the payment of a player's credits remaining at the end of play.

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4), ORS 461

Stats. Implemented: ORS 461.215, ORS 461.217

Hist.: LOTT 7-2003(Temp), f. & cert. ef. 6-5-03 thru 11-28-03

## 177-200-0010

### Game Requirements

(1) To play a video lottery game, a player deposits cash into a video lottery terminal that displays the deposit as a number of credits to which the player is entitled. Each credit represents an amount not to exceed \$.25 depending on the specific game. The player purchases a game play by wagering one or more credits. A prize for a winning wager shall not exceed \$600. Prizes are paid on the terminal in the form of credits. A player may wager the credits that the player has won on additional game plays or may direct the terminal to issue a cash slip for the remaining credits.

(2) In addition to the prizes paid as credits, and depending on the specific game, bonus game plays may be awarded to a player. A prize awarded on an individual bonus game play is independent of the original game play and may not exceed \$600.

(3) A close approximation of the odds of winning some prize for each game must be displayed on a video lottery terminal screen. Each game also must display the amount wagered and the amount awarded for each possible winning occurrence based on the number of credits wagered on a game play.

(4) Each game shall provide a method for a player to view payout tables for that game.

(5) A player must be at least 21 years of age.

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4)

Stats. Implemented: ORS 461.210

Hist.: LC 8-1991, f. & cert. ef. 11-25-91; LOTT 7-2003(Temp), f. & cert. ef. 6-5-03 thru 11-28-03

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## 177-200-0011

### Accuracy of Wagers

It is the sole responsibility of a player to verify the accuracy of a wager placed on a video lottery terminal by the player. The Lottery is not responsible for any wager placed in error. The Lottery shall not cancel wagers or provide refunds.

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4), ORS 461  
Stats. Implemented: ORS 461.215, ORS 461.217  
Hist.: LOTT 7-2003(Temp), f. & cert. ef. 6-5-03 thur 11-28-03

## 177-200-0012

### Ownership of Cash Slips

(1) Until such time as an individual's name is imprinted or placed upon a cash slip, a cash slip is a bearer instrument and is owned by the bearer of the cash slip. The bearer may be the person to whom the cash slip is issued by a video lottery terminal or a person to whom the cash slip is delivered for the purpose of giving that person the right to redeem the cash slip. A person who obtains possession of a cash slip by theft, fraud, or other illegal means is not a bearer.

(2) When a name is placed upon a cash slip, the cash slip ceases to be a bearer instrument, and the individual whose name appears on the cash slip is the owner of the cash slip. A cash slip that bears a name may not be transferred to any other person for the purpose of redeeming the cash slip.

(3) Only a natural person may own a cash slip and claim payment for it.

(4) Multiple individuals may not jointly own, possess, or claim payment as owners of a cash slip. More than one name shall not be placed on a cash slip. If more than one name appears on a cash slip, the individual whose name was first placed on the cash slip is the owner of the cash slip.

(5) The Lottery may delay payment on a cash slip in order to conduct an investigation to verify ownership of a cash slip.

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4), ORS 461  
Stats. Implemented: ORS 461.215, ORS 461.217  
Hist.: LOTT 7-2003(Temp), f. & cert. ef. 6-5-03 thur 11-28-03

## 177-200-0015

### Game Play Price

The price of a game play for a video lottery game shall be clearly displayed on the terminal screen during play. The minimum wager is one credit.

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4), ORS 461.210, ORS 461.220, ORS 461.230, ORS 461.240, ORS 461.250, ORS 461.260 & ORS 962, OL 1991 (enrolled HB 3151)  
Stats. Implemented: ORS 461.240  
Hist.: LC 8-1991, f. & cert. ef. 11-25-91; LOTT 7-2003(Temp), f. & cert. ef. 6-5-03 thur 11-28-03

## 177-200-0020

### Payment of Video Lottery Game Cash Slips

(1) Original Cash Slip: An original cash slip is the only valid receipt for claiming prizes or for redeeming credits remaining on a terminal. A copy of a cash slip has no pecuniary or prize value and does not constitute evidence of a cash slip.

(2) Retailer Validation Requirements: Payment of a cash slip may be made if the cash slip is presented for payment at the retail location where the cash slip was issued within 28 days of the date it was issued and only if it meets all of the following requirements:

(a) It is intact and legible and meets all the Lottery's security requirements.

(b) It is not stolen, counterfeit, fraudulent, lacking the correct captions, altered, or tampered with in any manner.

(c) It was properly issued and is presented by a person 21 years of age or older and authorized to play under these rules or Oregon statutes.

(d) The cash slip data must have been recorded in the Lottery's central computer system and the information appearing on the cash slip must correspond with the computer record.

(e) It must not have been previously paid.

(3) Retailer Validation Exceptions: If a claim is made for payment, and the cash slip meets the requirements of sections (1) and (2) of this rule, except the cash slip has been damaged, the cash slip may nevertheless be paid by the retailer as follows:

(a) Software Validation: Upon notification by a player that a video lottery terminal issued a cash slip that is not intact or legible, the retailer is able to obtain a validation number from the terminal that corresponds to the time and amount of the credits claimed by the player. If the validation number matches the player's claim, the retailer shall validate the cash slip through the validation terminal.

(b) Software Validation Report: The retailer must complete a Retailer Software Validation Report signed by the player and the retailer. The retail-

er must retain the report for one year. The retailer must group the reports by month and must make them available for audit by the Lottery immediately upon request. The retailer must retain and attach the damaged or illegible cash slips to the reports.

(c) Reconsideration: If the retailer is unable to obtain a validation number from the terminal that corresponds to the time and amount of the credits claimed by the player as required by subsection (3)(a), the player may request payment of the prize as provided in subsection (5)(b) of this rule.

(d) Subsequent Claim: In the event a cash slip paid by a retailer under section (3) of this rule is later submitted for payment to the Lottery, the Lottery may pay the cash slip and debit the retailer's account for the amount of the cash slip based upon the outcome of a Lottery investigation to determine that the cash slip may properly be paid. No claim will be paid by the Lottery without a signed statement by a player. The player's statement must contain game play information that can be compared to information in the central computer system that substantiates that a prize in fact was won in the amount and at the approximate time claimed by the player, and information from which the Lottery reasonably can determine that payment may properly be made.

(4) Lottery Validation Requirements: Payment of a cash slip may be made at the Lottery Headquarters, 500 Airport Road SE, Salem, Oregon. The cash slip presented for payment must meet all of the requirements in sections (1) and (2) of this rule and is delivered to Lottery Headquarters in person or by mail (registered mail recommended) before 5:00 P.M. within one year of the date that the cash slip was issued. If the final day of the one-year claim period falls on a weekend or official Lottery holiday, the claim period shall be extended to the next business day at 5:00 P.M. The Lottery shall validate the cash slip by checking cash slip data recorded on the Lottery's central computer system that payment was not made previously on the cash slip.

(5) Lottery Validation Exceptions: If a cash slip cannot be validated in accordance with the requirements of sections (1) and (2) of this rule, the Director may still authorize payment if any of the following exceptions apply:

(a) Cash Slip Data Not Recorded on Central System: If a claim is made for payment and the cash slip meets the requirements of sections (1) and (2) of this rule, except the cash slip data was not recorded on the central system, the payment may be made if:

(A) An investigation of the report is conducted by the Lottery, and

(B) The Director concludes that the claimant was an authorized player and that the absence of a record of the cash slip data in the central system was the result of either a technical problem in the video lottery terminal or a communications problem that prevented the recording of the credits in the Lottery's central computer system.

(b) Lack of Cash Slip or Validation Number: If a player does not have a cash slip, or a retailer was unable to obtain a validation number, the Lottery will conduct an investigation of the claim, including the reasons or causes for the failure of the terminal to produce a cash slip or to print an intact and fully legible cash slip and the reasons or causes for the failure of the retailer to obtain a validation number. If the Lottery can determine from information in the central computer system and its investigation that a credit in the amount claimed by the player was on the terminal identified by the player at the time claimed by the player, and that no cash slip previously has been paid on the claim as evidenced by the information on the central computer system and the investigation findings, the Lottery may pay the player's claim. No claim will be paid without a signed statement by a player. The player's statement must contain game play information that can be compared to information in the central computer system which substantiates that a prize in fact was won in the amount and at the approximate time claimed by the player, and information from which the Lottery reasonably can determine that payment was not made previously on the cash slip.

(6) Withholding of Payment: The Lottery may withhold payment of any cash slip claim presented under sections (4) or (5) of this rule until the expiration of the 28-day prize claim period at the retailer's location to ensure against a double payment or until the completion of any investigation by the Lottery to determine if payment is proper.

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4)

Stats. Implemented: ORS 461.250

Hist.: LC 8-1991, f. & cert. ef. 11-25-91; LC 9-1993, f. 11-18-93, cert. ef. 12-1-93; LC 9-1994, f. 8-19-94, cert. ef. 9-1-94; LC 1-1995, f. 1-25-95, cert. ef. 3-1-95; LC 6-1996, f. 5-30-96, cert. ef. 6-1-96; LC 4-1997, f. & cert. ef. 4-25-97; LOTT 7-2003(Temp), f. & cert. ef. 6-5-03 thur 11-28-03



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## 177-200-0030

### Method of Payment

Each retailer shall designate employees authorized to redeem cash slips during the retailer's business hours of operation. Prizes shall be immediately paid in cash or by check when a player presents a cash slip for payment meeting the requirements of these rules. No prizes may be paid in tokens, chips, or merchandise.

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4)

Stats. Implemented: ORS 461.250

Hist.: LC 8-1991, f. & cert. ef. 11-25-91; Suspended by LOTT 7-2003(Temp), f. & cert. ef. 6-5-03 thur 11-28-03

## 177-200-0032

### Retailer Payment Credit/Debit

(1) Retailer Payment Credit/Debit: Except for cash slips that are presented for payment to the Lottery and which have not been recorded in the Lottery's central computer system, the amount of any cash slip paid by the Lottery at its headquarters shall be debited from the electronic funds transfer (EFT) account of the retailer from which the prize was won unless the retailer's account has already been debited under section (2) of this rule. Prizes paid by the retailer upon a validated cash slip shall be credited to the retailer's EFT account. Prizes that are paid by a retailer but not validated at the time of payment shall be credited to the retailer's account if payment is authorized under OAR 177-200-0020(1) and (2).

(2) Automatic Debit of Unclaimed Prizes: If a cash slip is not redeemed within 28 days of the date it was issued, the Lottery will charge back the amount of the cash slip to the retailer's account.

(3) Limitation on Redemption Location: A retailer shall only redeem cash slips for prizes awarded on terminals located on its premises. If a retailer redeems a cash slip from another location, the Lottery will not credit the retailer's EFT account for the payment.

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4), ORS 461

Stats. Implemented: ORS 461.215, ORS 461.217

Hist.: LOTT 7-2003(Temp), f. & cert. ef. 6-5-03 thur 11-28-03

## 177-200-0040

### Restrictions on Payment of Prizes

Retailers may only redeem cash slips for prizes awarded on terminals located on its premises.

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4)

Stats. Implemented: ORS 461.250

Hist.: LC 8-1991, f. & cert. ef. 11-25-91; Suspended by LOTT 7-2003(Temp), f. & cert. ef. 6-5-03 thur 11-28-03

## 177-200-0050

### Method of Determining Winners

Each video lottery terminal must have a random number generator that will determine the occurrence of a specific card, symbol, or number to be displayed on the video screen during a game play. A selection process will be considered random if it meets the requirements of OAR 177-200-0055.

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4)

Stats. Implemented: ORS 461.217

Hist.: LC 8-1991, f. & cert. ef. 11-25-91; LOTT 7-2003(Temp), f. & cert. ef. 6-5-03 thur 11-28-03

## 177-200-0055

### Requirements for Randomness Testing

(1) Chi-Squared Analysis: Each card position, symbol position, or number position must satisfy the 99 percent confidence limit using standard chi-squared analysis. For purposes of this rule, Chi-squared analysis is the sum of the squares of the difference between the expected result and the observed result. Card position means the first card dealt, second card dealt in sequential order, up to the last card dealt. Symbol position means the first symbol drawn, second symbol drawn in sequential order, up to the last symbol drawn. Number position means first number drawn, second number drawn in sequential order, up to the 20th number drawn.

(2) Run Test: Each card position, symbol position, or number position must not produce a significant statistic with regard to producing patterns of occurrences. For purposes of this rule, the run test is a mathematical statistic that determines the existence of recurring patterns within a set of data. Each card, symbol, or number position will be considered random if it meets the 99 percent confidence level with regard to the run test or any similar pattern-testing statistic.

(3) Correlation Test: Each card position, symbol position, or number position must be independently chosen without regard to any other card, symbol, or number drawn within that game play. This test is the correlation test. Each pair of card, symbol, or number positions is considered random

if it meets the 99 percent confidence level using standard correlation analysis.

(4) Serial Correlation Test: Each card position, symbol position, or number position must be independently chosen without reference to the same card, symbol, or number position in the previous game. This test is the serial correlation test. Each card, symbol, or number position is considered random if it meets the 99 percent confidence level using standard serial correlation analysis.

(5) Outside Influences: The random number generator and selection process must be impervious to influences from outside devices including, but not limited to, electromagnetic interferences, electrostatic discharge, and radio frequency interferences.

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4), ORS 461

Stats. Implemented: ORS 461.215, ORS 461.217

Hist.: LOTT 7-2003(Temp), f. & cert. ef. 6-5-03 thur 11-28-03

## 177-200-0060

### Requirements for Percentage Payout

The maximum payout percentage for the Lottery's video lottery games is 96 percent. Extended play games may exceed this number.

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4)

Stats. Implemented: ORS 461.220

Hist.: LC 8-1991, f. & cert. ef. 11-25-91; LC 9-1993, f. 11-18-93, cert. ef. 12-1-93; LC 9-1994, f. 8-19-94, cert. ef. 9-1-94; LC 1-1995, f. 1-25-95, cert. ef. 3-1-95; LC 7-1995, f. & cert. ef. 7-7-95; LC 3-1996(Temp), f. & cert. ef. 3-27-96; LC 6-1996, f. 5-30-96, cert. ef. 6-1-96; LOTT 7-2003(Temp), f. & cert. ef. 6-5-03 thur 11-28-03

## 177-200-0065

### Video Lottery Game Management and Sales Requirements

(1) Video Game Management: The Director of the Lottery shall manage the video lottery games installed on its video lottery terminals pursuant to ORS 461.200. The Director may revise the Lottery's video lottery games at any time and in any manner authorized by the Commission. The Lottery is under no obligation to continue to operate existing games and may initiate new or revised games at any time.

(2) Retailer's Sales: A retailer's sales of all lottery tickets and shares and sales of non-lottery products are the prime factors considered by the Lottery in managing the games installed on its video lottery equipment. A retailer's sales from video lottery games must comply with the provisions of OAR 177-040-0017 or 177-040-0061.

(3) Removal of Games: The Lottery may furnish or remove video games from equipment on a retailer's premises at any time for any reason. The Lottery may limit the amount of time that a game is available at any time for any reason.

(4) Test Equipment: With the consent of the retailer, the Lottery may test new or revised games on its equipment on a retailer's premises.

(5) Operation of Other Laws: This rule does not preclude the Lottery from removing any or all of its games installed on its equipment or limiting the time or hours the games are operational pursuant to any other applicable law or contract provision.

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4), ORS 461

Stats. Implemented: ORS 461.215, ORS 461.217

Hist.: LOTT 7-2003(Temp), f. & cert. ef. 6-5-03 thur 11-28-03

## 177-200-0070

### Requirements for Poker Games

(1) Video lottery terminals offering poker games must meet the following requirements:

(a) Standard decks of 52 playing cards shall be used. Jokers may be added to the decks if the resulting payout percentages meet the requirements of OAR 177-200-0060.

(b) Before each deal, the deck must be shuffled randomly and frozen. All cards used for play must be taken in order from the top of the deck. All cards needed for play must be stored in the non-volatile memory of the video lottery terminal. Non-volatile memory is a device that stores information that cannot be erased or destroyed when power is disconnected to the video lottery terminal. The manufacturer need not represent the whole deck in memory. Shuffling is the process of generating the cards possibly used in the play and may be conducted in any manner that satisfies the randomness tests in OAR 177-200-0055.

(c) The program must deal the first cards in the order they are contained in the shuffled deck to the player. For draw poker games or hands, the player must have the option to hold or discard one or more of the cards initially drawn according to the game design. Any autohold features that assist players in their decision as to which of the cards to hold and discard for the chance to obtain a winning combination must be displayed. Any cards that are discarded must be replaced by the remaining cards in the deck

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by a predefined process that draws any additional cards in the order they are contained in the shuffled deck.

(d) If the initial cards dealt constitute a winning hand or hands according to the game's pay table, the video lottery terminal must automatically notify the player of the winning hand or hands, display the kind of hand (e.g., one pair, two pair, three of a kind), and the potential prize amount.

(e) At the conclusion of each game play, the video lottery terminal must display the winning combinations, if any, and the amount won.

(f) An extended play option may be included as long as a prize won under that option does not exceed \$600.

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4)

Stats. Implemented: ORS 461.220

Hist.: LC 8-1991, f. & cert. ef. 11-25-91; LOTT 7-2003(Temp), f. & cert. ef. 6-5-03 thur 11-28-03

## 177-200-0080

### Discharge of Lottery from Liability

(1) The State of Oregon, its agents, officers, employees, and representatives, the Lottery, its Director, agents, officers, (including Commissioners), employees, and representatives are discharged of all liability upon award of a prize, or, if a cash slip is presented to the Lottery for payment, upon payment of the cash slip. The State of Oregon, its agents, officer, employees, and representatives, the Lottery, its Director, agents, officers, (including Commissioners), employees, and representatives are not liable for any terminal malfunction nor are they liable for the payment of any cash slip presented to a retailer for payment.

(2) The Director's decisions and judgments regarding award of a prize and the payment of a cash slip are final and binding. If a question arises as to the amount of a prize, the amount of a cash slip, or whether a video lottery terminal malfunctioned, the Lottery may deposit any prize winnings into an interest-bearing escrow fund until it resolves the controversy, or it may petition a court of competent jurisdiction for instructions and a resolution of the controversy. All interest that may accrue while the prize winnings are on deposit in an interest-bearing fund is and remains the property of the Lottery.

(3) In the event a dispute occurs between the Lottery and a player as to the amount of a prize, the amount of a cash slip, or whether a video lottery terminal malfunctioned, the Director may replace the disputed wager with one of equivalent value. This is the player's sole and exclusive remedy. The Director's decision is final.

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4), ORS 461

Stats. Implemented: ORS 461.215, ORS 461.217

Hist.: LOTT 7-2003(Temp), f. & cert. ef. 6-5-03 thur 11-28-03

## 177-200-0090

### Governing Law

(1) By playing a game on a video lottery terminal, a player agrees to abide by and comply with Oregon law, including the statutes and administrative rules governing video lottery games and terminals that are in effect and as may be amended, and any additional terms and conditions that may be found on the cash slip. In the event of a conflict between any additional terms and conditions on a cash slip with the Lottery's rules, the rules control.

(2) All materials distributed by the Lottery for playing video lottery games are to be used solely for playing the video games permitted under these rules. Any use or reproduction of the materials for purposes other than those permitted by these rules may constitute a violation of Oregon gambling laws.

(3) All decisions of the Director regarding video lottery games are final.

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4), ORS 461

Stats. Implemented: ORS 461.215, ORS 461.217

Hist.: LOTT 7-2003(Temp), f. & cert. ef. 6-5-03 thur 11-28-03

## Oregon State Marine Board Chapter 250

**Adm. Order No.:** OSMB 4-2003

**Filed with Sec. of State:** 6-12-2003

**Certified to be Effective:** 6-12-03

**Notice Publication Date:** 5-1-03

**Rules Amended:** 250-020-0204

**Subject:** The Marine Board initiated rulemaking to amend an outdated "slow- no wake" speed for boats from June 1, 1998 through May 30, 2001, on the Wood River in Klamath County. Notice was printed on May 1. The Board voted to amend the rule pending com-

pletion of the comment period on May 31. This is a housekeeping amendment.

**Rules Coordinator:** Jill E. Andrick—(503) 373-1405, ext. 243

## 250-020-0204

### Boat Operations in Klamath County

(1) No person shall operate a motorboat in excess of "Slow—No Wake" (Maximum 5 MPH) on the following waters:

(a) Spring Creek, except within Collier State Park;

(b) Williamson River, within 200 feet of any dock or launch ramp from mouth to State Highway 97.

(2) No person shall operate a motorboat for any purpose on Spring Creek within the boundaries of Collier State Park.

Stat. Auth.: ORS 830

Stats. Implemented: ORS 830.110 & ORS 830.175

Hist.: MB 45, f. 8-25-69; Renumbered from 250-020-0024; OSMB 8-1998, f. & cert. ef. 5-21-98; OSMB 12-1998, f. 7-15-98, cert. ef. 8-1-98; OSMB 4-2003, f. & cert. ef. 6-12-03

**Adm. Order No.:** OSMB 5-2003(Temp)

**Filed with Sec. of State:** 6-12-2003

**Certified to be Effective:** 7-1-03 thru 10-31-03

**Notice Publication Date:**

**Rules Amended:** 250-020-0082

**Subject:** Amend Rules to temporarily restrict boating activity, for safety reasons, on a portion of the Rogue River adjacent to the HWY. 101 bridge while bridge repairs are underway.

**Rules Coordinator:** Jill E. Andrick—(503) 373-1405, ext. 243

## 250-020-0082

### Boat Operations in Curry County

(1) No person shall operate a motorboat, except those propelled by electric motors on:

(a) Floras Creek;

(b) New River from March 1 to September 30, and;

(c) Sixes River.

(2) No person shall operate a motorboat with a jet pump drive on the Pistol River.

(3) No person shall operate a motorboat on the Elk River, except:

(a) From the Ironhead ramp downstream motors 25 horsepower or less, other than those having a jet pump, are allowed;

(b) From the Ironhead ramp upstream persons who own land fronting both sides of the river may, by permit issued by the Marine Board, use a motorboat with a propeller-driven outboard motor 25 horsepower or less; and

(c) Electric motors are allowed on the entire river.

(4) A special boating restriction zone is established on Rogue River within an area 100 feet east and west of the Highway 101 bridge, between the north shore and the temporary work bridge structures, as posted, during the period from July 1 to October 31, 2002. The following restrictions apply in the zone:

(a) Boat operation in excess of a slow no wake, maximum 5 MPH speed is prohibited.

(b) This is a "pass through" only zone. Anchoring, stopping or mooring is prohibited.

(5) Boat operation on Rogue River is prohibited in a zone approximately 100 feet east and west of the temporary low water construction bridges, adjacent to the Highway 101 bridge, in an area marked by yellow buoys and "Boats Keep Out" signs.

Stat. Auth.: ORS 830

Stats. Implemented: ORS 830.110 & ORS 830.175

Hist.: MB 21-1987, f. 12-31-87, ef. 1-1-88; OSMB 1-2001, f. & cert. ef. 1-25-01; OSMB 6-2001, f. & cert. ef. 3-29-01; OSMB 3-2002(Temp), f. 6-27-02, cert. ef. 7-1-02 thru 10-31-02; Administrative correction 11-29-02; OSMB 5-2003(Temp), f. 6-12-03, cert. ef. 7-1-03 thru 10-31-03

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

**Adm. Order No.:** OIT 1-2003

**Filed with Sec. of State:** 6-11-2003

**Certified to be Effective:** 6-11-03

**Notice Publication Date:** 5-1-03

**Rules Amended:** 578-041-0030

# ADMINISTRATIVE RULES

**Subject:** Amends the Schedule of Special Institution Fees and Charges. Amendments allow for increases, revisions, additions or deletions of special course fees and general service fees for fiscal year 2003-04. The schedule of subject fees may be obtained from the Oregon Institute of Technology Business Office.

**Rules Coordinator:** Kathleen Coupé—(541) 885-1104

**578-041-0030**

## **Special Institution Fees and Charges**

(1) The Schedule of Special Institution Fees and Charges establishes charges for selected courses and general services for Oregon Institute of Technology for the academic year 2003-04 and are hereby adopted by reference.

(2) Copies of this fee schedule may be obtained from the Oregon Institute of Technology Business Office.

