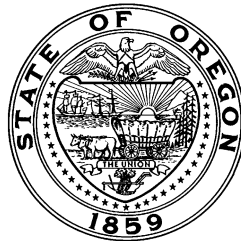


# OREGON BULLETIN

Supplements the 2003 *Oregon Administrative Rules Compilation*

**Volume 42, No. 6**  
**June 1, 2003**

For April 16, 2003–May 15, 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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## OTHER NOTICES

### PROPOSED APPROVAL OF SOIL CLEANUP AT THE OREGON ROSES NURSERY HILLSBORO, OREGON

**COMMENTS DUE:** July 1, 2003

**PROJECT LOCATION:** 1170 SE Tualatin Valley Highway (State Highway 8), Hillsboro, Oregon

**PROPOSAL:** The Oregon Department of Environmental Quality (DEQ) proposes approval of an independent cleanup of arsenic and petroleum-contaminated soil at the site.

**HIGHLIGHTS:** The Oregon Roses Nursery site is approximately 62 acres. A portion of the western site boundary is adjacent to the Jackson Bottom Wetlands, which provides habitat for a number of federally threatened or endangered species. The site has been in agricultural use since at least 1911, and has been a commercial nursery from about 1940 to present. The primary areas of environmental concern at the site included the greenhouse area, former retention pond impacted by a petroleum release, soil piles generated during cleanup and site preparations for development, and a former underground storage tank area. Site characterization sampling indicated that arsenic in the greenhouse area, and petroleum contamination near a former gasoline and diesel UST nest was present at levels that could present a risk to human health. The soil piles were found to contain moderate levels of total petroleum hydrocarbons, and low- to non-detect levels of other contaminants below risk-based screening concentrations. A soil removal was conducted to address the contamination. A total of approximately 14,000 tons of soil were removed from the greenhouse area, and 2000 tons of soil were removed from the former UST area. In addition, a total of 18,000 tons of soil comprising the seven soil stockpiles at the site were removed. The soil was disposed of at the Hillsboro Landfill. DEQ is aware of other contaminated soil that was transported off-site without proper authorization from the County or DEQ, and is currently addressing these sites within DEQ's Solid Waste Program. Confirmation soil samples collected in residual soil from the removal areas show that, with the exception of one localized area with an elevated arsenic concentration, residual soil does not pose a significant human health risk to future site workers or residents. DEQ will require removal of the localized area as a condition of site closure. DEQ will approve the site cleanup and issue an No Further Action (NFA) determination following the public review and comment period, provided no significant comments are received, and the following tasks are completed: Preparation of a DEQ-approved, site-specific Solid Waste Management Plan (SWMP) that specifies soil management protocols for certain areas of the site; Oregon Roses provides DEQ an inventory of solid waste at the site, and disposes of the waste in a DEQ-approved manner, the future site owner, West Hills Development, signs a DEQ Letter Agreement for implementation of the SWMP; the owner of Oregon Roses Nursery, Mr. Fred Teufal, signs a DEQ Letter Agreement for completion of the Risk Assessment for the wetlands area in Tract A, and any remedial actions that may be required to protect human health or the environment.

**HOW TO COMMENT:** The staff memorandum and other files will be available for public review beginning Monday, June 2, 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 Tuesday, July 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.

### PROPOSED CONDITIONAL NO FURTHER ACTION DECISION, UPLAND PORTION OF SPADA NORTH AND SPADA SOUTH RIVERSIDE CORPORATE CENTER DEVELOPMENT NE 185TH AVENUE AND RIVERSIDE PARKWAY PORTLAND, OREGON

**COMMENT PERIOD:** June 1, 2003 to June 30, 2003

**COMMENTS DUE:** June 30, 2003

**HIGHLIGHTS:** The Department of Environmental Quality (DEQ) has completed its environmental evaluation of the uplands portion of the Spada North and Spada South site, now being developed as the Riverside Parkway Corporate Center. Environmental testing performed at the site identified residual pesticide constituents that were present in site soil. No pesticides were detected in site groundwater. DEQ proposes issuing a conditional no further action decision. The conditional no further action decision relies on deed restrictions that will require capping of the site, maintenance and monitoring of the cap, and excavation soil management. The site will remain on the DEQ Confirmed Release List because the historic irrigation ditches that border the site have not been evaluated. An environmental evaluation of the ditches will be performed as a separate project.