Stat. Auth.: ORS 351

Stats. Implemented: ORS 351.070(2)

Hist.: OIT 1-1985, f. 1-10-85, ef. 2-1-85; OIT 1-1986, f. & ef. 9-4-86; OIT 4-1991, f. & cert. ef. 7-22-91; OIT 5-1992, f. & cert. ef. 9-24-92; OIT 1-1993, f. & cert. ef. 9-24-93; OIT 1-1995, f. & cert. ef. 7-7-95; OIT 1-1996, f. & cert. ef. 9-11-96; OIT 2-1996, f. & cert. ef. 12-19-96; OIT 1-1997, f. & cert. ef. 12-31-97; OIT 2-1998, f. & cert. ef. 11-12-98; OIT 1-1999, f. & cert. ef. 8-26-99; OIT 1-2000, f. & cert. ef. 7-7-00; OIT 1-2001, f. & cert. ef. 7-19-01; OIT 1-2002, f. & cert. ef. 7-15-02; OIT 1-2003, f. & cert. ef. 6-11-03

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## **Oregon Watershed Enhancement Board Chapter 695**

**Adm. Order No.:** OWEB 2-2003

**Filed with Sec. of State:** 6-5-2003

**Certified to be Effective:** 6-6-03

**Notice Publication Date:** 12-1-02

**Rules Amended:** 695-020-0053

**Subject:** The rules implement House Bill 2536, passed during the 2001 Legislative session, which requires, by deed restriction, OWEB Board approval prior to subsequent transfers of land acquired in part with a grant award from OWEB. By the legislation, OWEB Board approval is not permitted if a profit will occur from the subsequent transfer. The rules define profit, and the criteria the Board will use when considering whether to approve a transfer, as required by the legislation.

**Rules Coordinator:** Bonnie King—(503) 986-0181

**695-020-0053**

## **Grant Conditions**

(1) Prior to the disbursement of grant funds, the following materials must be provided by the grantee, and reviewed and approved by the Land or Water Acquisition Advisory Committee:

(a) For land acquisitions, a title insurance policy acceptable to the Director insuring that title to the interest acquired is vested in the grantee in an amount equal to or greater than the Board grant to the grantee.

(b) For land acquisitions, a level one hazardous materials report, and level two and level three hazardous materials reports, if recommended in the level one report. If a level two or three hazardous materials report identifies any condition requiring any form of removal or remediation, the Director may terminate any grant agreement and shall not release any grant funds until and unless specifically authorized by the Board.

(c) For water acquisitions, final approval by the Oregon Water Resources Department of a lease, a transfer, or a conserved water application of a subject water right to an instream right.

(2) Prior to the disbursement of any grant funds, the grantee must sign a grant agreement containing such terms and conditions as may be deemed necessary by the Director to ensure that the expected benefits of the project are realized, and that applicable legal requirements and any special conditions of the Board with regard to particular grants are met.

(a) Grant agreements will include, but are not limited to, provisions ensuring that:

(A) The use of the land or water interest will be consistent with the management goals and objectives stated in the grant application and the purposes specified in section 4(b), Article XV of the Oregon Constitution;

(B) There will be no transfer or assignment of an interest in the property acquired with Board funding without the advance consent of the Board; and

(C) Board funds will be repaid with interest due and payable from the effective date of the grant agreement at the rate provided for in ORS 82.010 in the event that the property acquired with Board funding is transferred or

assigned without the Board's consent or the property is used in a manner that is not consistent with the management goals and objectives stated in the grant application and the purposes specified in section 4(b), Article XV of the Oregon Constitution.

(b) For land acquisitions, if the Board or Director determines that there is a unusual risk of loss, the grant agreement may require title insurance naming the Board as an additional insured, or require another form of assuring that Board funds will be repaid in the event the grantee is unable to carry out the intended use of the property as a result of a defect in title.

(c) Grant agreements are subject to legal sufficiency review by the Oregon Department of Justice, which review may include a requirement to review all agreements relating to a proposed acquisition (including applicable options, purchase or lease agreements) even if not earlier submitted to the Board.

(3) An interest in land acquired with the assistance of a grant from OWEB shall not be conveyed to another party without prior OWEB Board approval of the conveyance. The Board shall use the following criteria when determining whether to approve a conveyance:

(a) Whether the ecological benefits, effect on the local and regional community, and terms of the original acquisition supporting the Board grant award also support approval of the proposed conveyance.

(b) Whether the proposed recipient of the interest in land has demonstrated its ability to hold and manage the interest consistent with the provisions of the original grant agreement and current OWEB rules, and

(c) Whether the proposed recipient agrees to the material terms of the original grant agreement, and any new conditions reasonably set by the Board.

(4) The Board shall not approve a conveyance that results in a profit to any person or entity. "Profit" means, for purposes of this rule, the amount by which the price for the purchase of an interest in land in a subsequent conveyance exceeds the purchase price for the same interest in land at the time the Board funds were used, net of usual and customary closing costs and appraisal costs actually incurred by the seller. If there will be a profit from a proposed conveyance, the OWEB Board may make a finding that no profit will occur, and approve a subsequent conveyance, by requiring repayment of the grant by the grantee with simple interest, calculated annually at the current prime rate, plus two percentage points, up to the amount of the profit.

(5) The Board will consider approval of a transfer of land acquired with the assistance of a grant from OWEB at any regularly scheduled public business meeting once it has received sufficient information from the grantee to evaluate the proposed transfer according to the criteria specified in the rules.

(6) The Board may require a conservation easement or other form of covenant, easement, or other restriction on the use of the land for any land interest acquired using Board grant funds.

(7) The Board or Director may require other grant conditions as appropriate to ensure the project results in expected outcomes or otherwise complies with applicable law.

(8) Applicants must submit a report to the Board for not less than twenty years following a grant award at a schedule determined by the Director of the Oregon Watershed Enhancement Board. The report shall briefly describe the use and management of the land or water interest, and certify that the land or water interest is being used and managed in a manner consistent with the grant application, any conservation easement, and the purposes specified under section 4(b), Article XV of the Oregon Constitution.

Stat. Auth.: ORS 541.380(1) & ORS 541.380(2)(a)

Stats. Implemented: ORS 541.375(9), ORS 541.377(5)(d) & Article XV, Section 4(b) of the Or. Const.

Hist.: GWEB 1-2000, f. & cert. ef. 11-15-00; OWEB 2-2003, f. 6-5-03, cert. ef. 6-6-03

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## **Parks and Recreation Department Chapter 736**

**Adm. Order No.:** PRD 4-2003

**Filed with Sec. of State:** 5-16-2003

**Certified to be Effective:** 5-16-03

**Notice Publication Date:** 2-1-03

**Rules Adopted:** 736-052-0000, 736-052-0001, 736-052-0010, 736-052-0020, 736-052-0030, 736-052-0040

**Subject:** Provides departmental procedure for considering a request from a state agency to transfer, sell, demolish, substantially alter or otherwise dispose of any state-owned historical artifacts. "Historic

# ADMINISTRATIVE RULES

artifacts” are historically-significant three-dimensional objects, and can include furniture, art objects, or personal property.

**Rules Coordinator:** Angie Springer—(503) 378-4168, ext. 223

## 736-052-0000

### Purpose

The department is required to adopt administrative rules by ORS 358.640(4). This division provides the department procedure for considering a request for approval from a state agency to transfer, sell, demolish, substantially alter or otherwise dispose of any historic artifacts pursuant to ORS 358.640(3) and 358.647. This division specifically excludes real property matters governed by ORS 358.653 and archaeological objects provided for in ORS 358.905 to 358.961.

Stat. Auth.: ORS 358.640(4)

Stats. Implemented: ORS 358.640(3), ORS 358.647

Hist.: PRD 4-2003, f. & cert. ef. 5-16-03

## 736-052-0001

### Definitions

For the purposes of this division the following definitions shall apply:

(1) “Department” means the Oregon Parks and Recreation Department.

(2) “Historic artifacts” means three-dimensional objects including furnishings, art objects and items of personal property which have historic significance. “Historic artifacts” does not include paper, electronic media or other media that are classified as public records. “Historic Artifacts” does not include “archaeological objects” as defined in ORS 358.905(1)(a).

(3) “Historic Significance” as used in the definition of “historic artifacts” connotes a historic artifact that was important, meaningful, or influenced past events, or is famous. Historic significance may be determined by the Oregon Heritage Commission or by the department based on an inventory of historic artifacts, including:

(a) The inventory of historic property prepared by the former Historic Properties Commission;

(b) A local government’s acknowledged comprehensive plan inventory of historic resources under Statewide Planning Goal 5; or

(c) The inventory of state-owned cultural properties coordinated by the Oregon Heritage Commission pursuant to ORS 358.595; or

(d) A state agency’s inventory of historic artifacts prepared by a professional.

(4) “Indian tribe” as provided in ORS 182.162(2), means a federally recognized Indian tribe in Oregon.

(5) “Museum” as provided in ORS 358.415(1), is an institution located in Oregon and operated by a nonprofit corporation or public agency, primarily educational, scientific or aesthetic in purpose, which owns, borrows or cares for, and studies, archives or exhibits property.

(6) “Oregon Heritage Commission” means the commission charged, along with the department, with identifying and cataloging state-owned historic artifacts.

(7) “Professional” means a person who possesses knowledge, experience, and demonstrable competence in methods and techniques appropriate to evaluate the nature and content of an item or collection of historic artifacts.

(8) “State agency” as provided in ORS 358.635(2), includes all officers, employees, agencies, boards, committees and commissions of the legislative, executive, administrative and judicial branches of state government.

(9) “Surplus Property” as provided in OAR 125-050-0000(11), means all personal property, vehicles and titled equipment excess to the state’s needs available for sale to state agencies, political subdivisions of the state and private not-for-profit organizations and/or the general public.

(10) “Temporary transfer or loan” includes all deposits of state-owned historic artifacts with a state or federal agency, a person as defined in ORS 174.100(5), a museum, local government as defined in ORS 174.116(1), or an Indian tribe, which are not accompanied by a transfer of title to the property.

Stat. Auth.: ORS 358.640(4)

Stats. Implemented: ORS 358.640(3), ORS 358.647

Hist.: PRD 4-2003, f. & cert. ef. 5-16-03

## 736-052-0010

### Request for Department Review

(1) Any state agency shall request approval from the department prior to transferring, selling, demolishing, substantially altering or otherwise disposing of any historic artifact. The approval request shall include a statement from the requesting state agency that the state agency has:

(a) Complied with applicable requirements of Native American Graves Protection and Repatriation Act, 25 USC Chapter 32 and ORS chapter 97, Indian Graves and Protected Objects. This includes consultation with Indian tribe(s), in coordination with the Legislative Commission on Indian Services.

(b) Complied with the state surplus property provisions of ORS 279.800 to 279.833 and OAR chapter 125, division 25, or other applicable laws, including ORS Chapter 351.

(c) Established a property interest in the historic artifact(s) proposed for transfer that would permit the state agency to dispose of the historic artifact(s). Proof of such a property interest may be made by submitting a copy of written documents providing the state a transferable property interest in the historic artifact(s).

(d) Determined the manner by which the state acquired the property interest in the historic artifact(s). The manners of acquiring title to historic artifacts to be stated include: donation, including property deemed donated to a state museum under ORS 358.420; gift; bequeath; escheat to the state under ORS 112.055; condemnation; eminent domain; and all other means of acquiring a property interest. The statutory authority allowing the state to acquire the property interest in the historic artifact(s) shall be stated.

(e) Inventoried, by a professional, the historic artifacts subject to the request. Such inventory shall detail:

(A) Whether the historic artifact(s) are of Native American origin.

(B) Whether the historic artifact(s) are associated with an Indian tribe.

(f) Made a good faith effort to identify the most appropriate recipient(s) for the historic artifact(s), and has consulted with any heirs, claimants, Indian tribes or others who could reasonably be determined to be appropriate recipients.

(g) Determined that the transferee is an appropriate receiver, capable of curation of the historic artifact(s) according to standards appropriate for the historic artifact(s). In determining that the transferee is capable of curation, consider the requirements and standards provided by federal rules at 36 CFR Part 79 for Curation of Federally Owned and Administered Archaeological Collections.

(A) This subsection does not apply to a transfer or sale of the historic artifact(s) to an Indian tribe.

(h) Consulted with professional(s), if demolition or substantial alteration of the historic artifact(s) is proposed, to seek:

(A) Alternatives to demolition, including transfer or sale of the historic artifact(s).

(B) Alternatives to substantial alteration, including transfer and sale of the historic artifact(s).

(i) Determined whether the historic artifact(s) proposed for transfer are included on:

(A) The comprehensive inventory of state-owned cultural properties coordinated by the Oregon Heritage Commission pursuant to ORS 358.595(3), or

(B) A local government’s acknowledged comprehensive plan inventory of historic resources pursuant to Statewide Planning Goal 5: Natural Resources, Scenic and Historic Areas, and Open Spaces.

(j) Notified the Oregon Heritage Commission and the Legislative Commission on Indian Services of the proposed transfer.

(2) In addition to the statement required by section (1) of this rule, all requests for approval must be accompanied by the following:

(a) A statement of purpose outlining the proposal, including such history or other information that makes it clear the purpose of, or reasoning behind, the request, and

(b) An inventory of the historic artifact(s) prepared by a professional, and complete or representational photographic images (depending on the number of historic artifacts) of the historic artifact(s).

(c) The department may request that the state agency provide evidence in support of the statement required by section (1) of this rule.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 358.640(4)

Stats. Implemented: ORS 358.640(3), ORS 358.647

Hist.: PRD 4-2003, f. & cert. ef. 5-16-03

## 736-052-0020

### Department Determination

(1) The department shall approve, approve with conditions, or deny the request, in whole or in part. The department may approve or approve with conditions a request to transfer if the request complies with applicable state and federal law. The department may approve or approve with conditions the request, in whole or in part, through a Memorandum of Agreement with the requesting state agency. An approval from the department may express conditions of approval that:

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- (a) Restrict destination of transferred items;
  - (b) Suggest transfer, loan or sale of specific historic artifacts to individuals, state agencies, organizations, museums or Indian tribes;
  - (c) In cases of demolition or alteration, require actions to mitigate the effects of the demolition or alteration; or,
  - (d) Require conditions of sale.
- (2) Should the requesting state agency object to conditions attached to an approval by the department, the state agency and the department will meet to resolve the dispute.
- (3) State agencies that fail to get department approval or that do not agree with conditions imposed by the department for transferring, selling, demolishing, substantially altering or otherwise disposing of any historic artifact are prohibited from transferring, selling, demolishing, substantially altering or otherwise disposing, any historic artifact(s) from their ownership, until such time as agreement can be reached.

Stat. Auth.: ORS 358.640(4)  
Stats. Implemented: ORS 358.640(3), ORS 358.647  
Hist.: PRD 4-2003, f. & cert. ef. 5-16-03

## 736-052-0030

### Time for Review by Department

- (1) The department shall review a state agency request within 60 days. The department shall inform the state agency of its approval, approval with conditions, or denial, in whole or in part of the state agency request at the earliest practicable time.
- (2) If the information required by OAR 736-052-0010 is not included with the state agency request, the department shall notify the state agency that the 60-day review period has not begun, what information required by OAR 736-052-0010 is missing or incomplete, and that the 60-day review period will begin when the missing or complete information is received by the department.

Stat. Auth.: ORS 358.640(4)  
Stats. Implemented: ORS 358.640(3), ORS 358.647  
Hist.: PRD 4-2003, f. & cert. ef. 5-16-03

## 736-052-0040

### Applicability

- (1) This division applies to all state agency requests for the department's approval of the transferring, selling, demolishing, substantially altering or otherwise disposing of historic artifact(s) pending before the department or submitted after the effective date of this rule.
- (2) This division does not apply to the temporary transfer or loan of state-owned historic artifacts.
- (3) Nothing in this division either authorizes or invalidates a state agency action that transferred, sold, demolished, substantially altered or otherwise disposed of any historic artifacts prior to the effective date of this rule.

Stat. Auth.: ORS 358.640(4)  
Stats. Implemented: ORS 358.640(3), ORS 358.647  
Hist.: PRD 4-2003, f. & cert. ef. 5-16-03

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**Public Utility Commission**  
**Chapter 860**

**Adm. Order No.:** PUC 10-2003

**Filed with Sec. of State:** 6-10-2003

**Certified to be Effective:** 6-10-03

**Notice Publication Date:** 4-1-03

**Rules Adopted:** 860-016-0015

**Subject:** ORS 36.220 through 36.238 authorize state agencies to make mediation communications confidential. These statutes also allow agencies to limit the discovery and admissibility of mediation communications in subsequent proceedings. For most agencies, including the Commission, these confidentiality and inadmissibility provisions are available only by adopting, with the approval of the Governor, mediation confidentiality rules developed by the Attorney General.

The Department of Justice directs agencies to assess their needs and to then select an appropriate rule from those developed by the Attorney General pursuant to ORS 36.224. The Commission adopted the combined rule, which provides for the confidentiality and inadmissibility of mediation communications. This rule applies when the Commission is a party to mediation or is mediating a dispute over

which it has regulatory authority. The rule also sets out a confidentiality in mediation agreement.

**Rules Coordinator:** Lauri Salsbury — (503) 378-4372

## 860-016-0015

### Confidentiality and Inadmissibility of Mediation Communications

- (1) The words and phrases used in this rule have the same meaning as given to them in ORS 36.110 and 36.234.
- (2) Nothing in this rule affects any confidentiality created by other law. Nothing in this rule relieves a public body from complying with the Public Meetings Law, ORS 192.610 to 192.690. Whether or not the documents are confidential under this or other rules of the agency, mediation communications are exempt from disclosure under the Public Records Law to the extent provided in ORS 192.410 to 192.505.
- (3) This rule applies only to mediations in which the agency is a party or is mediating a dispute as to which the agency has regulatory authority. This rule does not apply when the agency is acting as the "mediator" in a matter in which the agency also is a party as defined in ORS 36.234.
- (4) To the extent mediation communications would otherwise compromise negotiations under ORS 40.190 (OEC Rule 408), those mediation communications are not admissible as provided in ORS 40.190 (OEC Rule 408), notwithstanding any provisions to the contrary in section (9) of this rule.

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

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

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

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

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

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

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

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

(b) The mediation communication may be disclosed or introduced into evidence in a subsequent proceeding as provided in subsections (c) and (d), (j) through (l), or (o) and (p) of section (9) of this rule.

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

(8) Written Agreement. Section (7) of this rule does not apply to a mediation unless the parties to the mediation agree in writing, as provided in this section, that the mediation communications in the mediation will be confidential and/or nondiscoverable and inadmissible. If the mediator is the employee of and acting on behalf of a state agency, the mediator or an authorized agency representative must also sign the agreement. The parties' agreement to participate in a confidential mediation must be in substantially the following form. This form may be used separately or incorporated into an "agreement to mediate."

#### *Agreement to Participate in a Confidential Mediation*

The agency and the parties to the mediation agree to participate in a mediation in which the mediation communications are confidential and/or nondiscoverable and inadmissible to the extent authorized by OAR 860-016-0015(7) and this agreement. This agreement relates to the following mediation:

a) \_\_\_\_\_  
(Identify the mediation to which this agreement applies)

b) To the extent authorized by OAR 860-016-0015(7), mediation communications in this mediation are: (check one or more)

\_\_\_ confidential and may not be disclosed to any other person.

\_\_\_ not admissible in any subsequent administrative proceeding and may not be disclosed during testimony in or during any discovery conducted as part of a subsequent administrative proceeding, or introduced as evidence by the parties or the mediator in

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any subsequent administrative proceeding.  
\_\_\_ not admissible in any subsequent administrative, judicial, or arbitration proceeding and may not be disclosed during testimony in, or during any discovery conducted as part of a subsequent administrative, judicial, or arbitration proceeding, or introduced as evidence by the parties or the mediator in any subsequent administrative, judicial, or arbitration proceeding.

c) \_\_\_\_\_  
Name of Agency \_\_\_\_\_  
Date \_\_\_\_\_

Signature of Agency's authorized representative (when agency is a party) or Agency employee acting as the mediator (when Agency is mediating the dispute)

d) \_\_\_\_\_  
Name of party to the mediation \_\_\_\_\_  
Date \_\_\_\_\_

Signature of party's authorized representative  
e) \_\_\_\_\_  
Name of party to the mediation \_\_\_\_\_  
Date \_\_\_\_\_

Signature of party's authorized representative

(9) Exceptions to confidentiality and inadmissibility.

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

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

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

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

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

(f) A party to the mediation may disclose confidential mediation communications to a person if the party's communication with that person is privileged under ORS Chapter 40 or other provision of law. A party to the mediation may disclose confidential mediation communications to a person for the purpose of obtaining advice concerning the subject matter of the mediation, if all the parties agree.

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

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

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

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

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

(A) A request for mediation; or

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

(C) A final offer submitted by the parties to the mediator pursuant to ORS 243.712; or

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

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

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

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

(B) Attorney work product prepared in anticipation of litigation or for trial; or

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

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

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

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

(o) The terms of any mediation agreement are not confidential and may be introduced as evidence in a subsequent proceeding, except to the extent the terms of the agreement are exempt from disclosure under ORS 192.410 to 192.505, a court has ordered the terms to be confidential under ORS 30.402, or state or federal law requires the terms to be confidential.

(p) The mediator may report the disposition of a mediation to the agency at the conclusion of the mediation so long as the report does not disclose specific confidential mediation communications. The agency or the mediator may use or disclose confidential mediation communications for research, training, or educational purposes, subject to the provisions of ORS 36.232(4).

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

Stat. Auth.: ORS 36.224

Stats. Implemented: ORS 36.224, ORS 36.228, ORS 36.230, ORS 36.232 & ORS 756.060

Hist.: PUC 10-2003, f. & cert. ef. 6-10-03

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**Racing Commission**  
**Chapter 462**

**Adm. Order No.:** RC 3-2003

**Filed with Sec. of State:** 6-13-2003

**Certified to be Effective:** 7-1-03

**Notice Publication Date:** 5-1-03

**Rules Amended:** 462-220-0040

**Subject:** Amends the date of the sunset provision to June 30, 2004.

**Rules Coordinator:** Carol N. Morgan—(503) 731-4052

**462-220-0040**

**State of Oregon Share of the Pari-Mutuel Handle**

The operator of a hub in addition to the licensing fee set forth in OAR 462-220-0030(5) shall pay to the Oregon Racing Commission each week the following percentages of the total receipts recorded by the hub's totalizer system the preceding week.

## ADMINISTRATIVE RULES

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(1) For those wagers that are merged with the mutuel pools at the race track where the race is being run live .25%.

(2) Notwithstanding (1) of this rule, The Oregon Racing Commission may authorize the operator of a hub to pay less than .25% of the total receipts of those wagers made by residents of a state where qualified out-of-state hubs are specifically authorized and accept wagers from residents of that state, and the percentage of the total receipt paid by the hubs located in that state is less than .25%. This provision shall sunset on June 30, 2004, unless re-adopted by the commission.

(3) For those wagers that are not merged with the mutuel pools at the race track that the race is being run live 1%.