**HOW TO COMMENT:** The project file is available for public review. To schedule an appointment call (503) 229-6729. The DEQ project manager is Anna Coates, (503) 229-5213. Written comments should be sent to Anna Coates, DEQ, 2020 SW Fourth Avenue, Suite 400, Portland, OR 97201 by June 30, 2003. A public meeting will be held to receive comments if requested by 10 or more persons or by a group with a membership of 10 or more.

**THE NEXT STEP:** DEQ will consider all public comments before making the final decision.

### SELECTION OF CLEANUP OREGON BULB & PERENNIAL FARMS SITE 39391 SE LUSTED ROAD, SANDY, 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 contamination at the Oregon Bulb & Perennial Farms site.

**SELECTED CLEANUP ACTION:** Several phases of environmental testing have been performed at the site, identifying pesticide constituents in site soil. As required by ORS 465.320, DEQ invited public comment on the proposed cleanup action for the facility in February 2003. No comments were received by DEQ that resulted in significant modifications to the proposed cleanup action. The selected cleanup action, described in the Record of Decision signed on April 30, 2003, relies on deed restrictions and excavation and off-site disposal of contaminated soil.

**INFORMATION:** The project file is available for public review. To schedule an appointment call (503) 229-6729. For additional information regarding the selected cleanup actions for the site, contact the DEQ project manager, Tom Gainer, at (503) 229-5326.

**THE NEXT STEP:** The site owner will implement the Record of Decision.

### CLEANUP ACTION COMPLETED AND DEQ RECOMMENDS NO FURTHER ACTION AT THE CITY OF SPRINGFIELD CHAMBER OF COMMERCE RAILROAD DEPOT SITE

**COMMENTS DUE:** December 30, 2003

**PROJECT LOCATION:** City of Springfield Chamber of Commerce Railroad Depot Site, 101 South A Street, Springfield, Oregon.

**PROPOSAL:** Oregon Department of Environmental Quality invites public comments from June 1, 2003 through June 30, 2003. DEQ will consider all comments before issuing a no further action

## OTHER NOTICES

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determination and removing the site from the Confirmed Release List (CRL).

**HIGHLIGHTS:** The staff report will be available for public review at DEQ's Eugene office from June 1, 2003 through June 30, 2003.

The environmental investigation and cleanup activities were performed in August and October, 1989 and August 1993. The site was brought to DEQ's attention in 1989 when the City of Springfield decommissioned five underground storage tanks and removed a building foundation where several service stations formerly operated.

Petroleum contaminated soil was removed from the site and surrounding areas. Confirmation soil samples collected after the soil removal indicated residual petroleum concentrations were below the laboratory detection limits (non-detect); except beneath gas and

sewer lines where excavation could not safely take place. Groundwater did not appear impacted at the site. DEQ has concluded that there is no threat to human health and the environment.

**HOW TO COMMENT:** The staff report, project files, investigation reports, administrative record, etc. are available for public review at DEQ's Eugene office. Please call (800)844-8467 extension 276 to schedule an appointment to view files. Written comments should be sent to Kristy Sewell, 1102 Lincoln Street, Suite 210, Eugene, Oregon 97402 by 5:00 pm June 30, 2002. A public meeting will be held to receive verbal comments if requested by 10 or more persons or by a group with a membership of 10 or more.

**THE NEXT STEP:** DEQ will consider all public comments and the director will make a decision and publish the final decision after consideration of public 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.