Stat. Auth.: ORS 462.270(3) & ORS 462.725

Stats. Implemented: ORS 462.725

Hist.: RC 3-2000, f. 3-27-00, cert. ef. 5-1-00; RC 1-2001, f. & cert. ef. 3-19-01; RC 4-2002, f. & cert. ef. 6-28-02; RC 3-2003, f. 6-13-03, cert. ef. 7-1-03

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125-055-0115	12-31-02	Adopt(T)	2-1-03	137-050-0455	5-12-03	Adopt	5-1-03
125-055-0120	12-31-02	Adopt(T)	2-1-03	137-050-0460	5-12-03	Repeal	5-1-03
125-055-0125	12-31-02	Adopt(T)	2-1-03	137-050-0465	5-12-03	Adopt	5-1-03
125-055-0130	12-31-02	Adopt(T)	2-1-03	137-050-0470	5-12-03	Repeal	5-1-03
125-500-0000	12-27-02	Amend	2-1-03	137-050-0475	5-12-03	Amend	5-1-03
125-500-0005	12-27-02	Amend	2-1-03	137-050-0490	5-12-03	Amend	5-1-03
125-500-0010	12-27-02	Amend	2-1-03	137-083-0000	3-1-03	Adopt	4-1-03
137-003-0036	4-1-03	Adopt	5-1-03	137-083-0010	3-1-03	Adopt	4-1-03
137-003-0573	4-1-03	Adopt	5-1-03	137-083-0020	3-1-03	Adopt	4-1-03
137-008-0000	3-1-03	Amend	4-1-03	137-083-0030	3-1-03	Adopt	4-1-03
137-009-0000	12-12-02	Amend(T)	1-1-03	137-083-0040	3-1-03	Adopt	4-1-03
137-009-0000	6-11-03	Amend	7-1-03	137-083-0050	3-1-03	Adopt	4-1-03
137-009-0005	12-12-02	Amend(T)	1-1-03	141-030-0010	1-1-03	Amend	2-1-03
137-009-0005	6-11-03	Amend	7-1-03	141-030-0015	1-1-03	Amend	2-1-03
137-009-0010	12-12-02	Amend(T)	1-1-03	141-030-0025	1-1-03	Amend	2-1-03
137-009-0010	6-11-03	Amend	7-1-03	141-030-0034	1-1-03	Amend	2-1-03
137-009-0015	12-12-02	Suspend	1-1-03	141-030-0035	1-1-03	Amend	2-1-03
137-009-0015	6-11-03	Repeal	7-1-03	141-030-0036	1-1-03	Amend	2-1-03
137-009-0020	12-12-02	Suspend	1-1-03	141-030-0037	1-1-03	Amend	2-1-03
137-009-0020	6-11-03	Repeal	7-1-03	141-030-0038	1-1-03	Amend	2-1-03
137-009-0025	12-12-02	Suspend	1-1-03	141-030-0039	1-1-03	Amend	2-1-03
137-009-0025	6-11-03	Repeal	7-1-03	141-030-0040	1-1-03	Adopt	2-1-03
137-009-0030	12-12-02	Suspend	1-1-03	141-035-0005	1-1-03	Amend	2-1-03
137-009-0030	6-11-03	Repeal	7-1-03	141-035-0010	1-1-03	Amend	2-1-03
137-009-0035	12-12-02	Suspend	1-1-03	141-035-0013	1-1-03	Adopt	2-1-03
137-009-0035	6-11-03	Repeal	7-1-03	141-035-0015	1-1-03	Amend	2-1-03
137-009-0040	12-12-02	Suspend	1-1-03	141-035-0020	1-1-03	Amend	2-1-03
137-009-0040	6-11-03	Repeal	7-1-03	141-035-0025	1-1-03	Amend	2-1-03
137-009-0045	12-12-02	Amend(T)	1-1-03	141-035-0030	1-1-03	Amend	2-1-03
137-009-0045	6-11-03	Amend	7-1-03	141-035-0035	1-1-03	Amend	2-1-03
137-009-0055	12-12-02	Suspend	1-1-03	141-035-0040	1-1-03	Amend	2-1-03
137-009-0055	6-11-03	Repeal	7-1-03	141-035-0045	1-1-03	Amend	2-1-03
137-009-0060	12-12-02	Adopt(T)	1-1-03	141-035-0046	1-1-03	Repeal	2-1-03
137-009-0060	6-11-03	Adopt	7-1-03	141-035-0047	1-1-03	Amend	2-1-03
137-009-0065	12-12-02	Adopt(T)	1-1-03	141-035-0048	1-1-03	Adopt	2-1-03
137-009-0065	6-11-03	Adopt	7-1-03	141-035-0050	1-1-03	Amend	2-1-03
137-009-0100	12-12-02	Adopt(T)	1-1-03	141-035-0055	1-1-03	Amend	2-1-03
137-009-0100	6-11-03	Adopt	7-1-03	141-035-0060	1-1-03	Amend	2-1-03
137-009-0120	12-12-02	Adopt(T)	1-1-03	141-035-0065	1-1-03	Amend	2-1-03

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141-040-0005	1-1-03	Amend	2-1-03	141-085-0040	1-15-03	Repeal	1-1-03
141-040-0010	1-1-03	Amend	2-1-03	141-085-0050	1-15-03	Repeal	1-1-03
141-040-0020	1-1-03	Amend	2-1-03	141-085-0055	1-15-03	Repeal	1-1-03
141-040-0030	1-1-03	Amend	2-1-03	141-085-0060	1-15-03	Repeal	1-1-03
141-040-0035	1-1-03	Amend	2-1-03	141-085-0064	1-15-03	Adopt	1-1-03
141-040-0040	1-1-03	Amend	2-1-03	141-085-0065	1-15-03	Repeal	1-1-03
141-040-0200	1-1-03	Amend	2-1-03	141-085-0066	1-15-03	Adopt	1-1-03
141-040-0210	1-1-03	Repeal	2-1-03	141-085-0070	1-15-03	Amend	1-1-03
141-040-0211	1-1-03	Amend	2-1-03	141-085-0075	1-15-03	Amend	1-1-03
141-040-0212	1-1-03	Amend	2-1-03	141-085-0079	1-15-03	Adopt	1-1-03
141-040-0214	1-1-03	Amend	2-1-03	141-085-0080	1-15-03	Amend	1-1-03
141-040-0220	1-1-03	Amend	2-1-03	141-085-0085	1-15-03	Amend	1-1-03
141-045-0005	1-1-03	Amend	2-1-03	141-085-0090	1-15-03	Amend	1-1-03
141-045-0010	1-1-03	Amend	2-1-03	141-085-0095	1-15-03	Adopt	1-1-03
141-045-0015	1-1-03	Adopt	2-1-03	141-085-0096	1-15-03	Adopt	1-1-03
141-045-0020	1-1-03	Repeal	2-1-03	141-085-0101	1-15-03	Repeal	1-1-03
141-045-0021	1-1-03	Adopt	2-1-03	141-085-0110	1-15-03	Repeal	1-1-03
141-045-0024	1-1-03	Repeal	2-1-03	141-085-0115	1-15-03	Amend	1-1-03
141-045-0031	1-1-03	Amend	2-1-03	141-085-0120	1-15-03	Repeal	1-1-03
141-045-0041	1-1-03	Amend	2-1-03	141-085-0121	1-15-03	Adopt	1-1-03
141-045-0061	1-1-03	Amend	2-1-03	141-085-0125	1-15-03	Repeal	1-1-03
141-045-0100	1-1-03	Amend	2-1-03	141-085-0126	1-15-03	Adopt	1-1-03
141-045-0105	1-1-03	Amend	2-1-03	141-085-0130	1-15-03	Repeal	1-1-03
141-045-0115	1-1-03	Amend	2-1-03	141-085-0131	1-15-03	Adopt	1-1-03
141-045-0120	1-1-03	Amend	2-1-03	141-085-0135	1-15-03	Repeal	1-1-03
141-045-0121	1-1-03	Adopt	2-1-03	141-085-0136	1-15-03	Adopt	1-1-03
141-045-0122	1-1-03	Adopt	2-1-03	141-085-0140	1-15-03	Repeal	1-1-03
141-045-0123	1-1-03	Adopt	2-1-03	141-085-0141	1-15-03	Adopt	1-1-03
141-045-0124	1-1-03	Adopt	2-1-03	141-085-0145	1-15-03	Repeal	1-1-03
141-045-0125	1-1-03	Amend	2-1-03	141-085-0146	1-15-03	Adopt	1-1-03
141-045-0126	1-1-03	Adopt	2-1-03	141-085-0150	1-15-03	Repeal	1-1-03
141-045-0130	1-1-03	Amend	2-1-03	141-085-0151	1-15-03	Adopt	1-1-03
141-045-0150	1-1-03	Amend	2-1-03	141-085-0155	1-15-03	Repeal	1-1-03
141-045-0155	1-1-03	Amend	2-1-03	141-085-0156	1-15-03	Adopt	1-1-03
141-045-0160	1-1-03	Amend	2-1-03	141-085-0160	1-15-03	Repeal	1-1-03
141-045-0170	1-1-03	Amend	2-1-03	141-085-0161	1-15-03	Adopt	1-1-03
141-045-0180	1-1-03	Amend	2-1-03	141-085-0165	1-15-03	Repeal	1-1-03
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141-085-0005	1-15-03	Amend	1-1-03	141-085-0170	1-15-03	Repeal	1-1-03
141-085-0006	1-15-03	Adopt	1-1-03	141-085-0171	1-15-03	Adopt	1-1-03
141-085-0010	1-15-03	Amend	1-1-03	141-085-0175	1-15-03	Repeal	1-1-03
141-085-0015	1-15-03	Amend	1-1-03	141-085-0176	1-15-03	Adopt	1-1-03
141-085-0018	1-15-03	Adopt	1-1-03	141-085-0180	1-15-03	Repeal	1-1-03
141-085-0020	1-15-03	Amend	1-1-03	141-085-0240	1-15-03	Amend	1-1-03
141-085-0022	1-15-03	Adopt	1-1-03	141-085-0242	1-15-03	Repeal	1-1-03
141-085-0024	1-15-03	Adopt	1-1-03	141-085-0244	1-15-03	Amend	1-1-03
141-085-0025	1-15-03	Amend	1-1-03	141-085-0246	1-15-03	Amend	1-1-03
141-085-0027	1-15-03	Adopt	1-1-03	141-085-0248	1-15-03	Amend	1-1-03
141-085-0028	1-15-03	Adopt	1-1-03	141-085-0250	1-15-03	Amend	1-1-03
141-085-0029	1-15-03	Adopt	1-1-03	141-085-0252	1-15-03	Amend	1-1-03
141-085-0030	1-15-03	Repeal	1-1-03	141-085-0254	1-15-03	Amend	1-1-03
141-085-0031	1-15-03	Adopt	1-1-03	141-085-0256	1-15-03	Amend	1-1-03
141-085-0032	1-15-03	Repeal	1-1-03	141-085-0257	1-15-03	Adopt	1-1-03
141-085-0034	1-15-03	Adopt	1-1-03	141-085-0258	1-15-03	Repeal	1-1-03
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141-085-0263	1-15-03	Adopt	1-1-03	141-089-0145	1-15-03	Adopt	1-1-03
141-085-0264	1-15-03	Amend	1-1-03	141-089-0150	1-15-03	Adopt	1-1-03
141-085-0266	1-15-03	Amend	1-1-03	141-089-0155	1-15-03	Adopt	1-1-03
141-085-0300	1-15-03	Repeal	1-1-03	141-089-0160	1-15-03	Adopt	1-1-03
141-085-0306	1-15-03	Repeal	1-1-03	141-089-0165	1-15-03	Adopt	1-1-03
141-085-0310	1-15-03	Repeal	1-1-03	141-089-0170	1-15-03	Adopt	1-1-03
141-085-0315	1-15-03	Repeal	1-1-03	141-089-0175	1-15-03	Adopt	1-1-03
141-085-0320	1-15-03	Repeal	1-1-03	141-089-0180	1-15-03	Adopt	1-1-03
141-085-0325	1-15-03	Repeal	1-1-03	141-089-0185	1-15-03	Adopt	1-1-03
141-085-0330	1-15-03	Repeal	1-1-03	141-089-0190	1-15-03	Adopt	1-1-03
141-085-0335	1-15-03	Repeal	1-1-03	141-089-0195	1-15-03	Adopt	1-1-03
141-085-0340	1-15-03	Repeal	1-1-03	141-089-0200	1-15-03	Adopt	1-1-03
141-085-0345	1-15-03	Repeal	1-1-03	141-089-0205	1-15-03	Adopt	1-1-03
141-085-0350	1-15-03	Repeal	1-1-03	141-089-0210	1-15-03	Adopt	1-1-03
141-085-0355	1-15-03	Repeal	1-1-03	141-089-0215	1-15-03	Adopt	1-1-03
141-085-0360	1-15-03	Repeal	1-1-03	141-089-0220	1-15-03	Adopt	1-1-03
141-085-0365	1-15-03	Repeal	1-1-03	141-089-0225	1-15-03	Adopt	1-1-03
141-085-0400	1-15-03	Amend	1-1-03	141-089-0230	1-15-03	Adopt	1-1-03
141-085-0406	1-15-03	Amend	1-1-03	141-089-0235	1-15-03	Adopt	1-1-03
141-085-0410	1-15-03	Amend	1-1-03	141-089-0240	1-15-03	Adopt	1-1-03
141-085-0415	1-15-03	Repeal	1-1-03	141-089-0245	1-15-03	Adopt	1-1-03
141-085-0421	1-15-03	Amend	1-1-03	141-089-0250	1-15-03	Adopt	1-1-03
141-085-0425	1-15-03	Amend	1-1-03	141-089-0255	1-15-03	Adopt	1-1-03
141-085-0430	1-15-03	Amend	1-1-03	141-089-0260	1-15-03	Adopt	1-1-03
141-085-0436	1-15-03	Amend	1-1-03	141-089-0265	1-15-03	Adopt	1-1-03
141-085-0440	1-15-03	Amend	1-1-03	141-089-0270	1-15-03	Adopt	1-1-03
141-085-0445	1-15-03	Amend	1-1-03	141-089-0275	1-15-03	Adopt	1-1-03
141-085-0610	1-15-03	Amend	1-1-03	141-089-0280	1-15-03	Adopt	1-1-03
141-085-0620	1-15-03	Amend	1-1-03	141-089-0285	1-15-03	Adopt	1-1-03
141-085-0630	1-15-03	Amend	1-1-03	141-089-0290	1-15-03	Adopt	1-1-03
141-085-0640	1-15-03	Amend	1-1-03	141-089-0295	1-15-03	Adopt	1-1-03
141-085-0650	1-15-03	Amend	1-1-03	141-089-0300	1-15-03	Adopt	1-1-03
141-085-0660	1-15-03	Amend	1-1-03	141-089-0305	1-15-03	Adopt	1-1-03
141-089-0005	1-15-03	Repeal	1-1-03	141-089-0310	1-15-03	Adopt	1-1-03
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141-089-0020	1-15-03	Repeal	1-1-03	141-122-0030	1-1-03	Amend	2-1-03
141-089-0030	1-15-03	Repeal	1-1-03	141-122-0040	1-1-03	Amend	2-1-03
141-089-0040	1-15-03	Repeal	1-1-03	141-122-0050	1-1-03	Amend	2-1-03
141-089-0050	1-15-03	Repeal	1-1-03	141-122-0060	1-1-03	Amend	2-1-03
141-089-0060	1-15-03	Repeal	1-1-03	141-122-0070	1-1-03	Amend	2-1-03
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141-089-0070	1-15-03	Repeal	1-1-03	141-122-0090	1-1-03	Amend	2-1-03
141-089-0075	1-15-03	Repeal	1-1-03	141-122-0100	1-1-03	Amend	2-1-03
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141-089-0086	1-15-03	Repeal	1-1-03	141-122-0110	1-1-03	Amend	2-1-03
141-089-0091	1-15-03	Repeal	1-1-03	141-122-0120	1-1-03	Amend	2-1-03
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141-089-0105	1-15-03	Adopt	1-1-03	150-23.185	12-31-02	Am. & Ren.	2-1-03
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141-089-0130	1-15-03	Adopt	1-1-03	150-305.220(2)	1-31-03	Amend	2-1-03
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150-307.175	12-31-02	Amend	2-1-03	161-025-0060	1-27-03	Amend	3-1-03
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150-307.240-(B)	12-31-02	Amend	2-1-03	165-014-0005	4-25-03	Amend	6-1-03
150-308.290(4)(b)	12-31-02	Amend	2-1-03	165-020-0005	12-5-02	Amend(T)	1-1-03
150-308.290(7)-(B)	12-31-02	Amend	2-1-03	165-020-0005	4-25-03	Amend	6-1-03
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150-309.100-(A)	12-31-02	Am. & Ren.	2-1-03	166-475-0040	2-14-03	Amend	3-1-03
150-310.110	12-31-02	Amend	2-1-03	166-475-0045	2-14-03	Amend	3-1-03
150-314.260	12-31-02	Amend	2-1-03	166-475-0050	2-14-03	Amend	3-1-03
150-314.280(3)	12-31-02	Adopt	2-1-03	166-475-0055	2-14-03	Amend	3-1-03
150-314.280-(N)	12-31-02	Amend	2-1-03	166-475-0060	2-14-03	Amend	3-1-03
150-314.385(1)-(B)	12-31-02	Amend	2-1-03	166-475-0065	2-14-03	Amend	3-1-03
150-314.525(1)-(A)	12-31-02	Amend	2-1-03	166-475-0070	2-14-03	Amend	3-1-03
150-314.610(4)-(A)	12-31-02	Repeal	2-1-03	166-475-0075	2-14-03	Amend	3-1-03
150-314.840	12-31-02	Amend	2-1-03	166-475-0080	2-14-03	Amend	3-1-03
150-314.840(T)	12-31-02	Repeal	2-1-03	166-475-0085	2-14-03	Amend	3-1-03
150-315.164	12-31-02	Amend	2-1-03	166-475-0090	2-14-03	Amend	3-1-03
150-321.207(1)	12-31-02	Adopt	2-1-03	166-475-0095	2-14-03	Amend	3-1-03
150-323.140	12-31-02	Adopt	2-1-03	166-475-0100	2-14-03	Amend	3-1-03
150-323.160(2)	12-31-02	Adopt	2-1-03	166-475-0105	2-14-03	Amend	3-1-03
150-465.517(3)	12-20-02	Renumber	2-1-03	166-475-0110	2-14-03	Amend	3-1-03
150-465.517(3)	12-31-02	Adopt	2-1-03	177-005-0000	11-25-02	Repeal	1-1-03
160-100-0610	4-1-03	Amend	4-1-03	177-010-0000	11-25-02	Amend	1-1-03
161-001-0010	5-1-03	Amend	6-1-03	177-010-0003	11-25-02	Adopt	1-1-03
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161-006-0175	5-1-03	Amend	6-1-03	177-010-0020	11-25-02	Repeal	1-1-03
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161-010-0055	5-1-03	Amend	6-1-03	177-010-0060	11-25-02	Repeal	1-1-03
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161-020-0045	5-1-03	Amend	6-1-03	177-010-0096	11-25-02	Repeal	1-1-03
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177-040-0000	11-25-02	Amend	1-1-03	177-051-0020	5-28-03	Adopt(T)	7-1-03
177-040-0001	11-25-02	Amend	1-1-03	177-051-0030	5-28-03	Adopt(T)	7-1-03
177-040-0003	11-25-02	Amend	1-1-03	177-051-0040	5-28-03	Adopt(T)	7-1-03
177-040-0005	11-25-02	Amend	1-1-03	177-051-0050	5-28-03	Adopt(T)	7-1-03
177-040-0010	11-25-02	Amend	1-1-03	177-051-0060	5-28-03	Adopt(T)	7-1-03
177-040-0012	11-25-02	Repeal	1-1-03	177-051-0070	5-28-03	Adopt(T)	7-1-03
177-040-0025	11-25-02	Amend	1-1-03	177-051-0080	5-28-03	Adopt(T)	7-1-03
177-040-0030	3-14-03	Amend	4-1-03	177-051-0090	5-28-03	Adopt(T)	7-1-03
177-040-0040	11-25-02	Amend	1-1-03	177-051-0100	5-28-03	Adopt(T)	7-1-03
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177-040-0051	11-25-02	Adopt	1-1-03	177-051-0120	5-28-03	Adopt(T)	7-1-03
177-040-0051	3-14-03	Amend	4-1-03	177-051-0130	5-28-03	Adopt(T)	7-1-03
177-040-0052	11-25-02	Adopt	1-1-03	177-065-0000	11-25-02	Repeal	1-1-03
177-040-0055	11-25-02	Amend	1-1-03	177-065-0005	11-25-02	Amend	1-1-03
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177-040-0110	3-14-03	Amend	4-1-03	177-065-0020	11-25-02	Amend	1-1-03
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177-040-0130	3-14-03	Amend	4-1-03	177-065-0040	11-25-02	Amend	1-1-03
177-040-0160	3-14-03	Amend	4-1-03	177-065-0045	11-25-02	Amend	1-1-03
177-040-0180	3-14-03	Amend	4-1-03	177-065-0055	11-25-02	Amend	1-1-03
177-040-0190	3-14-03	Amend	4-1-03	177-065-0065	11-25-02	Amend	1-1-03
177-046-0010	11-25-02	Adopt	1-1-03	177-065-0075	11-25-02	Amend	1-1-03
177-046-0020	11-25-02	Adopt	1-1-03	177-065-0080	11-25-02	Amend	1-1-03
177-046-0030	11-25-02	Adopt	1-1-03	177-065-0100	11-25-02	Repeal	1-1-03
177-046-0040	11-25-02	Adopt	1-1-03	177-070-0000	11-25-02	Repeal	1-1-03
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177-046-0060	11-25-02	Adopt	1-1-03	177-070-0010	11-25-02	Repeal	1-1-03
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177-085-0005	4-15-03	Amend(T)	5-1-03	177-200-0000	6-5-03	Amend(T)	7-1-03
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177-085-0045	2-3-03	Amend	3-1-03	177-200-0040	6-5-03	Suspend	7-1-03
177-085-0050	2-3-03	Amend	3-1-03	177-200-0050	6-5-03	Amend(T)	7-1-03
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259-008-0010	4-11-03	Amend	5-1-03	274-045-0441	4-7-03	Amend(T)	5-1-03
259-008-0010	4-18-03	Amend	6-1-03	291-019-0010	3-1-03	Am. & Ren.	3-1-03
259-008-0020	11-18-02	Amend	1-1-03	291-024-0005	2-5-03	Amend	3-1-03
259-008-0035	11-18-02	Amend	1-1-03	291-024-0010	2-5-03	Amend	3-1-03
259-008-0060	11-21-02	Amend	1-1-03	291-024-0015	2-5-03	Amend	3-1-03
259-008-0062	11-18-02	Repeal	1-1-03	291-024-0016	2-5-03	Amend	3-1-03
259-008-0063	11-18-02	Repeal	1-1-03	291-024-0017	2-5-03	Repeal	3-1-03
259-008-0065	11-18-02	Amend	1-1-03	291-024-0020	2-5-03	Amend	3-1-03
259-008-0065	4-22-03	Amend	6-1-03	291-024-0025	2-5-03	Amend	3-1-03
259-008-0067	4-22-03	Adopt	6-1-03	291-024-0055	2-5-03	Amend	3-1-03
259-008-0070	11-18-02	Amend	1-1-03	291-024-0060	2-5-03	Amend	3-1-03
259-008-0070	4-11-03	Amend	5-1-03	291-024-0070	2-5-03	Am. & Ren.	3-1-03
259-008-0080	11-18-02	Amend	1-1-03	291-024-0080	2-5-03	Amend	3-1-03
259-008-0085	11-18-02	Amend	1-1-03	291-025-0065	2-5-03	Am. & Ren.	3-1-03
259-008-0087	11-18-02	Repeal	1-1-03	291-031-0085	2-21-03	Adopt(T)	4-1-03
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259-009-0025	11-18-02	Adopt	1-1-03	291-031-0130	2-21-03	Adopt(T)	4-1-03
259-009-0030	11-18-02	Adopt	1-1-03	291-031-0140	2-21-03	Adopt(T)	4-1-03
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259-009-0062	11-18-02	Adopt	1-1-03	291-063-0005	4-17-03	Amend(T)	6-1-03
259-009-0063	11-18-02	Adopt	1-1-03	291-063-0010	4-17-03	Amend(T)	6-1-03
259-009-0067	11-18-02	Adopt	1-1-03	291-063-0015	4-17-03	Suspend	6-1-03
259-009-0070	11-18-02	Adopt	1-1-03	291-063-0016	4-17-03	Adopt(T)	6-1-03



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291-063-0025	4-17-03	Am. & Ren.(T)	6-1-03	333-050-0080	12-13-02	Amend	1-1-03
291-063-0030	4-17-03	Amend(T)	6-1-03	333-050-0090	12-13-02	Amend	1-1-03
291-063-0034	4-17-03	Adopt(T)	6-1-03	333-050-0100	12-13-02	Amend	1-1-03
291-063-0035	4-17-03	Suspend	6-1-03	333-050-0130	12-13-02	Amend	1-1-03
291-063-0036	4-17-03	Adopt(T)	6-1-03	333-050-0140	12-13-02	Amend	1-1-03
291-063-0040	4-17-03	Amend(T)	6-1-03	333-054-0000	12-24-02	Amend	2-1-03
291-063-0060	4-17-03	Adopt(T)	6-1-03	333-054-0010	12-24-02	Amend	2-1-03
291-064-0060	5-19-03	Amend(T)	7-1-03	333-054-0020	12-24-02	Amend	2-1-03
291-077-0030	2-28-03	Amend(T)	4-1-03	333-054-0030	12-24-02	Amend	2-1-03
291-109-0005	3-1-03	Repeal	3-1-03	333-054-0040	12-24-02	Amend	2-1-03
291-109-0015	3-1-03	Repeal	3-1-03	333-054-0050	12-24-02	Amend	2-1-03
291-109-0020	3-1-03	Repeal	3-1-03	333-054-0060	12-24-02	Amend	2-1-03
291-109-0030	3-1-03	Repeal	3-1-03	333-054-0070	12-24-02	Amend	2-1-03
291-109-0040	3-1-03	Repeal	3-1-03	333-054-0090	12-24-02	Repeal	2-1-03
291-109-0050	3-1-03	Repeal	3-1-03	333-061-0250	3-28-03	Amend	5-1-03
291-109-0060	3-1-03	Repeal	3-1-03	333-061-0260	3-28-03	Amend	5-1-03
291-109-0100	3-1-03	Adopt	3-1-03	333-064-0025	7-1-03	Amend	6-1-03
291-109-0120	3-1-03	Adopt	3-1-03	333-100-0001	3-27-03	Amend	5-1-03
291-109-0130	3-1-03	Adopt	3-1-03	333-100-0005	3-27-03	Amend	5-1-03
291-109-0140	3-1-03	Adopt	3-1-03	333-100-0057	3-27-03	Adopt	5-1-03
291-113-0005	4-2-03	Amend	5-1-03	333-100-0060	3-27-03	Amend	5-1-03
291-113-0010	4-2-03	Amend	5-1-03	333-100-0065	3-27-03	Amend	5-1-03
291-113-0015	4-2-03	Amend	5-1-03	333-100-0070	3-27-03	Amend	5-1-03
291-113-0020	4-2-03	Repeal	5-1-03	333-100-0080	3-27-03	Adopt	5-1-03
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291-113-0025	4-2-03	Repeal	5-1-03	333-101-0003	3-27-03	Adopt	5-1-03
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291-203-0010	2-7-03	Adopt(T)	3-1-03	333-102-0005	3-27-03	Amend	5-1-03
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309-018-0130	3-10-03	Amend(T)	3-1-03	333-102-0025	3-27-03	Amend	5-1-03
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330-130-0040	1-10-03	Amend	2-1-03	333-102-0040	3-27-03	Adopt	5-1-03
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330-130-0060	1-10-03	Amend	2-1-03	333-102-0101	3-27-03	Amend	5-1-03
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333-102-0275	3-27-03	Amend	5-1-03	333-105-0530	3-27-03	Adopt	5-1-03
333-102-0285	3-27-03	Amend	5-1-03	333-105-0540	3-27-03	Adopt	5-1-03
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333-102-0300	3-27-03	Amend	5-1-03	333-105-0590	3-27-03	Adopt	5-1-03
333-102-0305	3-27-03	Amend	5-1-03	333-105-0600	3-27-03	Adopt	5-1-03
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333-102-0315	3-27-03	Amend	5-1-03	333-105-0620	3-27-03	Adopt	5-1-03
333-102-0327	3-27-03	Amend	5-1-03	333-105-0630	3-27-03	Adopt	5-1-03
333-102-0330	3-27-03	Amend	5-1-03	333-105-0640	3-27-03	Adopt	5-1-03
333-102-0335	3-27-03	Amend	5-1-03	333-105-0650	3-27-03	Adopt	5-1-03
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333-102-0355	3-27-03	Adopt	5-1-03	333-105-0680	3-27-03	Adopt	5-1-03
333-102-0360	3-27-03	Adopt	5-1-03	333-105-0690	3-27-03	Adopt	5-1-03
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333-105-0110	3-27-03	Repeal	5-1-03	333-106-0045	3-27-03	Amend	5-1-03
333-105-0115	3-27-03	Repeal	5-1-03	333-106-0055	3-27-03	Amend	5-1-03
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333-105-0130	3-27-03	Repeal	5-1-03	333-106-0210	3-27-03	Amend	5-1-03
333-105-0135	3-27-03	Repeal	5-1-03	333-106-0220	3-27-03	Amend	5-1-03
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333-105-0202	3-27-03	Repeal	5-1-03	333-106-0700	3-27-03	Amend	5-1-03
333-105-0205	3-27-03	Repeal	5-1-03	333-106-0710	3-27-03	Amend	5-1-03
333-105-0210	3-27-03	Repeal	5-1-03	333-106-0720	3-27-03	Amend	5-1-03
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333-105-0330	3-27-03	Repeal	5-1-03	333-116-0035	3-27-03	Adopt	5-1-03
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333-105-0440	3-27-03	Adopt	5-1-03	333-116-0057	3-27-03	Adopt	5-1-03
333-105-0450	3-27-03	Adopt	5-1-03	333-116-0059	3-27-03	Adopt	5-1-03
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333-116-0190	3-27-03	Amend	5-1-03	333-118-0060	3-27-03	Amend	5-1-03
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333-116-0480	3-27-03	Amend	5-1-03	333-120-0017	3-27-03	Adopt	5-1-03
333-116-0490	3-27-03	Amend	5-1-03	333-120-0100	3-27-03	Amend	5-1-03
333-116-0495	3-27-03	Adopt	5-1-03	333-120-0110	3-27-03	Amend	5-1-03
333-116-0510	3-27-03	Repeal	5-1-03	333-120-0130	3-27-03	Amend	5-1-03
333-116-0515	3-27-03	Adopt	5-1-03	333-120-0170	3-27-03	Amend	5-1-03
333-116-0525	3-27-03	Adopt	5-1-03	333-120-0180	3-27-03	Amend	5-1-03
333-116-0530	3-27-03	Amend	5-1-03	333-120-0190	3-27-03	Amend	5-1-03
333-116-0540	3-27-03	Amend	5-1-03	333-120-0200	3-27-03	Amend	5-1-03
333-116-0560	3-27-03	Amend	5-1-03	333-120-0210	3-27-03	Amend	5-1-03
333-116-0570	3-27-03	Amend	5-1-03	333-120-0215	3-27-03	Adopt	5-1-03
333-116-0573	3-27-03	Adopt	5-1-03	333-120-0220	3-27-03	Amend	5-1-03
333-116-0577	3-27-03	Adopt	5-1-03	333-120-0230	3-27-03	Amend	5-1-03
333-116-0580	3-27-03	Amend	5-1-03	333-120-0240	3-27-03	Amend	5-1-03
333-116-0583	3-27-03	Adopt	5-1-03	333-120-0250	3-27-03	Amend	5-1-03
333-116-0585	3-27-03	Adopt	5-1-03	333-120-0320	3-27-03	Amend	5-1-03
333-116-0587	3-27-03	Adopt	5-1-03	333-120-0400	3-27-03	Amend	5-1-03
333-116-0590	3-27-03	Amend	5-1-03	333-120-0420	3-27-03	Amend	5-1-03
333-116-0600	3-27-03	Amend	5-1-03	333-120-0430	3-27-03	Amend	5-1-03
333-116-0605	3-27-03	Adopt	5-1-03	333-120-0450	3-27-03	Amend	5-1-03
333-116-0610	3-27-03	Amend	5-1-03	333-120-0460	3-27-03	Amend	5-1-03
333-116-0640	3-27-03	Amend	5-1-03	333-120-0520	3-27-03	Amend	5-1-03
333-116-0660	3-27-03	Amend	5-1-03	333-120-0540	3-27-03	Amend	5-1-03
333-116-0670	3-27-03	Amend	5-1-03	333-120-0550	3-27-03	Amend	5-1-03

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333-120-0560	3-27-03	Amend	5-1-03	333-700-0070	6-6-03	Adopt	7-1-03
333-120-0600	3-27-03	Amend	5-1-03	333-700-0075	6-6-03	Adopt	7-1-03
333-120-0610	3-27-03	Amend	5-1-03	333-700-0080	6-6-03	Adopt	7-1-03
333-120-0640	3-27-03	Amend	5-1-03	333-700-0085	6-6-03	Adopt	7-1-03
333-120-0650	3-27-03	Amend	5-1-03	333-700-0090	6-6-03	Adopt	7-1-03
333-120-0660	3-27-03	Amend	5-1-03	333-700-0095	6-6-03	Adopt	7-1-03
333-120-0670	3-27-03	Amend	5-1-03	333-700-0100	6-6-03	Adopt	7-1-03
333-120-0680	3-27-03	Amend	5-1-03	333-700-0105	6-6-03	Adopt	7-1-03
333-120-0700	3-27-03	Amend	5-1-03	333-700-0110	6-6-03	Adopt	7-1-03
333-120-0710	3-27-03	Amend	5-1-03	333-700-0115	6-6-03	Adopt	7-1-03
333-120-0720	3-27-03	Amend	5-1-03	333-700-0120	6-6-03	Adopt	7-1-03
333-157-0045	1-1-03	Amend	1-1-03	333-700-0125	6-6-03	Adopt	7-1-03
333-162-1005	1-1-03	Adopt	1-1-03	333-700-0130	6-6-03	Adopt	7-1-03
333-500-0010	12-10-02	Amend	1-1-03	334-001-0060	1-24-03	Amend	3-1-03
333-500-0050	12-10-02	Amend	1-1-03	334-010-0005	1-24-03	Amend	3-1-03
333-500-0056	12-10-02	Adopt	1-1-03	334-010-0010	1-24-03	Amend	3-1-03
333-500-0057	12-10-02	Adopt	1-1-03	334-010-0015	1-24-03	Amend	3-1-03
333-505-0005	12-10-02	Amend	1-1-03	334-010-0016	1-24-03	Amend	3-1-03
333-510-0045	12-10-02	Amend	1-1-03	334-010-0017	1-24-03	Amend	3-1-03
333-515-0060	12-10-02	Amend	1-1-03	334-010-0025	1-24-03	Amend	3-1-03
333-535-0040	2-20-03	Repeal	4-1-03	334-010-0033	1-24-03	Amend	3-1-03
333-535-0041	2-20-03	Adopt	4-1-03	334-010-0050	1-24-03	Amend	3-1-03
333-536-0000	2-1-03	Adopt	1-1-03	335-060-0005	5-7-03	Amend	6-1-03
333-536-0005	2-1-03	Adopt	1-1-03	335-060-0010	5-7-03	Amend	6-1-03
333-536-0010	2-1-03	Adopt	1-1-03	335-060-0030	5-7-03	Amend	6-1-03
333-536-0015	2-1-03	Adopt	1-1-03	335-070-0010	5-7-03	Amend	6-1-03
333-536-0020	2-1-03	Adopt	1-1-03	335-070-0020	5-7-03	Amend	6-1-03
333-536-0025	2-1-03	Adopt	1-1-03	335-070-0060	5-7-03	Amend	6-1-03
333-536-0030	2-1-03	Adopt	1-1-03	335-070-0065	5-7-03	Amend	6-1-03
333-536-0035	2-1-03	Adopt	1-1-03	335-070-0075	5-7-03	Adopt	6-1-03
333-536-0040	2-1-03	Adopt	1-1-03	335-095-0010	5-7-03	Adopt	6-1-03
333-536-0045	2-1-03	Adopt	1-1-03	335-095-0020	5-7-03	Adopt	6-1-03
333-536-0050	2-1-03	Adopt	1-1-03	335-095-0030	5-7-03	Adopt	6-1-03
333-536-0055	2-1-03	Adopt	1-1-03	335-095-0040	5-7-03	Adopt	6-1-03
333-536-0060	2-1-03	Adopt	1-1-03	335-095-0050	5-7-03	Adopt	6-1-03
333-536-0065	2-1-03	Adopt	1-1-03	335-095-0060	5-7-03	Adopt	6-1-03
333-536-0070	2-1-03	Adopt	1-1-03	335-095-0065	5-7-03	Adopt	6-1-03
333-536-0075	2-1-03	Adopt	1-1-03	337-010-0030	11-18-02	Amend	1-1-03
333-536-0080	2-1-03	Adopt	1-1-03	337-010-0060	11-18-02	Amend	1-1-03
333-536-0085	2-1-03	Adopt	1-1-03	337-021-0040	11-18-02	Amend	1-1-03
333-536-0090	2-1-03	Adopt	1-1-03	337-021-0070	11-18-02	Adopt	1-1-03
333-536-0095	2-1-03	Adopt	1-1-03	337-021-0080	11-18-02	Adopt	1-1-03
333-700-0000	6-6-03	Adopt	7-1-03	338-010-0030	4-25-03	Amend(T)	6-1-03
333-700-0005	6-6-03	Adopt	7-1-03	339-020-0020	3-4-03	Amend	4-1-03
333-700-0010	6-6-03	Adopt	7-1-03	340-012-0045	1-31-03	Amend	3-1-03
333-700-0015	6-6-03	Adopt	7-1-03	340-012-0049	1-31-03	Amend	3-1-03
333-700-0020	6-6-03	Adopt	7-1-03	340-012-0067	2-14-03	Amend	3-1-03
333-700-0025	6-6-03	Adopt	7-1-03	340-012-0069	1-31-03	Repeal	3-1-03
333-700-0030	6-6-03	Adopt	7-1-03	340-012-0081	1-31-03	Adopt	3-1-03
333-700-0035	6-6-03	Adopt	7-1-03	340-012-0081	4-21-03	Amend	6-1-03
333-700-0040	6-6-03	Adopt	7-1-03	340-012-0082	1-31-03	Adopt	3-1-03
333-700-0045	6-6-03	Adopt	7-1-03	340-012-0083	1-31-03	Adopt	3-1-03
333-700-0050	6-6-03	Adopt	7-1-03	340-012-0090	1-31-03	Amend	3-1-03
333-700-0055	6-6-03	Adopt	7-1-03	340-015-0005	5-27-03	Repeal	7-1-03
333-700-0060	6-6-03	Adopt	7-1-03	340-015-0010	5-27-03	Repeal	7-1-03
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340-015-0020	5-27-03	Repeal	7-1-03	340-054-0080	5-27-03	Repeal	7-1-03
340-015-0025	5-27-03	Repeal	7-1-03	340-054-0085	5-27-03	Amend	7-1-03
340-015-0030	5-27-03	Repeal	7-1-03	340-054-0087	5-27-03	Amend	7-1-03
340-015-0035	5-27-03	Repeal	7-1-03	340-054-0090	5-27-03	Amend	7-1-03
340-018-0020	5-27-03	Amend	7-1-03	340-054-0093	5-27-03	Amend	7-1-03
340-018-0030	5-27-03	Amend	7-1-03	340-054-0095	5-27-03	Amend	7-1-03
340-042-0025	12-20-02	Adopt	2-1-03	340-054-0097	5-27-03	Amend	7-1-03
340-042-0030	12-20-02	Adopt	2-1-03	340-108-0001	1-31-03	Repeal	3-1-03
340-042-0040	12-20-02	Adopt	2-1-03	340-108-0002	1-31-03	Repeal	3-1-03
340-042-0050	12-20-02	Adopt	2-1-03	340-108-0010	1-31-03	Repeal	3-1-03
340-042-0060	12-20-02	Adopt	2-1-03	340-108-0020	1-31-03	Repeal	3-1-03
340-042-0070	12-20-02	Adopt	2-1-03	340-108-0030	1-31-03	Repeal	3-1-03
340-042-0080	12-20-02	Adopt	2-1-03	340-108-0040	1-31-03	Repeal	3-1-03
340-047-0005	1-31-03	Repeal	3-1-03	340-108-0050	1-31-03	Repeal	3-1-03
340-047-0010	1-31-03	Repeal	3-1-03	340-108-0070	1-31-03	Repeal	3-1-03
340-047-0015	1-31-03	Repeal	3-1-03	340-108-0080	1-31-03	Repeal	3-1-03
340-047-0020	1-31-03	Repeal	3-1-03	340-122-0210	2-14-03	Amend	3-1-03
340-047-0025	1-31-03	Repeal	3-1-03	340-141-0001	1-31-03	Adopt	3-1-03
340-047-0035	1-31-03	Repeal	3-1-03	340-141-0005	1-31-03	Adopt	3-1-03
340-047-0040	1-31-03	Repeal	3-1-03	340-141-0010	1-31-03	Adopt	3-1-03
340-047-0100	1-31-03	Repeal	3-1-03	340-141-0100	1-31-03	Adopt	3-1-03
340-047-0110	1-31-03	Repeal	3-1-03	340-141-0130	1-31-03	Adopt	3-1-03
340-047-0120	1-31-03	Repeal	3-1-03	340-141-0140	1-31-03	Adopt	3-1-03
340-047-0130	1-31-03	Repeal	3-1-03	340-141-0150	1-31-03	Adopt	3-1-03
340-047-0140	1-31-03	Repeal	3-1-03	340-141-0160	1-31-03	Adopt	3-1-03
340-047-0150	1-31-03	Repeal	3-1-03	340-141-0170	1-31-03	Adopt	3-1-03
340-047-0160	1-31-03	Repeal	3-1-03	340-141-0180	1-31-03	Adopt	3-1-03
340-047-0170	1-31-03	Repeal	3-1-03	340-141-0190	1-31-03	Adopt	3-1-03
340-047-0180	1-31-03	Repeal	3-1-03	340-141-0200	1-31-03	Adopt	3-1-03
340-047-0190	1-31-03	Repeal	3-1-03	340-141-0210	1-31-03	Adopt	3-1-03
340-047-0200	1-31-03	Repeal	3-1-03	340-141-0220	1-31-03	Adopt	3-1-03
340-047-0210	1-31-03	Repeal	3-1-03	340-141-0230	1-31-03	Adopt	3-1-03
340-047-0220	1-31-03	Repeal	3-1-03	340-141-0240	1-31-03	Adopt	3-1-03
340-047-0230	1-31-03	Repeal	3-1-03	340-142-0001	1-31-03	Adopt	3-1-03
340-047-0240	1-31-03	Repeal	3-1-03	340-142-0005	1-31-03	Adopt	3-1-03
340-053-0005	5-27-03	Repeal	7-1-03	340-142-0030	1-31-03	Adopt	3-1-03
340-053-0010	5-27-03	Repeal	7-1-03	340-142-0040	1-31-03	Adopt	3-1-03
340-053-0015	5-27-03	Repeal	7-1-03	340-142-0050	1-31-03	Adopt	3-1-03
340-053-0020	5-27-03	Repeal	7-1-03	340-142-0060	1-31-03	Adopt	3-1-03
340-053-0025	5-27-03	Repeal	7-1-03	340-142-0070	1-31-03	Adopt	3-1-03
340-053-0027	5-27-03	Repeal	7-1-03	340-142-0080	1-31-03	Adopt	3-1-03
340-053-0030	5-27-03	Repeal	7-1-03	340-142-0090	1-31-03	Adopt	3-1-03
340-053-0035	5-27-03	Repeal	7-1-03	340-142-0100	1-31-03	Adopt	3-1-03
340-054-0005	5-27-03	Amend	7-1-03	340-142-0120	1-31-03	Adopt	3-1-03
340-054-0010	5-27-03	Amend	7-1-03	340-142-0130	1-31-03	Adopt	3-1-03
340-054-0015	5-27-03	Amend	7-1-03	340-150-0001	2-14-03	Amend	3-1-03
340-054-0020	5-27-03	Amend	7-1-03	340-150-0002	2-14-03	Repeal	3-1-03
340-054-0021	5-27-03	Adopt	7-1-03	340-150-0003	2-14-03	Repeal	3-1-03
340-054-0022	5-27-03	Adopt	7-1-03	340-150-0006	2-14-03	Adopt	3-1-03
340-054-0023	5-27-03	Adopt	7-1-03	340-150-0008	2-14-03	Adopt	3-1-03
340-054-0024	5-27-03	Adopt	7-1-03	340-150-0010	2-14-03	Amend	3-1-03
340-054-0025	5-27-03	Amend	7-1-03	340-150-0010	5-21-03	Amend(T)	7-1-03
340-054-0035	5-27-03	Amend	7-1-03	340-150-0015	2-14-03	Repeal	3-1-03
340-054-0055	5-27-03	Amend	7-1-03	340-150-0016	2-14-03	Repeal	3-1-03
340-054-0060	5-27-03	Amend	7-1-03	340-150-0019	2-14-03	Repeal	3-1-03
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340-150-0030	2-14-03	Repeal	3-1-03	340-151-0001	2-14-03	Adopt	3-1-03
340-150-0040	2-14-03	Repeal	3-1-03	340-151-0010	2-14-03	Adopt	3-1-03
340-150-0050	2-14-03	Repeal	3-1-03	340-151-0015	2-14-03	Adopt	3-1-03
340-150-0052	2-14-03	Adopt	3-1-03	340-151-0020	2-14-03	Adopt	3-1-03
340-150-0060	2-14-03	Repeal	3-1-03	340-151-0025	2-14-03	Adopt	3-1-03
340-150-0070	2-14-03	Repeal	3-1-03	340-160-0005	2-14-03	Amend	3-1-03
340-150-0080	2-14-03	Amend	3-1-03	340-160-0010	2-14-03	Amend	3-1-03
340-150-0090	2-14-03	Repeal	3-1-03	340-160-0020	2-14-03	Amend	3-1-03
340-150-0100	2-14-03	Repeal	3-1-03	340-160-0025	2-14-03	Amend	3-1-03
340-150-0102	2-14-03	Adopt	3-1-03	340-160-0030	2-14-03	Amend	3-1-03
340-150-0110	2-14-03	Amend	3-1-03	340-160-0035	2-14-03	Amend	3-1-03
340-150-0112	2-14-03	Repeal	3-1-03	340-160-0040	2-14-03	Amend	3-1-03
340-150-0115	2-14-03	Am. & Ren.	3-1-03	340-160-0054	2-14-03	Amend	3-1-03
340-150-0125	2-14-03	Am. & Ren.	3-1-03	340-160-0150	2-14-03	Amend	3-1-03
340-150-0130	2-14-03	Repeal	3-1-03	340-200-0040	2-6-03	Amend	3-1-03
340-150-0135	2-14-03	Adopt	3-1-03	340-230-0010	2-6-03	Amend	3-1-03
340-150-0140	2-14-03	Amend	3-1-03	340-230-0020	2-6-03	Amend	3-1-03
340-150-0150	2-14-03	Amend	3-1-03	340-230-0030	2-6-03	Amend	3-1-03
340-150-0152	2-14-03	Adopt	3-1-03	340-230-0120	2-6-03	Amend	3-1-03
340-150-0156	2-14-03	Adopt	3-1-03	340-230-0300	2-6-03	Amend	3-1-03
340-150-0160	2-14-03	Amend	3-1-03	340-230-0310	2-6-03	Amend	3-1-03
340-150-0163	2-14-03	Amend	3-1-03	340-230-0320	2-6-03	Amend	3-1-03
340-150-0166	2-14-03	Amend	3-1-03	340-230-0330	2-6-03	Amend	3-1-03
340-150-0167	2-14-03	Adopt	3-1-03	340-230-0340	2-6-03	Amend	3-1-03
340-150-0168	2-14-03	Adopt	3-1-03	340-230-0350	2-6-03	Amend	3-1-03
340-150-0180	2-14-03	Adopt	3-1-03	340-230-0360	2-6-03	Repeal	3-1-03
340-150-0200	2-14-03	Adopt	3-1-03	340-230-0365	2-6-03	Adopt	3-1-03
340-150-0250	2-14-03	Adopt	3-1-03	340-230-0370	2-6-03	Adopt	3-1-03
340-150-0300	2-14-03	Adopt	3-1-03	340-230-0373	2-6-03	Adopt	3-1-03
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340-150-0440	2-14-03	Adopt	3-1-03	340-244-0220	2-6-03	Amend	3-1-03
340-150-0445	2-14-03	Adopt	3-1-03	340-244-0230	2-6-03	Amend	3-1-03
340-150-0450	2-14-03	Adopt	3-1-03	340-248-0010	12-23-02	Amend	2-1-03
340-150-0455	2-14-03	Adopt	3-1-03	340-248-0010	6-21-03	Amend	7-1-03
340-150-0460	2-14-03	Adopt	3-1-03	340-248-0100	12-23-02	Amend	2-1-03
340-150-0465	2-14-03	Adopt	3-1-03	340-248-0100	6-21-03	Amend	7-1-03
340-150-0470	2-14-03	Adopt	3-1-03	340-248-0120	12-23-02	Amend	2-1-03
340-150-0500	2-14-03	Adopt	3-1-03	340-248-0120	6-21-03	Amend	7-1-03
340-150-0510	2-14-03	Adopt	3-1-03	340-248-0130	12-23-02	Amend	2-1-03
340-150-0520	2-14-03	Adopt	3-1-03	340-248-0130	6-21-03	Amend	7-1-03
340-150-0540	2-14-03	Adopt	3-1-03	340-248-0140	12-23-02	Amend	2-1-03
340-150-0550	2-14-03	Adopt	3-1-03	340-248-0140	6-21-03	Amend	7-1-03
340-150-0555	2-14-03	Adopt	3-1-03	340-248-0150	12-23-02	Amend	2-1-03