.....  
**Department of Administrative Services,  
Human Resource Services Division  
Chapter 105**

**Rules to be Reviewed:** Ch. 105

<u>Division</u>	<u>Title</u>
040	Filling Positions

**Last Date for Comment:** 6-26-03

**Rules Coordinator:** Mary Unger

**Comments:** Division 40 includes all of the Department of Administrative Services, Human Resource Services Division, rules regarding the "Filling of Positions." These rules cover Equal Employment Opportunity and Affirmative Action, recruitment and selection process, types of applicant lists, types of appointments and reemployment with the State of Oregon.

**Telephone:** (503) 378-2349, ext. 320

.....  
**Oregon Housing and Community Services  
Chapter 813**

**Rules to be Reviewed:** Ch. 813

<u>Division</u>	<u>Title</u>
080	Mortgage Credit Certificate Program

**Last Date for Comment:** 7-3-03

**Rules Coordinator:** Sandy McDonnell

**Comments:** These rules implement the Mortgage Credit Certificate Program. The program assists and encourages moderate and lower income persons in the State of Oregon to purchase, improve or rehabilitate new and existing single family residences through the issuance of a Mortgage Credit Certificate.

**Telephone:** (503) 986-2012

.....  
**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 rule-

making hearing must be published in the Oregon Bulletin at least 14 days before the hearing.

.....  
**Board of Chiropractic Examiners  
Chapter 811**

<u>Date:</u>	<u>Time:</u>	<u>Location:</u>
7-24-03	1 p.m.	Morrow Crane Bldg. 3218 Pringle Rd. SE Suite 150 Salem, OR 97302

**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:** 7-24-03

**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 to assist the Board and Peer Review Committee in determining..." accepted standards of care for chiropractic in Oregon. 811-015-0010, established 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 Medical Examiners  
Chapter 847**

**Stat. Auth.:** ORS 677.265

**Stats. Implemented:** ORS 677.110

**Proposed Amendments:** 847-020-0170, 847-020-0180

**Last Date for Comment:** 6-30-03

**Summary:** Proposed rules add language as to when an applicant may request a waiver of the seven year requirement for passing all three Steps of the United States Medical Licensing Examination (USMLE), and proposes some housekeeping changes.

**Rules Coordinator:** Diana M. Dolstra

**Address:** Board of Medical Examiners, 1500 SW 1st Ave., Suite #620, Portland, OR 97201-5826

**Telephone:** (503) 229-5873, ext. 223

.....  
**Stat. Auth.:** ORS 677.265

**Stats. Implemented:** ORS 677.110

**Proposed Amendments:** 847-020-0190

**Last Date for Comment:** 6-30-03

**Summary:** Proposed administrative rules change the language that an applicant "shall" not be granted a license if they have had their license revoked or suspended in another state to language stating that they "may" not be granted a license if they have had their license revoked or suspended in another state. The Medical Practice Act (ORS 677.190) uses the word may and not shall, so the administrative rules are being changed to use the same word as the statute.

**Rules Coordinator:** Diana M. Dolstra

**Address:** Board of Medical Examiners, 1500 SW 1st Ave., Suite #620, Portland, OR 97201-5826

**Telephone:** (503) 229-5873, ext. 223

.....  
**Stat. Auth.:** ORS 682.245

**Stats. Implemented:** ORS 682.245

# NOTICES OF PROPOSED RULEMAKING

**Proposed Amendments:** 847-035-0030

**Last Date for Comment:** 6-30-03

**Summary:** The proposed amendments delete repetitious language, adds a general statement that First Responders and EMTs may use noninvasive diagnostic devices in accordance with manufacturer's recommendation, substitutes "dual lumen or laryngeal mask airway" for pharyngeal esophageal airway in the EMT-Intermediate scope of practice, adds morphine for pain management to the EMT-Intermediate scope of practice, and adds some clarifying language to the section on the treatment of patients with life-sustaining treatment orders.