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OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
340-248-0150	6-21-03	Amend	7-1-03	410-120-1360	4-1-03	Amend	5-1-03
340-248-0160	6-21-03	Amend	7-1-03	410-120-1520	4-1-03	Amend	5-1-03
340-248-0180	12-23-02	Amend	2-1-03	410-120-1540	4-1-03	Amend	5-1-03
340-248-0180	6-21-03	Amend	7-1-03	410-120-1560	4-1-03	Amend	5-1-03
340-248-0205	12-23-02	Amend	2-1-03	410-120-1570	4-1-03	Adopt	5-1-03
340-248-0205	6-21-03	Amend	7-1-03	410-120-1580	4-1-03	Amend	5-1-03
340-248-0210	12-23-02	Amend	2-1-03	410-120-1600	4-1-03	Amend	5-1-03
340-248-0210	6-21-03	Amend	7-1-03	410-120-1620	4-1-03	ReNUMBER	5-1-03
340-248-0220	12-23-02	Amend	2-1-03	410-120-1640	4-1-03	Amend	5-1-03
340-248-0220	6-21-03	Amend	7-1-03	410-120-1660	4-1-03	Amend	5-1-03
340-248-0240	12-23-02	Amend	2-1-03	410-120-1680	4-1-03	Amend	5-1-03
340-248-0240	6-21-03	Amend	7-1-03	410-120-1685	4-1-03	Adopt	5-1-03
340-248-0250	12-23-02	Amend	2-1-03	410-120-1875	5-1-03	Amend	6-1-03
340-248-0250	6-21-03	Amend	7-1-03	410-121-0000	2-1-03	Amend	3-1-03
340-248-0260	12-23-02	Amend	2-1-03	410-121-0030	4-1-03	Amend	5-1-03
340-248-0260	6-21-03	Amend	7-1-03	410-121-0030	5-1-03	Amend	6-1-03
340-248-0270	12-23-02	Amend	2-1-03	410-121-0040	4-1-03	Amend	5-1-03
340-248-0270	6-21-03	Amend	7-1-03	410-121-0040	6-1-03	Amend	7-1-03
340-248-0275	12-23-02	Amend	2-1-03	410-121-0040	7-1-03	Amend(T)	7-1-03
340-248-0275	6-21-03	Amend	7-1-03	410-121-0060	4-1-03	Amend	5-1-03
340-248-0280	12-23-02	Amend	2-1-03	410-121-0061	6-1-03	Amend	7-1-03
340-248-0280	6-21-03	Amend	7-1-03	410-121-0140	3-1-03	Amend	4-1-03
340-248-0290	12-23-02	Amend	2-1-03	410-121-0140	4-1-03	Amend(T)	4-1-03
340-248-0290	6-21-03	Amend	7-1-03	410-121-0140	4-15-03	Amend(T)	5-1-03
345-026-0390	12-3-02	Amend	1-1-03	410-121-0140	6-1-03	Amend(T)	7-1-03
410-001-0030	11-22-02	Adopt	1-1-03	410-121-0140(T)	4-1-03	Suspend	5-1-03
410-001-0100	3-21-03	Adopt(T)	5-1-03	410-121-0140(T)	4-15-03	Suspend	5-1-03
410-001-0110	3-21-03	Adopt(T)	5-1-03	410-121-0140(T)	6-1-03	Suspend	7-1-03
410-001-0120	3-21-03	Adopt(T)	5-1-03	410-121-0146	1-1-03	Amend	2-1-03
410-001-0130	3-21-03	Adopt(T)	5-1-03	410-121-0150	6-1-03	Amend	7-1-03
410-001-0140	3-21-03	Adopt(T)	5-1-03	410-121-0150	7-1-03	Amend(T)	7-1-03
410-001-0150	3-21-03	Adopt(T)	5-1-03	410-121-0153	2-1-03	Adopt	3-1-03
410-001-0160	3-21-03	Adopt(T)	5-1-03	410-121-0153	3-1-03	Repeal	4-1-03
410-001-0170	3-21-03	Adopt(T)	5-1-03	410-121-0154	1-1-03	Adopt	2-1-03
410-001-0180	3-21-03	Adopt(T)	5-1-03	410-121-0155	6-1-03	Amend	7-1-03
410-001-0190	3-21-03	Adopt(T)	5-1-03	410-121-0157	2-14-03	Amend(T)	3-1-03
410-001-0200	3-21-03	Adopt(T)	5-1-03	410-121-0157	5-9-03	Amend	6-1-03
410-014-0000	4-1-03	Adopt	5-1-03	410-121-0157	5-15-03	Amend(T)	6-1-03
410-014-0010	4-1-03	Adopt	5-1-03	410-121-0157(T)	2-14-03	Suspend	3-1-03
410-014-0020	4-1-03	Adopt	5-1-03	410-121-0160	4-15-03	Amend(T)	5-1-03
410-014-0030	4-1-03	Adopt	5-1-03	410-121-0190	4-1-03	Amend	5-1-03
410-014-0040	4-1-03	Adopt	5-1-03	410-121-0190	6-1-03	Amend	7-1-03
410-014-0050	4-1-03	Adopt	5-1-03	410-121-0200	4-1-03	Amend	5-1-03
410-014-0060	4-1-03	Adopt	5-1-03	410-121-0200	6-1-03	Amend	7-1-03
410-014-0070	4-1-03	Adopt	5-1-03	410-121-0220	6-1-03	Amend	7-1-03
410-120-0000	2-1-03	Amend	3-1-03	410-121-0300	12-1-02	Amend(T)	1-1-03
410-120-1190	2-1-03	Adopt	3-1-03	410-121-0300	2-28-03	Amend	4-1-03
410-120-1195	4-1-03	Adopt(T)	5-1-03	410-121-0300	3-1-03	Amend(T)	4-1-03
410-120-1200	2-1-03	Amend	3-1-03	410-121-0300	5-29-03	Amend	7-1-03
410-120-1200	3-1-03	Amend	4-1-03	410-121-0300(T)	12-1-02	Suspend	1-1-03
410-120-1200	3-14-03	Amend(T)	4-1-03	410-121-0300(T)	2-28-03	Repeal	4-1-03
410-120-1230	1-1-03	Adopt	2-1-03	410-121-0320	2-14-03	Amend(T)	3-1-03
410-120-1235	2-1-03	Adopt	3-1-03	410-121-0320(T)	2-14-03	Suspend	3-1-03
410-120-1280	1-1-03	Amend	2-1-03	410-122-0020	12-24-02	Amend(T)	2-1-03
410-120-1280	2-1-03	Amend	3-1-03	410-122-0020	5-1-03	Amend	6-1-03
410-120-1340	2-1-03	Amend	3-1-03	410-122-0030	5-1-03	Amend	6-1-03

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410-122-0180	4-1-03	Amend	5-1-03	410-123-1440	2-1-03	Repeal	3-1-03
410-122-0190	4-1-03	Amend	5-1-03	410-123-1460	2-1-03	Repeal	3-1-03
410-122-0200	4-1-03	Amend	5-1-03	410-123-1480	2-1-03	Repeal	3-1-03
410-122-0202	4-1-03	Amend	5-1-03	410-123-1500	2-1-03	Repeal	3-1-03
410-122-0203	4-1-03	Amend	5-1-03	410-124-0000	2-1-03	Amend	3-1-03
410-122-0205	4-1-03	Amend	5-1-03	410-124-0020	2-1-03	Amend	3-1-03
410-122-0207	4-1-03	Amend	5-1-03	410-124-0040	2-1-03	Amend	3-1-03
410-122-0208	4-1-03	Amend	5-1-03	410-124-0140	2-1-03	Amend	3-1-03
410-122-0209	4-1-03	Amend	5-1-03	410-124-0160	2-1-03	Amend	3-1-03
410-122-0210	4-1-03	Amend	5-1-03	410-125-0050	1-1-03	Adopt	2-1-03
410-122-0240	4-1-03	Amend	5-1-03	410-125-0055	2-1-03	Adopt	3-1-03
410-122-0300	4-1-03	Amend	5-1-03	410-125-0080	4-1-03	Amend	5-1-03
410-122-0320	4-1-03	Amend	5-1-03	410-125-0141	3-1-03	Amend	4-1-03
410-122-0340	4-1-03	Amend	5-1-03	410-125-0141	3-10-03	Amend(T)	4-1-03
410-122-0360	4-1-03	Amend	5-1-03	410-125-0141	5-1-03	Amend	6-1-03
410-122-0365	4-1-03	Amend	5-1-03	410-125-0181	3-1-03	Amend	4-1-03
410-122-0370	4-1-03	Repeal	5-1-03	410-125-0195	3-1-03	Amend	4-1-03
410-122-0375	4-1-03	Amend	5-1-03	410-125-0195	3-10-03	Amend(T)	4-1-03
410-122-0420	4-1-03	Amend	5-1-03	410-125-0195	5-1-03	Amend	6-1-03
410-122-0460	4-1-03	Repeal	5-1-03	410-125-0680	1-1-03	Amend	2-1-03
410-122-0470	4-1-03	Amend	5-1-03	410-125-0700	1-1-03	Amend	2-1-03
410-122-0500	4-1-03	Amend	5-1-03	410-127-0000	2-1-03	Amend	3-1-03
410-122-0510	4-1-03	Amend	5-1-03	410-127-0020	2-1-03	Amend	3-1-03
410-122-0525	4-1-03	Amend	5-1-03	410-127-0050	1-1-03	Adopt	2-1-03
410-122-0540	4-1-03	Amend	5-1-03	410-127-0055	2-1-03	Adopt	3-1-03
410-122-0560	4-1-03	Amend	5-1-03	410-127-0080	2-1-03	Amend	3-1-03
410-122-0580	4-1-03	Amend	5-1-03	410-127-0120	1-1-03	Amend	2-1-03
410-122-0600	4-1-03	Amend	5-1-03	410-129-0120	1-1-03	Amend	2-1-03
410-122-0620	4-1-03	Amend	5-1-03	410-129-0140	1-1-03	Amend	2-1-03
410-122-0625	4-1-03	Amend	5-1-03	410-129-0190	1-1-03	Adopt	2-1-03
410-122-0630	4-1-03	Amend	5-1-03	410-129-0195	2-1-03	Adopt	3-1-03
410-122-0660	4-1-03	Amend	5-1-03	410-129-0200	4-1-03	Amend	5-1-03
410-122-0665	4-1-03	Repeal	5-1-03	410-129-0240	4-1-03	Amend	5-1-03
410-122-0670	4-1-03	Repeal	5-1-03	410-129-0260	2-1-03	Amend	3-1-03
410-122-0675	4-1-03	Repeal	5-1-03	410-129-0260	4-1-03	Amend	5-1-03
410-122-0678	4-1-03	Amend	5-1-03	410-130-0010	1-1-03	Amend	2-1-03
410-122-0680	4-1-03	Amend	5-1-03	410-130-0040	1-1-03	Amend	2-1-03
410-122-0701	2-1-03	Adopt	3-1-03	410-130-0100	4-1-03	Amend	5-1-03
410-122-0701	3-1-03	Repeal	4-1-03	410-130-0160	4-1-03	Amend	5-1-03
410-122-0720	4-1-03	Adopt	5-1-03	410-130-0180	4-1-03	Amend	5-1-03
410-123-1085	1-1-03	Adopt	2-1-03	410-130-0200	4-1-03	Amend	5-1-03
410-123-1085	2-1-03	Amend	3-1-03	410-130-0240	4-1-03	Amend	5-1-03
410-123-1220	2-1-03	Amend	3-1-03	410-130-0250	4-1-03	Amend	5-1-03
410-123-1240	1-1-03	Amend	2-1-03	410-130-0400	4-1-03	Amend	5-1-03
410-123-1260	2-1-03	Amend	3-1-03	410-130-0540	4-1-03	Amend	5-1-03
410-123-1280	2-1-03	Repeal	3-1-03	410-130-0562	4-1-03	Amend	5-1-03
410-123-1290	2-1-03	Repeal	3-1-03	410-130-0580	4-1-03	Amend	5-1-03
410-123-1300	2-1-03	Repeal	3-1-03	410-130-0585	4-1-03	Amend	5-1-03
410-123-1310	2-1-03	Repeal	3-1-03	410-130-0660	4-1-03	Amend	5-1-03
410-123-1320	2-1-03	Repeal	3-1-03	410-130-0680	4-1-03	Amend	5-1-03
410-123-1330	2-1-03	Repeal	3-1-03	410-130-0700	4-1-03	Amend	5-1-03
410-123-1340	2-1-03	Repeal	3-1-03	410-130-0760	4-1-03	Amend	5-1-03
410-123-1360	2-1-03	Repeal	3-1-03	410-130-0780	4-1-03	Amend	5-1-03
410-123-1380	2-1-03	Repeal	3-1-03	410-130-0800	4-1-03	Amend	5-1-03
410-123-1400	2-1-03	Repeal	3-1-03	410-130-0940	4-1-03	Amend	5-1-03
410-123-1420	2-1-03	Repeal	3-1-03	410-130-0960	1-1-03	Adopt	2-1-03



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410-130-0965	2-1-03	Adopt	3-1-03	410-148-0060	4-1-03	Amend	5-1-03
410-131-0220	1-1-03	Amend	2-1-03	410-148-0090	2-1-03	Adopt	3-1-03
410-131-0240	1-1-03	Amend	2-1-03	410-148-0095	1-1-03	Adopt	2-1-03
410-131-0270	1-1-03	Adopt	2-1-03	410-148-0100	2-1-03	Amend	3-1-03
410-131-0275	2-1-03	Adopt	3-1-03	410-148-0100	4-1-03	Amend	5-1-03
410-132-0050	1-1-03	Adopt	2-1-03	410-148-0180	1-1-03	Amend	2-1-03
410-132-0055	2-1-03	Adopt	3-1-03	410-148-0200	1-1-03	Amend	2-1-03
410-132-0140	1-1-03	Amend	2-1-03	410-148-0260	4-1-03	Amend	5-1-03
410-132-0180	4-1-03	Amend	5-1-03	410-148-0280	4-1-03	Amend	5-1-03
410-133-0000	4-1-03	Amend	5-1-03	410-148-0300	4-1-03	Amend	5-1-03
410-133-0020	4-1-03	Repeal	5-1-03	410-149-0000	2-1-03	Adopt	3-1-03
410-133-0040	4-1-03	Amend	5-1-03	410-149-0020	2-1-03	Adopt	3-1-03
410-133-0080	4-1-03	Amend	5-1-03	410-149-0040	2-1-03	Adopt	3-1-03
410-133-0120	4-1-03	Amend	5-1-03	410-149-0060	2-1-03	Adopt	3-1-03
410-133-0200	4-1-03	Amend	5-1-03	410-149-0080	2-1-03	Adopt	3-1-03
410-133-0220	4-1-03	Amend	5-1-03	410-150-0040	4-1-03	Amend	5-1-03
410-133-0240	4-1-03	Repeal	5-1-03	410-150-0080	4-1-03	Amend	5-1-03
410-133-0300	4-1-03	Amend	5-1-03	410-150-0100	4-1-03	Amend	5-1-03
410-133-0320	4-1-03	Amend	5-1-03	410-150-0120	4-1-03	Amend	5-1-03
410-136-0045	2-1-03	Adopt	3-1-03	410-150-0160	4-1-03	Amend	5-1-03
410-136-0300	4-1-03	Amend	5-1-03	410-150-0200	4-1-03	Amend	5-1-03
410-140-0060	1-1-03	Amend	2-1-03	410-150-0220	4-1-03	Amend	5-1-03
410-140-0110	1-1-03	Adopt	2-1-03	410-150-0260	4-1-03	Amend	5-1-03
410-140-0115	2-1-03	Adopt	3-1-03	410-150-0280	4-1-03	Amend	5-1-03
410-141-0000	2-1-03	Amend	3-1-03	411-015-0000	12-6-02	Amend(T)	1-1-03
410-141-0000	3-1-03	Amend	4-1-03	411-015-0000	6-4-03	Amend	7-1-03
410-141-0080	2-1-03	Amend	3-1-03	411-015-0005	12-6-02	Amend(T)	1-1-03
410-141-0080	4-1-03	Amend	5-1-03	411-015-0005	6-4-03	Amend	7-1-03
410-141-0260	4-1-03	Amend	5-1-03	411-015-0010	12-6-02	Amend(T)	1-1-03
410-141-0261	4-1-03	Amend	5-1-03	411-015-0010	6-4-03	Amend	7-1-03
410-141-0264	4-1-03	Amend	5-1-03	411-015-0015	12-6-02	Amend(T)	1-1-03
410-141-0420	2-1-03	Amend	3-1-03	411-015-0015	2-1-03	Amend	2-1-03
410-141-0480	1-1-03	Amend	2-1-03	411-015-0015	2-18-03	Amend(T)	3-1-03
410-141-0500	1-1-03	Amend	2-1-03	411-015-0015	3-12-03	Amend(T)	4-1-03
410-141-0500	2-1-03	Amend	3-1-03	411-015-0015	3-20-03	Amend(T)	5-1-03
410-141-0500	4-15-03	Amend	5-1-03	411-015-0015	6-4-03	Amend	7-1-03
410-141-0520	1-1-03	Amend	2-1-03	411-015-0015(T)	2-18-03	Suspend	3-1-03
410-141-0520	3-1-03	Amend	4-1-03	411-015-0015(T)	3-12-03	Suspend	4-1-03
410-141-0520	4-1-03	Amend	5-1-03	411-015-0015(T)	3-20-03	Suspend	5-1-03
410-141-0520(T)	1-1-03	Repeal	2-1-03	411-015-0100	12-6-02	Amend(T)	1-1-03
410-142-0080	2-1-03	Amend	3-1-03	411-015-0100	2-1-03	Amend	2-1-03
410-142-0100	2-1-03	Amend	3-1-03	411-015-0100	6-4-03	Amend	7-1-03
410-142-0200	2-1-03	Amend	3-1-03	411-030-0040	2-1-03	Amend(T)	3-1-03
410-142-0240	2-1-03	Amend	3-1-03	411-030-0080	2-1-03	Amend(T)	3-1-03
410-142-0300	2-28-03	Amend	4-1-03	411-032-0000	5-2-03	Amend	6-1-03
410-142-0320	2-1-03	Amend	3-1-03	411-032-0001	5-2-03	Amend	6-1-03
410-146-0075	1-1-03	Adopt	2-1-03	411-032-0005	5-2-03	Amend	6-1-03
410-146-0075	2-1-03	Amend	3-1-03	411-032-0010	5-2-03	Amend	6-1-03
410-146-0080	2-1-03	Amend	3-1-03	411-032-0015	5-2-03	Amend	6-1-03
410-146-0320	1-1-03	Amend	2-1-03	411-032-0020	5-2-03	Amend	6-1-03
410-147-0085	1-1-03	Adopt	2-1-03	411-032-0044	5-2-03	Amend	6-1-03
410-147-0085	2-1-03	Amend	3-1-03	411-300-0100	12-28-02	Adopt	2-1-03
410-147-0120	2-1-03	Amend	3-1-03	411-300-0110	12-28-02	Adopt	2-1-03
410-147-0600	1-1-03	Amend	2-1-03	411-300-0120	12-28-02	Adopt	2-1-03
410-148-0020	4-1-03	Amend	5-1-03	411-300-0130	12-28-02	Adopt	2-1-03
410-148-0040	4-1-03	Amend	5-1-03	411-300-0140	12-28-02	Adopt	2-1-03

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411-300-0150	12-28-02	Adopt	2-1-03	413-010-0735	1-7-03	Amend	2-1-03
411-300-0160	12-28-02	Adopt	2-1-03	413-010-0738	1-7-03	Amend	2-1-03
411-300-0170	12-28-02	Adopt	2-1-03	413-010-0740	1-7-03	Amend	2-1-03
411-300-0180	12-28-02	Adopt	2-1-03	413-010-0743	1-7-03	Amend	2-1-03
411-300-0190	12-28-02	Adopt	2-1-03	413-010-0745	1-7-03	Amend	2-1-03
411-300-0200	12-28-02	Adopt	2-1-03	413-010-0746	1-7-03	Amend	2-1-03
411-300-0210	12-28-02	Adopt	2-1-03	413-010-0750	1-7-03	Amend	2-1-03
411-300-0220	12-28-02	Adopt	2-1-03	413-020-0000	1-7-03	Amend	2-1-03
411-310-0010	4-1-03	Adopt	5-1-03	413-020-0005	1-7-03	Amend	2-1-03
411-310-0020	4-1-03	Adopt	5-1-03	413-020-0010	1-7-03	Amend	2-1-03
411-310-0030	4-1-03	Adopt	5-1-03	413-020-0020	1-7-03	Amend	2-1-03
411-310-0040	4-1-03	Adopt	5-1-03	413-020-0040	1-7-03	Amend	2-1-03
411-310-0050	4-1-03	Adopt	5-1-03	413-020-0050	1-7-03	Amend	2-1-03
411-310-0060	4-1-03	Adopt	5-1-03	413-020-0100	1-9-03	Amend	2-1-03
411-310-0070	4-1-03	Adopt	5-1-03	413-020-0110	1-9-03	Amend	2-1-03
411-315-0010	4-1-03	Adopt	5-1-03	413-020-0120	1-9-03	Amend	2-1-03
411-315-0020	4-1-03	Adopt	5-1-03	413-020-0130	1-9-03	Amend	2-1-03
411-315-0030	4-1-03	Adopt	5-1-03	413-020-0140	1-9-03	Amend	2-1-03
411-315-0040	4-1-03	Adopt	5-1-03	413-020-0150	1-9-03	Amend	2-1-03
411-315-0050	4-1-03	Adopt	5-1-03	413-020-0160	1-9-03	Amend	2-1-03
411-315-0060	4-1-03	Adopt	5-1-03	413-020-0170	1-9-03	Amend	2-1-03
411-315-0070	4-1-03	Adopt	5-1-03	413-020-0200	1-7-03	Amend	2-1-03
411-315-0080	4-1-03	Adopt	5-1-03	413-020-0210	1-7-03	Amend	2-1-03
411-315-0090	4-1-03	Adopt	5-1-03	413-020-0220	1-7-03	Amend	2-1-03
411-315-0100	4-1-03	Adopt	5-1-03	413-020-0230	1-7-03	Amend	2-1-03
411-999-0010	3-11-03	Adopt(T)	4-1-03	413-020-0240	1-7-03	Amend	2-1-03
411-999-0010	4-25-03	Amend(T)	6-1-03	413-020-0250	1-7-03	Amend	2-1-03
411-999-0010(T)	4-25-03	Suspend	6-1-03	413-020-0260	1-7-03	Amend	2-1-03
411-999-0011	3-11-03	Adopt(T)	4-1-03	413-020-0270	1-7-03	Amend	2-1-03
411-999-0011	4-25-03	Amend(T)	6-1-03	413-020-0275	1-23-03	Adopt(T)	3-1-03
411-999-0011(T)	4-25-03	Suspend	6-1-03	413-020-0275	3-19-03	Adopt	5-1-03
411-999-0012	3-11-03	Adopt(T)	4-1-03	413-020-0280	1-23-03	Adopt(T)	3-1-03
411-999-0013	3-11-03	Adopt(T)	4-1-03	413-020-0285	1-23-03	Adopt(T)	3-1-03
411-999-0013	4-25-03	Amend(T)	6-1-03	413-020-0285	3-19-03	Adopt	5-1-03
411-999-0013(T)	4-25-03	Suspend	6-1-03	413-020-0335	1-23-03	Amend(T)	3-1-03
411-999-0014	3-11-03	Adopt(T)	4-1-03	413-020-0335(T)	1-23-03	Suspend	3-1-03
411-999-0014	4-25-03	Amend(T)	6-1-03	413-020-0345	1-23-03	Adopt(T)	3-1-03
411-999-0014(T)	4-25-03	Suspend	6-1-03	413-020-0395	1-23-03	Amend(T)	3-1-03
411-999-0015	3-11-03	Adopt(T)	4-1-03	413-020-0395(T)	1-23-03	Suspend	3-1-03
411-999-0015	4-25-03	Amend(T)	6-1-03	413-030-0200	1-7-03	Amend	2-1-03
411-999-0015(T)	4-25-03	Suspend	6-1-03	413-030-0205	1-7-03	Adopt	2-1-03
411-999-0020	5-15-03	Adopt(T)	5-1-03	413-030-0210	1-7-03	Amend	2-1-03
413-010-0700	1-7-03	Amend	2-1-03	413-030-0220	1-7-03	Amend	2-1-03
413-010-0705	1-7-03	Amend	2-1-03	413-040-0100	5-22-03	Amend	7-1-03
413-010-0712	1-7-03	Amend	2-1-03	413-040-0110	5-22-03	Amend	7-1-03
413-010-0714	1-7-03	Amend	2-1-03	413-040-0120	5-22-03	Repeal	7-1-03
413-010-0715	1-7-03	Amend	2-1-03	413-040-0130	5-22-03	Amend	7-1-03
413-010-0716	1-7-03	Amend	2-1-03	413-040-0135	5-22-03	Adopt	7-1-03
413-010-0717	1-7-03	Amend	2-1-03	413-040-0140	5-22-03	Amend	7-1-03
413-010-0718	1-7-03	Amend	2-1-03	413-040-0145	5-22-03	Amend	7-1-03
413-010-0719	1-7-03	Amend	2-1-03	413-040-0150	5-22-03	Amend	7-1-03
413-010-0720	1-7-03	Amend	2-1-03	413-040-0155	5-22-03	Adopt	7-1-03
413-010-0721	1-7-03	Amend	2-1-03	413-040-0157	5-22-03	Adopt	7-1-03
413-010-0722	1-7-03	Amend	2-1-03	413-040-0159	5-22-03	Adopt	7-1-03
413-010-0723	1-7-03	Amend	2-1-03	413-040-0160	5-22-03	Repeal	7-1-03
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413-040-0410	1-7-03	Amend	2-1-03	413-080-0210	1-9-03	Amend	2-1-03
413-040-0420	1-7-03	Amend	2-1-03	413-080-0240	1-9-03	Amend	2-1-03
413-040-0430	1-7-03	Amend	2-1-03	413-080-0250	1-9-03	Amend	2-1-03
413-040-0440	1-7-03	Amend	2-1-03	413-080-0260	1-9-03	Amend	2-1-03
413-040-0450	1-7-03	Amend	2-1-03	413-080-0270	1-9-03	Amend	2-1-03
413-050-0000	1-7-03	Amend	2-1-03	413-090-0000	1-7-03	Amend	2-1-03
413-050-0005	1-7-03	Adopt	2-1-03	413-090-0005	1-7-03	Amend	2-1-03
413-050-0010	1-7-03	Amend	2-1-03	413-090-0010	1-7-03	Amend	2-1-03
413-050-0020	1-7-03	Amend	2-1-03	413-090-0010	2-1-03	Amend(T)	3-1-03
413-050-0030	1-7-03	Amend	2-1-03	413-090-0030	1-7-03	Amend	2-1-03
413-050-0040	1-7-03	Amend	2-1-03	413-090-0040	1-7-03	Amend	2-1-03
413-050-0050	1-7-03	Amend	2-1-03	413-090-0050	1-7-03	Amend	2-1-03
413-050-0200	12-19-02	Amend(T)	2-1-03	413-090-0160	2-1-03	Amend(T)	3-1-03
413-050-0210	12-19-02	Amend(T)	2-1-03	413-090-0300	1-7-03	Amend	2-1-03
413-050-0220	12-19-02	Amend(T)	2-1-03	413-090-0310	1-7-03	Amend	2-1-03
413-050-0230	12-19-02	Amend(T)	2-1-03	413-090-0320	1-7-03	Amend	2-1-03
413-050-0240	12-19-02	Amend(T)	2-1-03	413-090-0330	1-7-03	Amend	2-1-03
413-050-0250	12-19-02	Amend(T)	2-1-03	413-090-0340	1-7-03	Amend	2-1-03
413-050-0260	12-19-02	Amend(T)	2-1-03	413-090-0355	1-7-03	Amend	2-1-03
413-050-0261	12-19-02	Adopt(T)	2-1-03	413-090-0365	1-7-03	Amend	2-1-03
413-050-0270	12-19-02	Amend(T)	2-1-03	413-090-0370	1-7-03	Amend	2-1-03
413-050-0280	12-19-02	Amend(T)	2-1-03	413-090-0380	1-7-03	Amend	2-1-03
413-050-0290	12-19-02	Amend(T)	2-1-03	413-090-0400	1-7-03	Amend	2-1-03
413-050-0300	12-19-02	Amend(T)	2-1-03	413-090-0405	1-7-03	Adopt	2-1-03
413-050-0301	12-19-02	Adopt(T)	2-1-03	413-090-0410	1-7-03	Amend	2-1-03
413-050-0430	1-9-03	Amend	2-1-03	413-090-0420	1-7-03	Amend	2-1-03
413-050-0440	1-9-03	Amend	2-1-03	413-090-0430	1-7-03	Amend	2-1-03
413-050-0500	1-7-03	Amend	2-1-03	413-120-0400	3-13-03	Amend	4-1-03
413-050-0510	1-7-03	Amend	2-1-03	413-120-0410	3-13-03	Amend	4-1-03
413-050-0515	1-7-03	Amend	2-1-03	413-120-0420	3-13-03	Amend	4-1-03
413-050-0530	1-7-03	Amend	2-1-03	413-120-0430	3-13-03	Amend	4-1-03
413-050-0535	1-7-03	Amend	2-1-03	413-120-0440	3-13-03	Amend	4-1-03
413-050-0540	1-7-03	Amend	2-1-03	413-120-0450	3-13-03	Amend	4-1-03
413-050-0545	1-7-03	Amend	2-1-03	413-120-0455	3-13-03	Adopt	4-1-03
413-050-0550	1-7-03	Amend	2-1-03	413-120-0460	3-13-03	Amend	4-1-03
413-050-0560	1-7-03	Amend	2-1-03	413-120-0470	3-13-03	Amend	4-1-03
413-050-0565	1-7-03	Amend	2-1-03	413-130-0120	2-1-03	Amend	3-1-03
413-050-0575	1-7-03	Amend	2-1-03	413-130-0125	2-1-03	Adopt	3-1-03
413-050-0580	1-7-03	Amend	2-1-03	413-130-0126	2-1-03	Adopt(T)	3-1-03
413-050-0585	1-7-03	Amend	2-1-03	413-200-0371	12-19-02	Amend(T)	2-1-03
413-070-0905	1-9-03	Amend	2-1-03	414-001-0000	4-27-03	Repeal	6-1-03
413-070-0915	1-9-03	Amend	2-1-03	414-600-0000	11-24-02	Adopt	1-1-03
413-070-0920	1-9-03	Amend	2-1-03	414-600-0010	11-24-02	Adopt	1-1-03
413-070-0930	1-9-03	Amend	2-1-03	414-600-0020	11-24-02	Adopt	1-1-03
413-070-0940	1-9-03	Amend	2-1-03	414-600-0030	11-24-02	Adopt	1-1-03
413-070-0945	1-9-03	Amend	2-1-03	414-600-0040	11-24-02	Adopt	1-1-03
413-070-0945	1-23-03	Amend(T)	3-1-03	414-600-0050	11-24-02	Adopt	1-1-03
413-070-0950	1-9-03	Amend	2-1-03	414-600-0060	11-24-02	Adopt	1-1-03
413-070-0980	1-23-03	Adopt(T)	3-1-03	414-600-0070	11-24-02	Adopt	1-1-03
413-070-0981	2-1-03	Adopt(T)	3-1-03	414-600-0080	11-24-02	Adopt	1-1-03
413-080-0000	1-7-03	Amend	2-1-03	414-600-0090	11-24-02	Adopt	1-1-03
413-080-0010	1-7-03	Amend	2-1-03	414-600-0100	11-24-02	Adopt	1-1-03
413-080-0020	1-7-03	Amend	2-1-03	415-020-0000	7-1-03	Amend	7-1-03
413-080-0030	1-7-03	Amend	2-1-03	415-020-0005	7-1-03	Amend	7-1-03
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415-020-0020	7-1-03	Amend	7-1-03	436-035-0310	2-1-03	Amend	2-1-03
415-020-0025	7-1-03	Amend	7-1-03	436-035-0320	2-1-03	Amend	2-1-03
415-020-0030	7-1-03	Amend	7-1-03	436-035-0330	2-1-03	Amend	2-1-03
415-020-0035	7-1-03	Amend	7-1-03	436-035-0340	2-1-03	Amend	2-1-03
415-020-0040	7-1-03	Amend	7-1-03	436-035-0360	2-1-03	Amend	2-1-03
415-020-0045	7-1-03	Repeal	7-1-03	436-035-0370	2-1-03	Amend	2-1-03
415-020-0050	7-1-03	Amend	7-1-03	436-035-0390	2-1-03	Amend	2-1-03
415-020-0053	7-1-03	Adopt	7-1-03	436-035-0395	2-1-03	Amend	2-1-03
415-020-0054	7-1-03	Adopt	7-1-03	436-035-0420	2-1-03	Amend	2-1-03
415-020-0055	7-1-03	Repeal	7-1-03	436-035-0430	2-1-03	Amend	2-1-03
415-020-0060	7-1-03	Amend	7-1-03	436-035-0440	2-1-03	Amend	2-1-03
415-020-0065	7-1-03	Amend	7-1-03	436-035-0500	1-15-03	Amend(T)	2-1-03
415-020-0070	7-1-03	Amend	7-1-03	436-035-0500	2-1-03	Amend	2-1-03
415-020-0075	7-1-03	Amend	7-1-03	436-035-0500	4-15-03	Amend(T)	5-1-03
415-020-0080	7-1-03	Amend	7-1-03	436-050-0060	4-1-03	Amend	5-1-03
415-020-0085	7-1-03	Amend	7-1-03	436-105-0003	12-11-02	Amend(T)	1-1-03
416-430-0050	1-16-03	Amend	3-1-03	436-105-0003	6-8-03	Amend	7-1-03
436-009-0004	7-1-03	Amend	7-1-03	436-105-0008	6-8-03	Amend	7-1-03
436-009-0005	7-1-03	Amend	7-1-03	436-105-0500	12-11-02	Amend(T)	1-1-03
436-009-0008	7-1-03	Amend	7-1-03	436-105-0500	6-8-03	Amend	7-1-03
436-009-0010	7-1-03	Amend	7-1-03	436-105-0510	12-11-02	Amend(T)	1-1-03
436-009-0015	7-1-03	Amend	7-1-03	436-105-0510	6-8-03	Amend	7-1-03
436-009-0020	7-1-03	Amend	7-1-03	436-105-0520	6-8-03	Amend	7-1-03
436-009-0022	7-1-03	Amend	7-1-03	436-105-0530	6-8-03	Amend	7-1-03
436-009-0030	7-1-03	Amend	7-1-03	436-160-0001	4-1-03	Adopt	5-1-03
436-009-0040	7-1-03	Amend	7-1-03	436-160-0002	4-1-03	Adopt	5-1-03
436-009-0050	7-1-03	Amend	7-1-03	436-160-0003	4-1-03	Adopt	5-1-03
436-009-0060	7-1-03	Amend	7-1-03	436-160-0004	4-1-03	Adopt	5-1-03
436-009-0070	7-1-03	Amend	7-1-03	436-160-0005	4-1-03	Adopt	5-1-03
436-009-0090	7-1-03	Amend	7-1-03	436-160-0006	4-1-03	Adopt	5-1-03
436-035-0001	2-1-03	Amend	2-1-03	436-160-0010	4-1-03	Adopt	5-1-03
436-035-0003	2-1-03	Amend	2-1-03	436-160-0020	4-1-03	Adopt	5-1-03
436-035-0005	2-1-03	Amend	2-1-03	436-160-0030	4-1-03	Adopt	5-1-03
436-035-0007	2-1-03	Amend	2-1-03	436-160-0040	4-1-03	Adopt	5-1-03
436-035-0010	2-1-03	Amend	2-1-03	436-160-0050	4-1-03	Adopt	5-1-03
436-035-0030	2-1-03	Amend	2-1-03	436-160-0060	4-1-03	Adopt	5-1-03
436-035-0040	2-1-03	Amend	2-1-03	436-160-0070	4-1-03	Adopt	5-1-03
436-035-0050	2-1-03	Amend	2-1-03	436-160-0080	4-1-03	Adopt	5-1-03
436-035-0060	2-1-03	Amend	2-1-03	436-160-0090	4-1-03	Adopt	5-1-03
436-035-0070	2-1-03	Amend	2-1-03	436-160-0300	4-1-03	Adopt	5-1-03
436-035-0075	2-1-03	Amend	2-1-03	436-160-0310	4-1-03	Adopt	5-1-03
436-035-0080	2-1-03	Amend	2-1-03	436-160-0320	4-1-03	Adopt	5-1-03
436-035-0100	2-1-03	Amend	2-1-03	436-160-0330	4-1-03	Adopt	5-1-03
436-035-0110	2-1-03	Amend	2-1-03	436-160-0340	4-1-03	Adopt	5-1-03
436-035-0150	2-1-03	Amend	2-1-03	436-160-0350	4-1-03	Adopt	5-1-03
436-035-0160	2-1-03	Amend	2-1-03	436-160-0360	4-1-03	Adopt	5-1-03
436-035-0170	2-1-03	Amend	2-1-03	437-002-0080	4-21-03	Amend	6-1-03
436-035-0190	2-1-03	Amend	2-1-03	437-002-0100	4-21-03	Amend	6-1-03
436-035-0200	2-1-03	Amend	2-1-03	437-002-0107	4-21-03	Amend	6-1-03
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436-035-0260	2-1-03	Amend	2-1-03	437-003-0017	4-30-03	Adopt	3-1-03
436-035-0270	2-1-03	Amend	2-1-03	437-003-0420	1-30-03	Amend	3-1-03
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437-007-1055	12-1-03	Adopt	7-1-03	459-007-0050	7-1-03	Amend(T)	7-1-03
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437-007-1135	12-1-03	Adopt	7-1-03	459-035-0001	11-18-02	Amend	1-1-03
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437-007-1145	12-1-03	Adopt	7-1-03	459-035-0020	11-18-02	Amend	1-1-03
437-007-1150	12-1-03	Adopt	7-1-03	459-035-0030	11-18-02	Amend	1-1-03
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437-007-1205	12-1-03	Adopt	7-1-03	459-035-0090	11-18-02	Amend	1-1-03
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437-007-1398	12-1-03	Adopt	7-1-03	461-025-0315	1-1-03	Amend(T)	2-1-03
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437-007-1405	12-1-03	Adopt	7-1-03	461-110-0110	2-1-03	Amend	3-1-03
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462-110-0010	1-1-03	Amend	1-1-03	573-040-0005	4-16-03	Amend	6-1-03
462-110-0010	4-23-03	Amend	6-1-03	573-070-0011	12-30-02	Amend	2-1-03
462-110-0020	1-1-03	Amend	1-1-03	573-071-0005	4-16-03	Amend	6-1-03
462-110-0030	4-1-03	Amend(T)	5-1-03	573-071-0030	4-16-03	Repeal	6-1-03
462-120-0020	1-1-03	Amend	1-1-03	574-050-0005	4-2-03	Amend	5-1-03
462-120-0040	1-1-03	Amend	1-1-03	578-041-0030	6-11-03	Amend	7-1-03
462-120-0050	1-1-03	Amend	1-1-03	581-015-0005	3-10-03	Amend	4-1-03
462-120-0100	1-1-03	Amend	1-1-03	581-015-0016	3-10-03	Amend	4-1-03
462-130-0010	1-1-03	Amend	1-1-03	581-015-0017	3-10-03	Amend	4-1-03
462-130-0050	1-1-03	Amend	1-1-03	581-015-0017	4-30-03	Amend	6-1-03
462-140-0030	1-1-03	Amend	1-1-03	581-015-0035	3-10-03	Amend	4-1-03
462-140-0040	1-1-03	Amend	1-1-03	581-015-0037	3-10-03	Amend	4-1-03
462-140-0100	1-1-03	Amend	1-1-03	581-015-0039	3-10-03	Amend	4-1-03
462-140-0120	4-1-03	Amend(T)	5-1-03	581-015-0042	3-10-03	Amend	4-1-03
462-140-0130	1-1-03	Amend	1-1-03	581-015-0044	3-10-03	Amend	4-1-03
462-140-0250	1-1-03	Amend	1-1-03	581-015-0048	3-10-03	Amend	4-1-03
462-140-0370	1-1-03	Amend	1-1-03	581-015-0049	3-10-03	Amend	4-1-03
462-140-0400	4-1-03	Amend(T)	5-1-03	581-015-0051	3-10-03	Amend	4-1-03
462-140-0420	4-1-03	Amend(T)	5-1-03	581-015-0053	4-30-03	Amend	6-1-03
462-140-0460	4-1-03	Amend(T)	5-1-03	581-015-0054	3-10-03	Amend	4-1-03
462-150-0010	1-1-03	Amend	1-1-03	581-015-0057	3-10-03	Amend	4-1-03
462-150-0050	1-1-03	Amend	1-1-03	581-015-0059	3-10-03	Amend	4-1-03
462-150-0070	1-1-03	Amend	1-1-03	581-015-0061	3-10-03	Amend	4-1-03
462-150-0080	1-1-03	Amend	1-1-03	581-015-0062	3-10-03	Amend	4-1-03
462-160-0010	1-1-03	Amend	1-1-03	581-015-0063	3-10-03	Amend	4-1-03
462-160-0020	1-1-03	Amend	1-1-03	581-015-0066	3-10-03	Amend	4-1-03
462-160-0030	1-1-03	Amend	1-1-03	581-015-0067	3-10-03	Amend	4-1-03
462-170-0030	4-1-03	Amend(T)	5-1-03	581-015-0068	3-10-03	Amend	4-1-03
462-170-0050	4-1-03	Amend(T)	5-1-03	581-015-0074	4-30-03	Amend	6-1-03
462-170-0080	4-1-03	Amend(T)	5-1-03	581-015-0075	3-10-03	Amend	4-1-03
462-180-0010	4-1-03	Amend(T)	5-1-03	581-015-0079	3-10-03	Amend	4-1-03
462-200-0630	4-23-03	Adopt	6-1-03	581-015-0080	3-10-03	Amend	4-1-03
462-220-0040	7-1-03	Amend	7-1-03	581-015-0081	3-10-03	Amend	4-1-03
471-010-0040	2-9-03	Amend	3-1-03	581-015-0085	3-10-03	Amend	4-1-03
471-010-0050	3-29-03	Amend(T)	5-1-03	581-015-0086	3-10-03	Amend	4-1-03
471-010-0054	12-1-02	Amend(T)	1-1-03	581-015-0088	3-10-03	Amend	4-1-03
471-010-0054	5-25-03	Amend	7-1-03	581-015-0093	3-10-03	Amend	4-1-03
471-010-0054(T)	5-25-03	Repeal	7-1-03	581-015-0094	3-10-03	Amend	4-1-03
471-020-0035	2-16-03	Adopt	3-1-03	581-015-0097	3-10-03	Adopt	4-1-03
471-020-0035	4-27-03	Amend	6-1-03	581-015-0099	3-10-03	Amend	4-1-03
471-020-0040	2-16-03	Adopt	3-1-03	581-015-0101	3-10-03	Amend	4-1-03
471-030-0015	2-9-03	Amend	3-1-03	581-015-0108	4-30-03	Amend	6-1-03
471-030-0030	2-9-03	Amend	3-1-03	581-015-0109	4-30-03	Amend	6-1-03
471-030-0036	4-13-03	Amend	5-1-03	581-015-0126	3-10-03	Amend	4-1-03
471-030-0050	2-9-03	Amend	3-1-03	581-015-0131	3-10-03	Amend	4-1-03
471-030-0076	2-9-03	Amend	3-1-03	581-015-0141	4-30-03	Amend	6-1-03
471-030-0080	11-24-02	Amend	1-1-03	581-015-0291	4-30-03	Amend	6-1-03
471-031-0010	2-9-03	Amend	3-1-03	581-015-0293	4-30-03	Amend	6-1-03
471-031-0035	2-9-03	Amend	3-1-03	581-015-0294	4-30-03	Amend	6-1-03
471-031-0040	2-9-03	Amend	3-1-03	581-015-0296	3-10-03	Amend	4-1-03
471-031-0055	2-9-03	Amend	3-1-03	581-015-0301	4-30-03	Amend	6-1-03
471-031-0075	2-9-03	Amend	3-1-03	581-015-0550	3-10-03	Amend	4-1-03
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581-015-0553	3-10-03	Amend	4-1-03	583-030-0015	4-16-03	Amend	6-1-03
581-015-0555	3-10-03	Amend	4-1-03	583-030-0020	4-16-03	Amend	6-1-03
581-015-0556	3-10-03	Amend	4-1-03	583-030-0021	4-16-03	Amend	6-1-03
581-015-0558	3-10-03	Amend	4-1-03	583-030-0025	4-16-03	Amend	6-1-03
581-015-0559	3-10-03	Amend	4-1-03	583-030-0030	4-16-03	Amend	6-1-03
581-015-0568	3-10-03	Amend	4-1-03	583-030-0035	4-16-03	Amend	6-1-03
581-015-0601	3-10-03	Amend	4-1-03	583-030-0036	4-16-03	Amend	6-1-03
581-015-0606	4-30-03	Amend	6-1-03	583-030-0040	4-16-03	Amend	6-1-03
581-015-0607	3-10-03	Adopt	4-1-03	583-030-0042	4-16-03	Amend	6-1-03
581-015-0608	3-10-03	Adopt	4-1-03	583-030-0045	4-16-03	Amend	6-1-03
581-015-0704	4-30-03	Amend	6-1-03	583-030-0046	4-16-03	Amend	6-1-03
581-015-0705	4-30-03	Amend	6-1-03	583-030-0049	4-16-03	Amend	6-1-03
581-015-0706	4-30-03	Amend	6-1-03	584-005-0005	5-15-03	Amend	6-1-03
581-015-0805	3-10-03	Amend	4-1-03	584-017-0041	3-10-03	Adopt(T)	4-1-03
581-015-0811	3-10-03	Amend	4-1-03	584-017-0150	5-15-03	Amend	6-1-03
581-015-0816	3-10-03	Amend	4-1-03	584-017-0170	1-13-03	Amend	2-1-03
581-015-0820	3-10-03	Amend	4-1-03	584-036-0055	1-13-03	Amend	2-1-03
581-015-0825	3-10-03	Amend	4-1-03	584-060-0061	1-13-03	Amend	2-1-03
581-015-0900	3-10-03	Amend	4-1-03	584-060-0071	5-15-03	Amend	6-1-03
581-015-0935	3-10-03	Amend	4-1-03	584-060-0210	5-15-03	Adopt	6-1-03
581-015-0937	3-10-03	Amend	4-1-03	584-065-0050	1-13-03	Adopt	2-1-03
581-015-0938	3-10-03	Amend	4-1-03	584-065-0050	5-15-03	Amend	6-1-03
581-015-0939	3-10-03	Amend	4-1-03	589-001-0000	1-9-03	Amend	2-1-03
581-015-0940	4-30-03	Amend	6-1-03	589-002-0100	12-16-02	Amend(T)	2-1-03
581-015-0941	4-30-03	Amend	6-1-03	589-002-0100	5-14-03	Amend	6-1-03
581-015-0945	3-10-03	Amend	4-1-03	589-002-0200	1-9-03	Amend	2-1-03
581-015-0946	3-10-03	Amend	4-1-03	589-002-0300	1-9-03	Amend	2-1-03
581-015-0949	4-30-03	Amend	6-1-03	589-002-0400	1-9-03	Repeal	2-1-03
581-015-0960	3-10-03	Amend	4-1-03	589-002-0500	1-9-03	Amend	2-1-03
581-015-0964	3-10-03	Amend	4-1-03	589-002-0600	1-9-03	Amend	2-1-03
581-015-0966	3-10-03	Amend	4-1-03	589-002-0700	1-9-03	Amend	2-1-03
581-015-0968	3-10-03	Amend	4-1-03	589-002-0800	1-9-03	Amend	2-1-03
581-015-0970	3-10-03	Amend	4-1-03	589-003-0100	1-9-03	Amend	2-1-03
581-015-0972	3-10-03	Adopt	4-1-03	589-005-0100	1-9-03	Amend	2-1-03
581-015-0980	3-10-03	Amend	4-1-03	589-005-0200	1-9-03	Amend	2-1-03
581-015-0990	3-10-03	Amend	4-1-03	589-005-0300	1-9-03	Amend	2-1-03
581-015-1000	3-10-03	Amend	4-1-03	589-005-0400	1-9-03	Amend	2-1-03
581-015-1008	3-10-03	Amend	4-1-03	589-005-0500	1-9-03	Amend	2-1-03
581-015-1051	3-10-03	Adopt	4-1-03	589-006-0050	1-9-03	Adopt	2-1-03
581-015-1052	3-10-03	Adopt	4-1-03	589-006-0100	1-9-03	Amend	2-1-03
581-015-1100	3-10-03	Amend	4-1-03	589-006-0150	1-9-03	Adopt	2-1-03
581-015-1105	6-10-03	Amend	7-1-03	589-006-0200	1-9-03	Amend	2-1-03
581-015-1106	6-10-03	Amend	7-1-03	589-006-0300	1-9-03	Amend	2-1-03
581-015-1107	3-10-03	Repeal	4-1-03	589-006-0350	1-9-03	Adopt	2-1-03
581-015-1110	3-10-03	Amend	4-1-03	589-006-0400	1-9-03	Amend	2-1-03
581-020-0341	4-2-03	Amend(T)	5-1-03	589-007-0100	3-10-03	Amend	4-1-03
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581-022-0102	3-14-03	Amend	4-1-03	589-007-0120	3-10-03	Adopt	4-1-03
581-022-1131	3-14-03	Adopt	4-1-03	589-007-0130	3-10-03	Adopt	4-1-03
581-022-1350	3-14-03	Amend	4-1-03	589-007-0140	3-10-03	Adopt	4-1-03
581-023-0035	3-10-03	Amend	4-1-03	589-007-0150	3-10-03	Adopt	4-1-03
581-023-0040	6-13-03	Amend	7-1-03	589-007-0160	3-10-03	Adopt	4-1-03
581-023-0230	6-13-03	Amend	7-1-03	589-007-0170	3-10-03	Adopt	4-1-03
581-053-0002	3-4-03	Amend(T)	4-1-03	589-007-0180	3-10-03	Adopt	4-1-03
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589-008-0200	1-9-03	Amend	2-1-03	603-082-0070	2-27-03	Adopt	4-1-03
589-009-0100	1-9-03	Amend	2-1-03	603-082-0080	2-27-03	Adopt	4-1-03
589-020-0270	12-4-02	Adopt(T)	1-1-03	603-082-0090	2-27-03	Adopt	4-1-03
589-020-0270	5-14-03	Adopt	6-1-03	603-082-0100	2-27-03	Adopt	4-1-03
603-001-0005	1-7-03	Amend	2-1-03	603-095-0200	1-7-03	Amend	2-1-03
603-011-0265	3-17-03	Amend(T)	5-1-03	603-095-0220	1-7-03	Amend	2-1-03
603-011-0376	1-17-03	Adopt(T)	3-1-03	603-095-0240	1-7-03	Amend	2-1-03
603-011-0376	3-27-03	Amend(T)	5-1-03	603-095-0280	1-7-03	Amend	2-1-03
603-011-0376(T)	3-27-03	Suspend	5-1-03	603-095-0600	1-7-03	Amend	2-1-03
603-014-0095	1-15-03	Amend	2-1-03	603-095-0640	1-7-03	Amend	2-1-03
603-025-0010	1-1-03	Amend	2-1-03	603-095-0660	1-7-03	Amend	2-1-03
603-025-0020	1-1-03	Amend	2-1-03	603-095-2000	1-7-03	Adopt	2-1-03
603-025-0030	1-1-03	Amend	2-1-03	603-095-2020	1-7-03	Adopt	2-1-03
603-025-0180	1-1-03	Amend	2-1-03	603-095-2040	1-7-03	Adopt	2-1-03
603-025-0190	1-1-03	Amend	2-1-03	603-095-2060	1-7-03	Adopt	2-1-03
603-025-0220	1-1-03	Repeal	2-1-03	603-095-2300	1-7-03	Adopt	2-1-03
603-052-1025	4-18-03	Amend	6-1-03	603-095-2320	1-7-03	Adopt	2-1-03
603-052-1150	1-14-03	Adopt	2-1-03	603-095-2340	1-7-03	Adopt	2-1-03
603-052-1200	12-10-02	Amend	1-1-03	603-095-2360	1-7-03	Adopt	2-1-03
603-053-0200	12-23-02	Amend	2-1-03	603-095-2400	1-7-03	Adopt	2-1-03
603-054-0016	1-7-03	Amend	2-1-03	603-095-2420	1-7-03	Adopt	2-1-03
603-054-0017	1-7-03	Amend	2-1-03	603-095-2440	1-7-03	Adopt	2-1-03
603-054-0018	1-7-03	Amend	2-1-03	603-095-2460	1-7-03	Adopt	2-1-03
603-054-0020	1-7-03	Adopt	2-1-03	603-105-0010	12-23-02	Adopt	2-1-03
603-054-0024	1-7-03	Adopt	2-1-03	611-010-0010	5-12-03	Amend	6-1-03
603-054-0030	1-7-03	Amend	2-1-03	621-001-0005	2-1-03	Adopt	2-1-03
603-054-0080	1-7-03	Adopt	2-1-03	621-001-0010	2-1-03	Adopt	2-1-03
603-056-0165	1-14-03	Amend	2-1-03	622-001-0000	1-16-03	Amend	2-1-03
603-057-0378	3-28-03	Adopt(T)	5-1-03	622-001-0005	1-16-03	Amend	2-1-03
603-057-0410	12-4-02	Amend(T)	1-1-03	622-001-0010	1-16-03	Repeal	2-1-03
603-057-0410	4-22-03	Amend(T)	6-1-03	622-010-0000	1-16-03	Amend	2-1-03
603-059-0055	1-1-03	Adopt	1-1-03	622-010-0006	1-16-03	Amend	2-1-03
603-059-0070	1-1-03	Adopt	1-1-03	622-010-0011	1-16-03	Amend	2-1-03
603-059-0080	1-1-03	Adopt	1-1-03	622-020-0001	1-16-03	Amend	2-1-03
603-059-0100	1-1-03	Adopt	1-1-03	622-020-0140	1-16-03	Amend	2-1-03
603-073-0070	6-11-03	Amend	7-1-03	622-020-0141	1-16-03	Amend	2-1-03
603-077-0101	5-15-03	Amend	6-1-03	622-020-0142	1-16-03	Amend	2-1-03
603-077-0105	5-15-03	Amend	6-1-03	622-020-0144	1-16-03	Amend	2-1-03
603-077-0110	5-15-03	Amend	6-1-03	622-020-0145	1-16-03	Amend	2-1-03
603-077-0112	5-15-03	Amend	6-1-03	622-020-0147	1-16-03	Amend	2-1-03
603-077-0115	5-15-03	Amend	6-1-03	622-020-0149	1-16-03	Amend	2-1-03
603-077-0125	5-15-03	Amend	6-1-03	622-020-0151	1-16-03	Repeal	2-1-03
603-077-0131	5-15-03	Amend	6-1-03	622-020-0153	1-16-03	Amend	2-1-03
603-077-0133	5-15-03	Amend	6-1-03	622-030-0005	1-16-03	Amend	2-1-03
603-077-0137	5-15-03	Amend	6-1-03	622-030-0010	1-16-03	Amend	2-1-03
603-077-0155	5-15-03	Amend	6-1-03	622-045-0000	1-16-03	Amend	2-1-03
603-077-0165	5-15-03	Amend	6-1-03	622-045-0005	1-16-03	Amend	2-1-03
603-077-0175	5-15-03	Amend	6-1-03	622-045-0010	1-16-03	Amend	2-1-03
603-077-0180	5-15-03	Amend	6-1-03	622-045-0015	1-16-03	Amend	2-1-03
603-077-0195	5-15-03	Amend	6-1-03	622-045-0019	1-16-03	Amend	2-1-03
603-082-0010	2-27-03	Adopt	4-1-03	622-050-0000	1-16-03	Repeal	2-1-03
603-082-0020	2-27-03	Adopt	4-1-03	622-050-0010	1-16-03	Repeal	2-1-03
603-082-0030	2-27-03	Adopt	4-1-03	622-050-0020	1-16-03	Repeal	2-1-03
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622-050-0060	1-16-03	Repeal	2-1-03	635-004-0027	2-10-03	Amend(T)	3-1-03
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622-055-0005	1-16-03	Amend	2-1-03	635-004-0033	1-1-03	Amend	2-1-03
622-055-0010	1-16-03	Adopt	2-1-03	635-004-0033	2-21-03	Amend(T)	4-1-03
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622-055-0020	1-16-03	Adopt	2-1-03	635-004-0050	1-1-03	Amend	2-1-03
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629-606-0600	1-1-03	Amend	1-1-03	635-006-1035	2-10-03	Amend(T)	3-1-03
629-623-0000	1-1-03	Adopt	1-1-03	635-006-1085	2-10-03	Amend(T)	3-1-03
629-623-0100	1-1-03	Adopt	1-1-03	635-007-0501	11-22-02	Amend	1-1-03
629-623-0200	1-1-03	Adopt	1-1-03	635-007-0502	11-22-02	Adopt	1-1-03
629-623-0250	1-1-03	Adopt	1-1-03	635-007-0503	11-22-02	Adopt	1-1-03
629-623-0300	1-1-03	Adopt	1-1-03	635-007-0504	11-22-02	Adopt	1-1-03
629-623-0400	1-1-03	Adopt	1-1-03	635-007-0505	11-22-02	Adopt	1-1-03
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629-623-0550	1-1-03	Adopt	1-1-03	635-013-0003	1-1-03	Amend	1-1-03
629-623-0600	1-1-03	Adopt	1-1-03	635-013-0003	5-1-03	Amend	6-1-03
629-623-0700	1-1-03	Adopt	1-1-03	635-013-0004	1-1-03	Amend	1-1-03
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629-625-0200	1-1-03	Amend	1-1-03	635-013-0009	3-1-03	Amend(T)	4-1-03
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629-625-0600	1-1-03	Amend	1-1-03	635-014-0090	1-1-03	Amend	1-1-03
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629-630-0100	1-1-03	Amend	1-1-03	635-014-0090	5-10-03	Amend(T)	6-1-03
629-630-0150	1-1-03	Adopt	1-1-03	635-014-0090	6-13-03	Amend(T)	7-1-03
629-630-0500	1-1-03	Amend	1-1-03	635-016-0080	1-1-03	Amend	1-1-03
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632-007-0000	1-1-03	Suspend	2-1-03	635-017-0090	1-1-03	Amend	1-1-03
632-007-0010	1-1-03	Adopt	2-1-03	635-017-0090	3-1-03	Amend(T)	4-1-03
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632-007-0020	1-1-03	Suspend	2-1-03	635-018-0090	1-1-03	Amend	1-1-03
632-007-0030	1-1-03	Adopt	2-1-03	635-018-0090	4-15-03	Amend(T)	5-1-03
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718-010-0005	4-1-03	Amend	5-1-03	735-074-0010	1-1-03	Amend	1-1-03
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718-010-0045	4-1-03	Repeal	5-1-03	735-074-0040	6-1-03	Repeal	6-1-03
718-010-0050	4-1-03	Repeal	5-1-03	735-074-0045	6-1-03	Adopt	6-1-03
718-010-0055	4-1-03	Repeal	5-1-03	735-074-0050	6-1-03	Adopt	6-1-03
718-010-0060	4-1-03	Repeal	5-1-03	735-074-0060	6-1-03	Adopt	6-1-03
718-010-0070	4-1-03	Repeal	5-1-03	735-074-0070	6-1-03	Adopt	6-1-03
718-010-0080	4-1-03	Repeal	5-1-03	735-074-0080	6-1-03	Adopt	6-1-03
718-010-0085	4-1-03	Amend	5-1-03	735-074-0090	6-1-03	Adopt	6-1-03
718-010-0090	4-1-03	Amend	5-1-03	735-074-0100	6-1-03	Adopt	6-1-03
718-020-0000	4-1-03	Amend	5-1-03	735-074-0110	6-1-03	Adopt	6-1-03
718-020-0010	4-1-03	Amend	5-1-03	735-074-0120	6-1-03	Adopt	6-1-03
718-020-0020	4-1-03	Amend	5-1-03	735-074-0130	6-1-03	Adopt	6-1-03
718-020-0050	4-1-03	Amend	5-1-03	735-074-0140	6-1-03	Adopt	6-1-03
718-020-0080	4-1-03	Amend	5-1-03	735-074-0150	6-1-03	Adopt	6-1-03
718-020-0110	4-1-03	Amend	5-1-03	735-074-0160	6-1-03	Adopt	6-1-03
718-020-0120	4-1-03	Amend	5-1-03	735-074-0190	6-1-03	Adopt	6-1-03
718-020-0130	4-1-03	Amend	5-1-03	735-074-0200	6-1-03	Adopt	6-1-03
718-020-0140	4-1-03	Amend	5-1-03	735-074-0210	6-1-03	Adopt	6-1-03
718-020-0150	4-1-03	Amend	5-1-03	735-074-0220	6-1-03	Adopt	6-1-03
718-040-0030	4-1-03	Amend	5-1-03	735-076-0000	6-1-03	Amend	6-1-03
718-040-0110	4-1-03	Amend	5-1-03	735-076-0005	6-1-03	Adopt	6-1-03
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731-010-0030(T)	3-24-03	Repeal	5-1-03	735-076-0030	6-1-03	Amend	6-1-03
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735-018-0010	5-14-03	Adopt	6-1-03	735-090-0020	11-18-02	Amend	1-1-03
735-018-0020	5-14-03	Adopt	6-1-03	735-090-0030	11-18-02	Repeal	1-1-03
735-018-0030	5-14-03	Adopt	6-1-03	735-090-0040	11-18-02	Amend	1-1-03
735-018-0040	5-14-03	Adopt	6-1-03	735-090-0050	11-18-02	Repeal	1-1-03
735-018-0050	5-14-03	Adopt	6-1-03	735-090-0060	11-18-02	Repeal	1-1-03
735-018-0060	5-14-03	Adopt	6-1-03	735-090-0070	11-18-02	Repeal	1-1-03
735-018-0070	5-14-03	Adopt	6-1-03	735-090-0080	11-18-02	Repeal	1-1-03
735-018-0080	5-14-03	Adopt	6-1-03	735-090-0090	11-18-02	Repeal	1-1-03
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736-052-0001	5-16-03	Adopt	7-1-03	738-070-0170	12-1-02	Amend	1-1-03
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736-100-0060	2-1-03	Adopt	3-1-03	740-035-0210	11-18-02	Repeal	1-1-03
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738-010-0025	4-3-03	Amend	5-1-03	740-035-0260	11-18-02	Amend	1-1-03
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738-035-0045	3-1-03	Adopt	4-1-03	801-001-0010	1-1-03	Amend	2-1-03
738-035-0050	3-1-03	Adopt	4-1-03	801-001-0020	1-1-03	Amend	2-1-03
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806-010-0095	12-12-02	Amend	1-1-03	808-004-0590	2-1-03	Adopt	3-1-03
806-010-0105	1-15-03	Amend	2-1-03	808-004-0600	12-4-02	Amend	1-1-03
806-010-0110	4-11-03	Amend	5-1-03	808-005-0020	12-4-02	Amend	1-1-03
806-010-0145	1-15-03	Amend	2-1-03	808-005-0020	6-1-03	Amend	7-1-03
808-001-0000	2-1-03	Amend	3-1-03	808-005-0030	12-4-02	Amend	1-1-03
808-001-0005	2-1-03	Amend	3-1-03	808-008-0020	2-1-03	Amend	3-1-03
808-001-0008	6-1-03	Adopt	7-1-03	808-008-0030	2-1-03	Adopt	3-1-03
808-001-0020	12-4-02	Amend	1-1-03	808-008-0040	2-1-03	Amend	3-1-03
808-001-0020	2-1-03	Amend	3-1-03	808-008-0060	2-1-03	Amend	3-1-03
808-001-0030	12-4-02	Amend	1-1-03	808-008-0080	2-1-03	Amend	3-1-03
808-001-0040	2-1-03	Repeal	3-1-03	808-008-0085	2-1-03	Adopt	3-1-03
808-002-0220	12-4-02	Amend	1-1-03	808-008-0090	2-1-03	Adopt	3-1-03
808-002-0290	12-4-02	Adopt	1-1-03	808-008-0100	2-1-03	Amend	3-1-03
808-002-0620	6-1-03	Amend	7-1-03	808-008-0110	2-1-03	Amend	3-1-03
808-002-0670	12-4-02	Amend	1-1-03	808-008-0120	2-1-03	Amend	3-1-03
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808-003-0015	2-1-03	Amend	3-1-03	808-008-0180	2-1-03	Amend	3-1-03
808-003-0020	2-1-03	Amend	3-1-03	808-008-0220	2-1-03	Amend	3-1-03
808-003-0025	12-4-02	Amend	1-1-03	808-008-0300	2-1-03	Amend	3-1-03
808-003-0025	6-1-03	Amend	7-1-03	808-008-0400	2-1-03	Amend	3-1-03
808-003-0035	2-1-03	Amend	3-1-03	808-008-0420	2-1-03	Amend	3-1-03
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808-004-0120	12-4-02	Adopt	1-1-03	808-009-0400	12-4-02	Amend	1-1-03
808-004-0180	12-4-02	Amend	1-1-03	808-009-0400	2-1-03	Amend	3-1-03
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812-001-0020	6-3-03	Amend	7-1-03	812-010-0220	11-20-02	Amend	1-1-03
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812-004-0300	3-4-03	Amend	4-1-03	813-047-0005(T)	5-16-03	Repeal	7-1-03
812-004-0320	3-4-03	Amend	4-1-03	813-047-0006	11-20-02	Adopt(T)	1-1-03
812-004-0325	3-4-03	Adopt	4-1-03	813-047-0006	5-16-03	Adopt	7-1-03
812-004-0340	3-4-03	Amend	4-1-03	813-047-0006(T)	5-16-03	Repeal	7-1-03
812-004-0350	3-4-03	Adopt	4-1-03	813-047-0010	11-20-02	Amend(T)	1-1-03
812-004-0360	11-20-02	Amend	1-1-03	813-047-0010	5-16-03	Amend	7-1-03
812-004-0400	6-3-03	Amend	7-1-03	813-047-0010(T)	5-16-03	Repeal	7-1-03
812-004-0520	3-4-03	Amend	4-1-03	813-047-0015	11-20-02	Amend(T)	1-1-03
812-004-0535	3-4-03	Adopt	4-1-03	813-047-0015	5-16-03	Amend	7-1-03
812-004-0540	11-20-02	Amend	1-1-03	813-047-0015(T)	5-16-03	Repeal	7-1-03
812-004-0540	3-4-03	Amend	4-1-03	813-047-0020	11-20-02	Amend(T)	1-1-03
812-004-0550	3-4-03	Amend	4-1-03	813-047-0020	5-16-03	Amend	7-1-03
812-004-0560	11-20-02	Amend	1-1-03	813-047-0020(T)	5-16-03	Repeal	7-1-03
812-004-0560	3-4-03	Amend	4-1-03	813-047-0025	11-20-02	Amend(T)	1-1-03
812-004-0560(T)	11-20-02	Repeal	1-1-03	813-047-0025	5-16-03	Amend	7-1-03
812-006-0012	3-4-03	Amend	4-1-03	813-047-0025(T)	5-16-03	Repeal	7-1-03
812-006-0030	6-3-03	Amend	7-1-03	813-140-0000	11-25-02	Adopt	1-1-03
812-006-0050	3-4-03	Amend	4-1-03	813-140-0000(T)	11-25-02	Repeal	1-1-03
812-008-0050	6-3-03	Amend	7-1-03	813-140-0010	11-25-02	Adopt	1-1-03
812-008-0060	6-3-03	Amend	7-1-03	813-140-0010(T)	11-25-02	Repeal	1-1-03
812-008-0070	3-4-03	Amend	4-1-03	813-140-0020	11-25-02	Adopt	1-1-03
812-008-0072	11-20-02	Amend	1-1-03	813-140-0020(T)	11-25-02	Repeal	1-1-03
812-008-0072	6-3-03	Amend	7-1-03	813-140-0030	11-25-02	Adopt	1-1-03
812-008-0074	6-3-03	Amend	7-1-03	813-140-0030(T)	11-25-02	Repeal	1-1-03
812-008-0110	1-14-03	Amend(T)	2-1-03	813-140-0040	11-25-02	Adopt	1-1-03
812-008-0110	6-3-03	Amend	7-1-03	813-140-0040(T)	11-25-02	Repeal	1-1-03
812-008-0110(T)	6-3-03	Repeal	7-1-03	813-140-0050	11-25-02	Adopt	1-1-03
812-009-0020	11-20-02	Amend	1-1-03	813-140-0050(T)	11-25-02	Repeal	1-1-03
812-009-0070	3-4-03	Amend	4-1-03	813-140-0060	11-25-02	Adopt	1-1-03
812-009-0100	3-4-03	Amend	4-1-03	813-140-0060(T)	11-25-02	Repeal	1-1-03
812-009-0120	3-4-03	Amend	4-1-03	813-140-0070	11-25-02	Adopt	1-1-03
812-009-0160	11-20-02	Amend	1-1-03	813-140-0070(T)	11-25-02	Repeal	1-1-03
812-009-0400	3-4-03	Amend	4-1-03	813-140-0080	11-25-02	Adopt	1-1-03
812-009-0440	3-4-03	Amend	4-1-03	813-140-0080(T)	11-25-02	Repeal	1-1-03
812-010-0100	11-20-02	Amend	1-1-03	813-140-0090	11-25-02	Adopt	1-1-03
812-010-0100(T)	11-20-02	Repeal	1-1-03	813-140-0090(T)	11-25-02	Repeal	1-1-03
812-010-0110	11-20-02	Amend	1-1-03	813-140-0100	11-25-02	Adopt	1-1-03
812-010-0110(T)	11-20-02	Repeal	1-1-03	813-140-0100(T)	11-25-02	Repeal	1-1-03