**Rules Coordinator:** Diana M. Dolstra

**Address:** Board of Medical Examiners, 1500 SW 1st Ave., Suite #620, Portland, OR 97201-5826

**Telephone:** (503) 229-5873, ext. 223

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**Stat. Auth.:** ORS 677.265

**Stats. Implemented:** ORS 677.495, 677.510, 677.515 & 677.535

**Proposed Amendments:** 847-050-0005, 847-050-0010, 847-050-0023, 847-050-0025, 847-050-0027, 847-050-0041

**Last Date for Comment:** 6-30-03

**Summary:** Proposed rules clarifies that the supervising physician of a physician assistant must be licensed under ORS Chapter 677, is actively registered and in good standing with the Board as an MD or DO. Proposed rules also clarifies that the name of the national physician assistant certification examination is the Physician Assistant National Certifying Examination (PANCE) which is the entry level certification examination.

**Rules Coordinator:** Diana M. Dolstra

**Address:** Board of Medical Examiners, 1500 SW 1st Ave., Suite #620, Portland, OR 97201-5826

**Telephone:** (503) 229-5873, ext. 223

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## Bureau of Labor and Industries Chapter 839

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
6-16-03	2-4 p.m.	Woodburn United Methodist Church Fellowship Hall 700 N. Cascade Dr. Woodburn, OR

**Hearing Officer:** Linda Lohr

**Stat. Auth.:** ORS 653.261

**Stats. Implemented:** ORS 653.261

**Proposed Amendments:** 839-020-0150

**Last Date for Comment:** 6-20-03

**Summary:** The proposed rule amendment would repeal the current exemption from the working conditions provisions of OAR 839-020-0050 to 839-020-0065 for employees engaged in agricultural employment. Repeal of the exemption will entitle agricultural employees to meal and rest periods, prohibit requiring agricultural employees to lift excessive weights, and require agricultural employers to comply with the provision of ORS Chapter 654 (the Oregon Safe Employment Act) and provide sanitary and safe work areas.

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

**Rules Coordinator:** Marcia Ohlemiller

**Address:** Bureau of Labor and Industries, 800 NE Oregon St., Ste. 1045, Portland, OR 97232

**Telephone:** (503) 731-4212

\*\*\*\*\*

## Department of Administrative Services Chapter 125

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
6-16-03	10 a.m.	1225 Ferry St. Looking Glass Conf. Rm. Salem, OR

**Hearing Officer:** Melissa Canfield

**Stat. Auth.:** ORS 184.340 & ORS 279.712

**Stats. Implemented:** ORS 279.712, Health Ins. Portability and Accountability Act of 1996, USC 1320d - 1320d-8, PL 104-191 sec. 262 & 264

**Proposed Adoptions:** 125-055-0100, 125-055-0105, 125-055-0110, 125-055-0115, 125-055-0120, 125-055-0125, 125-055-0130

**Last Date for Comment:** 6-17-03

**Summary:** Effective June 27, 2003, the Department of Administrative Services (the "Department") is adopting a permanent Administrative Rule that prescribes the contract requirements necessary to comply with the business associate provisions of the Privacy Rule under The Health Insurance Portability and Accountability Act of 1996, 42 USC 1320d - 1320d-8, Public Law 104-191, sec. 262 and sec. 264 ("HIPAA"). "Business Associate" is a term developed by the U.S. Department of Health and Human Services under the Administrative Simplification title of HIPAA. Business Associate is defined in 42 CFR 160.103(2002).

The Business associate requirements that cover the use and disclosure of protected health information between agencies and certain contractors are found in the U.S. Department of Health and Human Services privacy regulation contained in 45 CFR parts 160 and 164 (the "Privacy Rule"). The Privacy Rule imposes certain compliance requirements specified in Sections 164.502(e) and 164.504(e) on contracts between a covered entity (as defined in the Privacy Rule) and its business associates. Certain public contracting agencies are covered entities under the Privacy Rule and must comply with the business associate contracting requirements.