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813-200-0000	5-15-03	Am. & Ren.	6-1-03	813-220-0020	5-12-03	Amend	6-1-03
813-200-0001	11-20-02	Adopt(T)	1-1-03	813-220-0030	5-12-03	Amend	6-1-03
813-200-0001	5-15-03	Adopt	6-1-03	813-220-0040	5-12-03	Repeal	6-1-03
813-200-0001	5-15-03	Repeal	6-1-03	813-220-0050	5-12-03	Amend	6-1-03
813-200-0005	5-15-03	Repeal	6-1-03	813-220-0060	5-12-03	Amend	6-1-03
813-200-0010	11-20-02	Amend(T)	1-1-03	813-220-0070	5-12-03	Adopt	6-1-03
813-200-0010	5-15-03	Amend	6-1-03	813-250-0000	5-12-03	Amend	6-1-03
813-200-0010	5-15-03	Repeal	6-1-03	813-250-0010	5-12-03	Amend	6-1-03
813-200-0020	11-20-02	Amend(T)	1-1-03	813-250-0020	5-12-03	Amend	6-1-03
813-200-0020	5-15-03	Amend	6-1-03	813-250-0030	5-12-03	Amend	6-1-03
813-200-0020	5-15-03	Repeal	6-1-03	813-250-0040	5-12-03	Amend	6-1-03
813-200-0030	11-20-02	Amend(T)	1-1-03	813-250-0050	5-12-03	Adopt	6-1-03
813-200-0030	5-15-03	Amend	6-1-03	813-280-0000	12-13-02	Adopt	1-1-03
813-200-0030	5-15-03	Repeal	6-1-03	813-280-0000(T)	12-13-02	Repeal	1-1-03
813-200-0040	11-20-02	Amend(T)	1-1-03	813-280-0010	12-13-02	Adopt	1-1-03
813-200-0040	5-15-03	Amend	6-1-03	813-280-0010(T)	12-13-02	Repeal	1-1-03
813-200-0040	5-15-03	Repeal	6-1-03	813-280-0020	12-13-02	Adopt	1-1-03
813-200-0050	11-20-02	Amend(T)	1-1-03	813-280-0020(T)	12-13-02	Repeal	1-1-03
813-200-0050	5-15-03	Amend	6-1-03	813-280-0030	12-13-02	Adopt	1-1-03
813-200-0050	5-15-03	Repeal	6-1-03	813-280-0030(T)	12-13-02	Repeal	1-1-03
813-200-0060	11-20-02	Amend(T)	1-1-03	813-280-0040	12-13-02	Adopt	1-1-03
813-200-0060	5-15-03	Amend	6-1-03	813-280-0040(T)	12-13-02	Repeal	1-1-03
813-200-0060	5-15-03	Repeal	6-1-03	813-280-0050	12-13-02	Adopt	1-1-03
813-202-0005	5-15-03	Adopt	6-1-03	813-280-0050(T)	12-13-02	Repeal	1-1-03
813-202-0010	5-15-03	Adopt	6-1-03	813-280-0060	12-13-02	Adopt	1-1-03
813-202-0015	5-15-03	Adopt	6-1-03	813-280-0060(T)	12-13-02	Repeal	1-1-03
813-202-0020	5-15-03	Adopt	6-1-03	813-280-0070	12-13-02	Adopt	1-1-03
813-202-0030	5-15-03	Adopt	6-1-03	813-280-0070(T)	12-13-02	Repeal	1-1-03
813-202-0040	5-15-03	Adopt	6-1-03	813-300-0005	4-4-03	Adopt	5-1-03
813-202-0050	5-15-03	Adopt	6-1-03	813-300-0005(T)	4-4-03	Repeal	5-1-03
813-202-0060	5-15-03	Adopt	6-1-03	813-300-0010	4-4-03	Adopt	5-1-03
813-205-0000	12-13-02	Adopt	1-1-03	813-300-0010(T)	4-4-03	Repeal	5-1-03
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813-205-0050	12-13-02	Adopt	1-1-03	813-300-0060(T)	4-4-03	Repeal	5-1-03
813-205-0050(T)	12-13-02	Repeal	1-1-03	813-300-0070	4-4-03	Adopt	5-1-03
813-205-0051	12-13-02	Adopt	1-1-03	813-300-0070(T)	4-4-03	Repeal	5-1-03
813-205-0060	12-13-02	Adopt	1-1-03	813-300-0080	4-4-03	Adopt	5-1-03
813-205-0060(T)	12-13-02	Repeal	1-1-03	813-300-0080(T)	4-4-03	Repeal	5-1-03
813-205-0070	12-13-02	Adopt	1-1-03	813-300-0090	4-4-03	Adopt	5-1-03
813-205-0070(T)	12-13-02	Repeal	1-1-03	813-300-0090(T)	4-4-03	Repeal	5-1-03
813-205-0080	12-13-02	Adopt	1-1-03	813-300-0100	4-4-03	Adopt	5-1-03
813-205-0080(T)	12-13-02	Repeal	1-1-03	813-300-0100(T)	4-4-03	Repeal	5-1-03
813-205-0090	12-13-02	Adopt	1-1-03	813-300-0110	4-4-03	Adopt	5-1-03
813-205-0090(T)	12-13-02	Repeal	1-1-03	813-300-0110(T)	4-4-03	Repeal	5-1-03
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813-300-0130	4-4-03	Adopt	5-1-03	833-040-0001	4-28-03	Amend	6-1-03
813-300-0130(T)	4-4-03	Repeal	5-1-03	833-040-0001(T)	4-28-03	Repeal	6-1-03
813-300-0140	4-4-03	Adopt	5-1-03	833-040-0010	12-16-02	Amend(T)	1-1-03
813-300-0140(T)	4-4-03	Repeal	5-1-03	833-040-0010	4-28-03	Amend	6-1-03
813-300-0150	4-4-03	Adopt	5-1-03	833-040-0010(T)	4-28-03	Repeal	6-1-03
813-300-0150(T)	4-4-03	Repeal	5-1-03	836-011-0100	11-27-02	Amend	1-1-03
813-300-0160	4-4-03	Adopt	5-1-03	836-011-0110	11-27-02	Amend	1-1-03
813-300-0160(T)	4-4-03	Repeal	5-1-03	836-011-0120	11-27-02	Amend	1-1-03
813-300-0170	4-4-03	Adopt	5-1-03	836-011-0130	11-27-02	Amend	1-1-03
813-300-0170(T)	4-4-03	Repeal	5-1-03	836-011-0140	11-27-02	Amend	1-1-03
813-300-0180	4-4-03	Adopt	5-1-03	836-011-0150	11-27-02	Amend	1-1-03
813-300-0180(T)	4-4-03	Repeal	5-1-03	836-011-0160	11-27-02	Amend	1-1-03
813-350-0005	5-1-03	Adopt	6-1-03	836-011-0170	11-27-02	Amend	1-1-03
813-350-0010	5-1-03	Adopt	6-1-03	836-011-0180	11-27-02	Amend	1-1-03
813-350-0020	5-1-03	Adopt	6-1-03	836-011-0190	11-27-02	Amend	1-1-03
813-350-0030	5-1-03	Adopt	6-1-03	836-011-0200	11-27-02	Amend	1-1-03
813-350-0040	5-1-03	Adopt	6-1-03	836-011-0210	11-27-02	Amend	1-1-03
813-350-0050	5-1-03	Adopt	6-1-03	836-011-0220	11-27-02	Amend	1-1-03
813-350-0060	5-1-03	Adopt	6-1-03	836-011-0230	11-27-02	Amend	1-1-03
813-350-0070	5-1-03	Adopt	6-1-03	836-011-0500	11-27-02	Adopt	1-1-03
818-021-0011	4-18-03	Amend	6-1-03	836-011-0505	11-27-02	Adopt	1-1-03
818-021-0025	4-18-03	Amend	6-1-03	836-011-0510	11-27-02	Adopt	1-1-03
820-010-0200	1-28-03	Amend	3-1-03	836-011-0515	11-27-02	Adopt	1-1-03
820-010-0202	3-14-03	Adopt	4-1-03	836-011-0520	11-27-02	Adopt	1-1-03
820-010-0305	12-3-02	Amend	1-1-03	836-011-0525	11-27-02	Adopt	1-1-03
820-010-0325	7-1-03	Amend	6-1-03	836-011-0530	11-27-02	Adopt	1-1-03
820-010-0500	5-15-03	Amend	6-1-03	836-011-0535	11-27-02	Adopt	1-1-03
820-010-0635	1-28-03	Amend	3-1-03	836-011-0540	11-27-02	Adopt	1-1-03
820-040-0040	1-28-03	Adopt	3-1-03	836-011-0545	11-27-02	Adopt	1-1-03
833-020-0015	12-16-02	Amend(T)	1-1-03	836-011-0550	11-27-02	Adopt	1-1-03
833-020-0015	4-28-03	Amend	6-1-03	836-012-0000	11-27-02	Amend	1-1-03
833-020-0015(T)	4-28-03	Repeal	6-1-03	836-012-0011	11-27-02	Amend	1-1-03
833-020-0040	12-16-02	Amend(T)	1-1-03	836-012-0021	11-27-02	Amend	1-1-03
833-020-0040	4-28-03	Amend	6-1-03	836-012-0031	11-27-02	Amend	1-1-03
833-020-0040(T)	4-28-03	Repeal	6-1-03	836-012-0041	11-27-02	Amend	1-1-03
833-020-0060	12-16-02	Amend(T)	1-1-03	836-012-0051	11-27-02	Amend	1-1-03
833-020-0060	4-28-03	Amend	6-1-03	836-012-0060	11-27-02	Amend	1-1-03
833-020-0060(T)	4-28-03	Repeal	6-1-03	836-012-0070	11-27-02	Amend	1-1-03
833-020-0090	12-16-02	Amend(T)	1-1-03	836-012-0080	11-27-02	Amend	1-1-03
833-020-0090	4-28-03	Amend	6-1-03	836-012-0090	11-27-02	Amend	1-1-03
833-020-0090(T)	4-28-03	Repeal	6-1-03	836-012-0100	11-27-02	Amend	1-1-03
833-020-0111	12-16-02	Amend(T)	1-1-03	836-020-0900	11-27-02	Am. & Ren.	1-1-03
833-020-0111	4-28-03	Amend	6-1-03	836-043-0024	1-17-03	Amend	3-1-03
833-020-0111(T)	4-28-03	Repeal	6-1-03	836-043-0044	1-17-03	Amend	3-1-03
833-020-0130	12-16-02	Suspend	1-1-03	836-052-0142	12-13-02	Amend	1-1-03
833-020-0130	4-28-03	Repeal	6-1-03	836-053-0005	7-1-03	Adopt	5-1-03
833-025-0001	12-16-02	Amend(T)	1-1-03	836-053-0021	11-27-02	Amend	1-1-03
833-025-0001	4-28-03	Amend	6-1-03	836-053-0430	11-27-02	Amend	1-1-03
833-025-0001(T)	4-28-03	Repeal	6-1-03	836-053-0440	11-27-02	Amend	1-1-03
833-025-0005	12-16-02	Amend(T)	1-1-03	836-054-0300	11-27-02	Amend	1-1-03
833-025-0005	4-28-03	Amend	6-1-03	836-080-0425	6-1-03	Adopt	2-1-03
833-025-0005(T)	4-28-03	Repeal	6-1-03	836-080-0430	6-1-03	Adopt	2-1-03
833-025-0006	12-16-02	Amend(T)	1-1-03	836-080-0432	6-1-03	Adopt	2-1-03
833-025-0006	4-28-03	Amend	6-1-03	836-080-0435	6-1-03	Adopt	2-1-03
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836-081-0106	3-17-03	Adopt	5-1-03	845-009-0140	4-1-03	Amend	5-1-03
836-081-0111	3-17-03	Adopt	5-1-03	845-010-0166	5-1-03	Amend	6-1-03
836-081-0116	3-17-03	Adopt	5-1-03	845-010-0210	5-1-03	Amend	6-1-03
836-081-0121	3-17-03	Adopt	5-1-03	845-010-0915	6-1-03	Amend	7-1-03
836-081-0126	3-17-03	Adopt	5-1-03	845-013-0030	5-1-03	Amend	6-1-03
837-012-0021	2-10-03	Repeal	3-1-03	845-015-0007	2-1-03	Am. & Ren.	3-1-03
837-012-0610	2-10-03	Amend	3-1-03	845-015-0010	2-1-03	Am. & Ren.	3-1-03
837-012-0615	2-10-03	Amend	3-1-03	845-015-0012	2-1-03	Am. & Ren.	3-1-03
837-012-0630	2-10-03	Amend	3-1-03	845-015-0020	2-1-03	Am. & Ren.	3-1-03
837-012-0635	2-10-03	Amend	3-1-03	845-015-0022	2-1-03	Am. & Ren.	3-1-03
837-012-0645	2-10-03	Amend	3-1-03	845-015-0025	2-1-03	Am. & Ren.	3-1-03
837-012-0720	2-10-03	Amend	3-1-03	845-015-0027	2-1-03	Am. & Ren.	3-1-03
837-012-0740	2-10-03	Amend	3-1-03	845-015-0028	2-1-03	Am. & Ren.	3-1-03
837-012-0760	2-10-03	Amend	3-1-03	845-015-0030	2-1-03	Am. & Ren.	3-1-03
837-012-0780	2-10-03	Amend	3-1-03	845-015-0032	2-1-03	Am. & Ren.	3-1-03
837-012-0790	2-10-03	Amend	3-1-03	845-015-0035	2-1-03	ReNUMBER	3-1-03
837-012-0810	2-10-03	Amend	3-1-03	845-015-0045	2-1-03	ReNUMBER	3-1-03
837-012-0820	2-10-03	Amend	3-1-03	845-015-0050	2-1-03	ReNUMBER	3-1-03
837-012-0830	2-10-03	Amend	3-1-03	845-015-0055	2-1-03	Am. & Ren.	3-1-03
837-012-0835	2-10-03	Amend	3-1-03	845-015-0060	2-1-03	ReNUMBER	3-1-03
837-012-0860	2-10-03	Amend	3-1-03	845-015-0065	2-1-03	Am. & Ren.	3-1-03
837-012-0865	2-10-03	Amend	3-1-03	845-015-0070	2-1-03	Am. & Ren.	3-1-03
837-012-0940	2-10-03	Amend	3-1-03	845-015-0075	2-1-03	Am. & Ren.	3-1-03
837-020-0040	12-6-02	Amend	1-1-03	845-015-0078	2-1-03	Am. & Ren.	3-1-03
837-020-0050	12-6-02	Amend	1-1-03	845-015-0080	2-1-03	Am. & Ren.	3-1-03
837-020-0060	12-6-02	Amend	1-1-03	845-015-0085	2-1-03	Repeal	3-1-03
837-020-0080	12-6-02	Amend	1-1-03	845-015-0086	2-1-03	Am. & Ren.	3-1-03
837-020-0125	12-6-02	Amend	1-1-03	845-015-0090	2-1-03	ReNUMBER	3-1-03
837-110-0007	2-1-03	Adopt	2-1-03	845-015-0091	2-1-03	Am. & Ren.	3-1-03
837-110-0060	2-1-03	Amend	2-1-03	845-015-0092	2-1-03	Am. & Ren.	3-1-03
837-110-0070	2-1-03	Amend	2-1-03	845-015-0093	2-1-03	ReNUMBER	3-1-03
837-110-0075	2-1-03	Adopt	2-1-03	845-015-0095	2-1-03	ReNUMBER	3-1-03
837-110-0140	2-1-03	Amend	2-1-03	845-015-0096	2-1-03	ReNUMBER	3-1-03
837-110-0150	2-1-03	Amend	2-1-03	845-015-0100	2-1-03	ReNUMBER	3-1-03
837-110-0155	2-1-03	Adopt	2-1-03	845-016-0020	5-1-03	Amend	6-1-03
839-016-0700	1-1-03	Amend	2-1-03	847-001-0010	1-27-03	Amend	3-1-03
839-016-0700	2-14-03	Amend	3-1-03	847-005-0005	4-24-03	Amend	6-1-03
839-016-0700	4-1-03	Amend(T)	5-1-03	847-008-0005	1-27-03	Amend	3-1-03
839-016-0750	3-28-03	Amend(T)	5-1-03	847-010-0051	1-27-03	Amend	3-1-03
845-004-0005	2-1-03	Amend	3-1-03	847-010-0052	1-27-03	Amend	3-1-03
845-004-0100	5-1-03	Amend	6-1-03	847-010-0056	1-27-03	Amend	3-1-03
845-005-0327	4-1-03	Adopt	5-1-03	847-010-0070	5-2-03	Amend	6-1-03
845-005-0415	5-20-03	Amend(T)	7-1-03	847-020-0170	1-27-03	Amend	3-1-03
845-005-0422	5-20-03	Amend(T)	7-1-03	847-020-0170	5-2-03	Amend	6-1-03
845-005-0423	5-20-03	Amend(T)	7-1-03	847-020-0180	5-2-03	Amend	6-1-03
845-005-0427	5-20-03	Amend(T)	7-1-03	847-035-0030	1-27-03	Amend	3-1-03
845-006-0345	4-1-03	Amend	5-1-03	847-050-0020	1-27-03	Amend	3-1-03
845-006-0390	5-20-03	Amend(T)	7-1-03	847-050-0029	1-27-03	Amend	3-1-03
845-006-0395	5-20-03	Amend(T)	7-1-03	847-050-0042	1-27-03	Amend	3-1-03
845-006-0396	5-20-03	Amend(T)	7-1-03	847-080-0022	1-27-03	Amend	3-1-03
845-006-0398	5-20-03	Amend(T)	7-1-03	848-030-0000	2-6-03	Amend	3-1-03
845-006-0430	5-20-03	Amend(T)	7-1-03	850-010-0055	12-6-02	Adopt(T)	1-1-03
845-006-0433	5-20-03	Amend(T)	7-1-03	850-010-0055	4-11-03	Adopt	5-1-03
845-006-0434	5-20-03	Amend(T)	7-1-03	850-010-0195	2-14-03	Adopt	3-1-03
845-006-0450	1-1-03	Amend	2-1-03	850-010-0210	12-10-02	Amend	1-1-03