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

**Rules Coordinator:** Mary Unger

**Address:** Department of Administrative Services, 155 Cottage St. NE U90, Salem, OR 97301-3972

**Telephone:** (503) 378-5796

\*\*\*\*\*

## Department of Administrative Services, Human Resource Services Division Chapter 105

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
6-19-03	1:30 p.m.	DAS Conference Rm. B Salem, OR

**Hearing Officer:** Shelli Honeywell

**Stat. Auth.:** ORS 184.340, ORS 240.145(3) & ORS 240.250

**Stats. Implemented:** ORS 240.306 & ORS 243.305

**Proposed Amendments:** 105-040-0001

**Last Date for Comment:** 6-26-03

**Summary:** 105-040-0001 - The Applicability statement was deleted because it was deemed unnecessary. 105-040-0001(1) - This section was revised with minor grammatical changes. 105-040-0001(1)(a)(B)(ii) - This section was revised with minor grammatical changes. 105-040-0001(2) - "Rule Clarification:" was deleted to create more consistency throughout OAR chapter 105. 105-040-0001(2)(d) - The section was deleted because it duplicates section 105-040-0001(1)(c). 105-040-0001(4) - Language changed to clarify that "EEO" means "equal employment opportunity." 105-040-0001(5) - The word "grievance" was deleted to help clarify the intent of the section. Language was modified to allow an individual to file a claim with the appropriate state of federal agency.

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

**Rules Coordinator:** Mary Unger

**Address:** Department of Administrative Services, Human Resource Services Division, 155 Cottage St. NE U90, Salem, OR 97301-3972

**Telephone:** (503) 378-2349, ext. 320

\*\*\*\*\*

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
6-19-03	1:30 p.m.	DAS Conference Rm. B Salem, OR

# NOTICES OF PROPOSED RULEMAKING

**Hearing Officer:** Shelli Honeywell  
**Stat. Auth.:** ORS 184.340, ORS 240.145(3) & ORS 240.250  
**Stats. Implemented:** ORS 240.250, 240.306, 240.321 & 240.391  
**Proposed Amendments:** 105-040-0010  
**Last Date for Comment:** 6-26-03

**Summary:** 105-040-0010 - Applicability Statement revised to clarify application of the rule. 105-040-0010(1) - Language was added to clarify that an applicant must "submit" their completed application. 105-040-0010(1)(a) - Language was added to clarify that a Veteran must submit a copy of their Veteran's disability preference letter with their application unless the information is included in the Form DD 214/215. 105-040-0010(2) - Housekeeping change to update title of Employment Department's website. 105-040-0010(2)(a) - Language was added to this section to include minimum qualifications to the recruitment announcement and to clarify what minimum qualifications are. 105-040-0010(4)(a) - Housekeeping change to update title of Employment Department's website. 105-040-0010(4)(b) - Language was added to clarify that the request for a review of disqualification within 10 days is from the date of the graded notice. 105-040-0010(4)(c) - Language was added to indicate that a request for review of test results must be in writing. 105-040-0010(4)(d) - Language was added to clarify that an applicant may only retake a written test. 105-040-0010(7) - Documentation Retention language was added to identify where HRSD policy document retention requirements can be found.

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

**Rules Coordinator:** Mary Unger  
**Address:** Department of Administrative Services, Human Resource Services Division, 155 Cottage St. NE U90, Salem, OR 97301-3972  
**Telephone:** (503) 378-2349, ext. 320

\*\*\*\*\*

Date:	Time:	Location:
6-19-03	1:30 p.m.	DAS Conference Rm. B Salem, OR

**Hearing Officer:** Shelli Honeywell  
**Stat. Auth.:** ORS 184.340, ORS 240.145(3) & ORS 240.250  
**Stats. Implemented:** ORS 240.306, 659A.043, 659A.046, 659A.052  
**Proposed Amendments:** 105-040-0020  
**Last Date for Comment:** 6-26-03