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850-010-0226	6-9-03	Amend	7-1-03	860-032-0001	2-12-03	Amend	3-1-03
851-001-0020	12-17-02	Adopt	2-1-03	860-032-0002	3-11-03	Amend	4-1-03
851-021-0120	4-23-03	Amend	6-1-03	860-032-0005	3-11-03	Amend	4-1-03
851-031-0005	3-6-03	Amend	4-1-03	860-032-0020	2-12-03	Amend	3-1-03
851-031-0006	3-6-03	Amend	4-1-03	860-032-0095	4-28-03	Amend	6-1-03
851-031-0010	3-6-03	Amend	4-1-03	860-032-0097	4-28-03	Adopt	6-1-03
851-031-0025	3-6-03	Repeal	4-1-03	860-032-0610	12-9-02	Adopt	1-1-03
851-031-0030	3-6-03	Amend	4-1-03	860-032-0620	12-9-02	Adopt	1-1-03
851-031-0040	3-6-03	Amend	4-1-03	860-032-0630	12-9-02	Adopt	1-1-03
851-031-0045	3-6-03	Amend	4-1-03	860-032-0640	12-9-02	Adopt	1-1-03
851-031-0060	3-6-03	Amend	4-1-03	860-032-0650	12-9-02	Adopt	1-1-03
851-031-0070	3-6-03	Amend	4-1-03	860-032-0660	12-9-02	Adopt	1-1-03
851-031-0080	3-6-03	Amend	4-1-03	860-032-0670	4-28-03	Adopt	6-1-03
851-031-0085	3-6-03	Adopt	4-1-03	860-034-0095	4-28-03	Amend	6-1-03
851-031-0086	3-6-03	Amend	4-1-03	860-034-0097	4-28-03	Adopt	6-1-03
851-031-0090	3-6-03	Amend	4-1-03	860-034-0250	12-9-02	Amend	1-1-03
851-050-0131	12-17-02	Amend	2-1-03	860-034-0394	12-20-02	Amend	2-1-03
851-050-0131	3-6-03	Amend	4-1-03	860-034-0740	12-20-02	Amend	2-1-03
851-050-0131	4-23-03	Amend	6-1-03	860-036-0080	12-9-02	Amend	1-1-03
851-063-0060	4-23-03	Amend	6-1-03	860-036-0250	5-15-03	Adopt	6-1-03
852-005-0005	7-1-03	Amend	7-1-03	860-036-0365	5-15-03	Adopt	6-1-03
852-010-0025	7-1-03	Amend	7-1-03	860-036-0716	5-15-03	Adopt	6-1-03
852-010-0027	12-18-02	Amend	2-1-03	860-036-0756	5-15-03	Adopt	6-1-03
852-010-0051	12-18-02	Amend	2-1-03	860-037-0075	12-9-02	Amend	1-1-03
852-010-0080	7-1-03	Amend	7-1-03	863-001-0005	2-28-03	Amend(T)	4-1-03
852-050-0005	12-18-02	Amend	2-1-03	863-015-0010	2-28-03	Amend(T)	4-1-03
852-050-0005	7-1-03	Amend	7-1-03	863-015-0025	2-28-03	Amend(T)	4-1-03
852-050-0006	7-1-03	Amend	7-1-03	863-015-0030	2-28-03	Amend(T)	4-1-03
852-050-0012	7-1-03	Amend	7-1-03	863-015-0040	2-28-03	Amend(T)	4-1-03
852-050-0014	7-1-03	Amend	7-1-03	863-015-0045	2-28-03	Amend(T)	4-1-03
852-050-0018	12-18-02	Adopt	2-1-03	863-015-0055	2-28-03	Amend(T)	4-1-03
852-070-0040	7-1-03	Amend	7-1-03	863-015-0065	2-28-03	Amend(T)	4-1-03
855-041-0065	1-14-03	Amend	2-1-03	863-015-0080	2-28-03	Amend(T)	4-1-03
855-041-0205	3-1-03	Amend	2-1-03	863-015-0085	2-28-03	Amend(T)	4-1-03
855-080-0021	1-14-03	Amend	2-1-03	863-015-0090	2-28-03	Amend(T)	4-1-03
855-110-0005	1-14-03	Amend	2-1-03	863-015-0095	2-28-03	Amend(T)	4-1-03
856-010-0010	2-26-03	Amend	4-1-03	863-015-0100	2-28-03	Amend(T)	4-1-03
856-010-0028	3-21-03	Adopt	5-1-03	863-015-0120	2-28-03	Amend(T)	4-1-03
856-030-0000	5-23-03	Amend	7-1-03	863-015-0125	2-28-03	Amend(T)	4-1-03
856-030-0001	5-23-03	Adopt	7-1-03	863-015-0135	2-28-03	Amend(T)	4-1-03
856-030-0002	5-23-03	Adopt	7-1-03	863-015-0140	2-28-03	Amend(T)	4-1-03
856-030-0010	5-23-03	Amend	7-1-03	863-015-0145	2-28-03	Amend(T)	4-1-03
856-030-0015	5-23-03	Amend	7-1-03	863-015-0175	2-28-03	Amend(T)	4-1-03
856-030-0020	5-23-03	Amend	7-1-03	863-015-0185	2-28-03	Amend(T)	4-1-03
860-012-0010	12-9-02	Amend	1-1-03	863-015-0255	2-28-03	Amend(T)	4-1-03
860-012-0035	3-11-03	Amend	4-1-03	863-015-0260	2-28-03	Amend(T)	4-1-03
860-012-0040	4-28-03	Adopt	6-1-03	863-025-0010	2-28-03	Amend(T)	4-1-03
860-014-0023	12-6-02	Adopt(T)	1-1-03	863-025-0020	2-28-03	Amend(T)	4-1-03
860-014-0023	3-11-03	Adopt	4-1-03	863-025-0025	2-28-03	Amend(T)	4-1-03
860-016-0015	6-10-03	Adopt	7-1-03	863-025-0030	2-28-03	Amend(T)	4-1-03
860-016-0050	12-9-02	Amend	1-1-03	863-025-0035	2-28-03	Amend(T)	4-1-03
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918-008-0100	1-1-03	Repeal	2-1-03	918-308-0060(T)	1-1-03	Repeal	2-1-03
918-090-0900	1-1-03	Repeal	2-1-03	918-308-0200	1-1-03	Amend	2-1-03
918-225-0240	3-14-03	Amend	4-1-03	918-308-0200(T)	1-1-03	Repeal	2-1-03
918-225-0315	3-14-03	Adopt	4-1-03	918-308-0210	1-1-03	Amend	2-1-03
918-225-0560	3-14-03	Amend	4-1-03	918-308-0210(T)	1-1-03	Repeal	2-1-03
918-225-0562	7-1-03	Adopt	4-1-03	918-309-0000	4-1-03	Amend	4-1-03
918-225-0610	1-1-03	Amend	2-1-03	918-309-0025	7-1-03	Adopt	7-1-03
918-225-0610(T)	1-1-03	Repeal	2-1-03	918-311-0020	7-1-03	Amend	7-1-03
918-225-0660	3-14-03	Amend	4-1-03	918-400-0280	1-1-03	Amend	2-1-03
918-225-0665	3-14-03	Adopt	4-1-03	918-400-0280	3-1-03	Amend	4-1-03
918-225-0670	2-3-03	Amend	3-1-03	918-400-0280(T)	1-1-03	Repeal	2-1-03
918-225-0690	7-1-03	Repeal	4-1-03	918-400-0333	1-1-03	Adopt	2-1-03
918-225-0691	7-1-03	Adopt	4-1-03	918-400-0333(T)	1-1-03	Repeal	2-1-03
918-225-0700	7-1-03	Amend	4-1-03	918-400-0335	1-1-03	Repeal	2-1-03
918-225-0720	7-1-03	Amend	4-1-03	918-400-0340	1-1-03	Amend	2-1-03
918-225-0740	7-1-03	Amend	4-1-03	918-400-0340(T)	1-1-03	Repeal	2-1-03
918-225-0760	1-1-03	Repeal	2-1-03	918-400-0345	1-1-03	Repeal	2-1-03
918-225-0900	2-3-03	Adopt	3-1-03	918-400-0350	1-1-03	Repeal	2-1-03
918-225-0910	2-3-03	Adopt	3-1-03	918-400-0355	1-1-03	Repeal	2-1-03
918-225-0920	2-3-03	Adopt	3-1-03	918-400-0360	1-1-03	Repeal	2-1-03
918-225-0930	2-3-03	Adopt	3-1-03	918-400-0365	1-1-03	Repeal	2-1-03
918-225-0940	2-3-03	Adopt	3-1-03	918-400-0370	1-1-03	Repeal	2-1-03
918-225-0950	2-3-03	Adopt	3-1-03	918-400-0375	1-1-03	Repeal	2-1-03
918-225-0960	2-3-03	Adopt	3-1-03	918-400-0380	1-1-03	Adopt	2-1-03
918-225-0970	2-3-03	Adopt	3-1-03	918-400-0380(T)	1-1-03	Repeal	2-1-03
918-251-0090	1-1-03	Amend	2-1-03	918-400-0385	1-1-03	Adopt	2-1-03
918-251-0090(T)	1-1-03	Repeal	2-1-03	918-400-0385(T)	1-1-03	Repeal	2-1-03
918-282-0017	1-1-03	Adopt	2-1-03	918-400-0390	1-1-03	Adopt	2-1-03
918-282-0017(T)	1-1-03	Repeal	2-1-03	918-400-0390(T)	1-1-03	Repeal	2-1-03
918-282-0185	1-1-03	Adopt	2-1-03	918-400-0395	1-1-03	Adopt	2-1-03
918-282-0185(T)	1-1-03	Repeal	2-1-03	918-400-0395(T)	1-1-03	Repeal	2-1-03
918-282-0290	1-1-03	Amend	2-1-03	918-400-0455	3-1-03	Amend	4-1-03
918-282-0290(T)	1-1-03	Repeal	2-1-03	918-400-0465	3-1-03	Amend	4-1-03
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918-306-0705	5-5-03	Amend(T)	6-1-03	918-400-0630	3-1-03	Amend	4-1-03
918-306-0710	5-5-03	Amend(T)	6-1-03	918-400-0740	3-1-03	Amend	4-1-03
918-306-0715	5-5-03	Amend(T)	6-1-03	918-400-0780	1-1-03	Repeal	2-1-03
918-306-0720	5-5-03	Amend(T)	6-1-03	918-400-0800	1-1-03	Amend	2-1-03
918-306-0730	5-5-03	Amend(T)	6-1-03	918-400-0800(T)	1-1-03	Repeal	2-1-03
918-306-0740	5-5-03	Amend(T)	6-1-03	918-480-0005	4-1-03	Amend	2-1-03
918-306-0750	5-5-03	Suspend	6-1-03	918-480-0010	1-1-03	Amend	1-1-03
918-306-0760	5-5-03	Amend(T)	6-1-03	918-480-0010	1-10-03	Amend(T)	2-1-03
918-306-0770	5-5-03	Amend(T)	6-1-03	918-480-0010	4-1-03	Amend	2-1-03
918-306-0780	5-5-03	Amend(T)	6-1-03	918-480-0010(T)	1-1-03	Repeal	1-1-03
918-307-0000	1-1-03	Repeal	2-1-03	918-480-0020	4-1-03	Amend	2-1-03
918-308-0020	1-1-03	Amend	2-1-03	918-650-0085	1-1-03	Repeal	2-1-03
918-308-0020(T)	1-1-03	Repeal	2-1-03	918-785-0030	1-1-03	Repeal	2-1-03