**Summary:** 105-040-0020 - Applicability Statement revised to clarify application of the rule. Minor grammatical changes were made throughout the rule. 105-040-0020 (1)(a)(A) - Language was modified in this section to clarify the way in which an injured worker is placed on the first consideration list. 105-040-0020(1)(a)(A)(i) - Language was added allowing an injured worker to remain on the list for 3 years after the date of injury. 105-040-0020(1)(a)(A)(ii) - Language was added stating that an employee shall be removed from the list if returned to an available and suitable position. 105-040-0020(1)(a)(A)(iii) - Language was added stating that an employee shall be removed from the list if determined to be ineligible for reasons identified in HRSD State Policy 50.020.01. 105-040-0020(1)(a)(B) - Language was added to this section to clarify exceptions to the existing language. 105-040-0020(1)(d)(B) - The word "eligible" was added to clarify who can be put on the list. 105-040-0020(1)(d)(B)(i) - Language clarifying who is considered eligible was added to this section. 105-040-0020(1)(d)(B)(ii) - Language clarifying who is considered eligible was added to this section. 105-040-0020(1)(d)(C) - The word "eligible" was added to clarify who can be put on the list. 105-040-0020(1)(d)(C)(i) - Language clarifying who is considered eligible was added to this section. 105-040-0020(1)(d)(C)(ii) - Language clarifying who is considered eligible was added to this section.

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

**Rules Coordinator:** Mary Unger

**Address:** Department of Administrative Services, Human Resource Services Division, 155 Cottage St. NE U90, Salem, OR 97301-3972  
**Telephone:** (503) 378-2349, ext. 320

\*\*\*\*\*

Date:	Time:	Location:
6-19-03	1:30 p.m.	DAS Conference Rm. B Salem, OR

**Hearing Officer:** Shelli Honeywell  
**Stat. Auth.:** ORS 184.340, ORS 240.145(3) & ORS 240.250  
**Stats. Implemented:** ORS 240.010 & 240.306  
**Proposed Amendments:** 105-040-0030  
**Last Date for Comment:** 6-26-03

**Summary:** 105-040-0030 - Applicability Statement revised to clarify application of the rule. 105-040-0030(1)(c) - Language was added to this section to clarify that a list of qualified applicants and a "certificate of eligibles" shall be pulled prior to conducting interviews. 105-040-0030(1)(g) - Language was modified to indicate that an agency "may" pull a random certificate with proportionate protected class candidates to meet affirmative action goals. 105-040-0030(1)(H) - This section is reworded for clarification. 105-040-0030(2) - Language was added to define "certificate of eligibles." 105-040-0030(3) Language was added to define "disposition code." 105-040-0030(4) - Language was added to define "protected class." 105-040-0030(4)(a) Language was added to define the group of people under the category of "Asian or Pacific Islander." 105-040-0030(4)(b) Language was added to define the group of people under the category of "African American." 105-040-0030(4)(c) Language was added to define the group of people under the category of "Hispanic." 105-040-0030(4)(d) Language was added to define the group of people under the category of "Native American or Alaskan Native." 105-040-0030(5) - Language was added to define "Affirmative action goals."

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

**Rules Coordinator:** Mary Unger  
**Address:** Department of Administrative Services, Human Resource Services Division, 155 Cottage St. NE U90, Salem, OR 97301-3972  
**Telephone:** (503) 378-2349, ext. 320

\*\*\*\*\*

Date:	Time:	Location:
6-19-03	1:30 p.m.	DAS Conference Rm. B Salem, OR

**Hearing Officer:** Shelli Honeywell  
**Stat. Auth.:** ORS 240.145(3) & ORS 240.250  
**Stats. Implemented:** ORS 240.306, 240.309, 240.321 & 240.425  
**Proposed Amendments:** 105-040-0040  
**Last Date for Comment:** 6-26-03

**Summary:** 105-040-0040 - Applicability Statement revised to clarify application of the rule. 105-040-0040(1)(d)(D) - The word "applicant" was added to clarify intent of whom the section applies to.  
*\*Auxiliary aids for persons with disabilities are available upon advance request.*

**Rules Coordinator:** Mary Unger  
**Address:** Department of Administrative Services, Human Resource Services Division, 155 Cottage St. NE U90, Salem, OR 97301-3972  
**Telephone:** (503) 378-2349, ext. 320

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Date:	Time:	Location:
6-19-03	1:30 p.m.	DAS Conference Rm. B Salem, OR

**Hearing Officer:** Shelli Honeywell  
**Stat. Auth.:** ORS 240.306(5), 240.145(3) & ORS 240.250  
**Stats. Implemented:** ORS 240.145(3), 240.250, 240.306(1)(2)(5) (6), 240.311 & 240.321(2)  
**Proposed Amendments:** 105-040-0050  
**Last Date for Comment:** 6-26-03



# NOTICES OF PROPOSED RULEMAKING

**Summary:** 105-040-0050 - Applicability Statement revised to clarify application of rule. 105-040-0050(1)(a)(A) - Sections (2)(a), (2)(b) and (2)(c) were deleted and moved to this section to clarify the intent of the rule. 105-040-0050(1)(a)(B) - This section was moved to (1)(a)(F). 105-040-0050(1)(a)(D) - Language was added to this section to clarify what special or unique skills are. 105-040-0050(1)(a)(E) - Language was moved from section (1)(a)(F) and additional language was added to explain what critical time requirements are. 105-040-0050(1)(a)(F) - Language from 105-040-0050(1)(a)(B) was moved to this section. 105-040-0050(2) - "Rule Clarification:" was deleted to create consistency throughout Chapter 105.

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

**Rules Coordinator:** Mary Unger

**Address:** Department of Administrative Services, Human Resource Services Division, 155 Cottage St. NE U90, Salem, OR 97301-3972  
**Telephone:** (503) 378-2349, ext. 320

\*\*\*\*\*

Date:	Time:	Location:
6-19-03	1:30 p.m.	DAS Conference Rm. B Salem, OR

**Hearing Officer:** Shelli Honeywell

**Stat. Auth.:** ORS 184.340, 240.145(3) & 240.250  
**Stats. Implemented:** ORS 240.306, 240.321 & 657.710  
**Proposed Amendments:** 105-040-0060  
**Last Date for Comment:** 6-26-03

**Summary:** 105-040-0060 - Applicability statement was revised to clarify the application of the rule. 105-040-0060(1) - "substantially disabled" was added to mirror language in ORS 240.306(3). 105-040-0060(1)(a) - Language added to outline the recruitment process for a substantially disabled person. 105-040-0060(1)(b) - Language added to clarify recruitment for the economically disadvantaged or non-competitive appointments are limited to the classifications listed in OAR 105-040-0060. 105-040-0060(1)(b)(B) - "Employment Department" was added to clarify where the appointing authority shall provide information. 105-040-0060(1)(c)(A) - Removed unnecessary language identifying the various divisions of the Department of Human Services. 105-040-0060(2) - Delete "Rule Clarification:" as a housekeeping change to create consistency throughout Chapter 105. 105-040-0060(3) - "qualifying" was added to clarify that there are no minimum requirements necessary to qualify for a position. 105-040-0060(5) - Language was added to indicate that some of the listed limited-competitive and non-competitive appointment classifications have been abolished. After the title of the classification in parenthesis "Abolished" and the effective date are listed.

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

**Rules Coordinator:** Mary Unger

**Address:** Department of Administrative Services, Human Resource Services Division, 155 Cottage St. NE U90, Salem, OR 97301-3972  
**Telephone:** (503) 378-2349, ext. 320

\*\*\*\*\*

Date:	Time:	Location:
6-19-03	1:30 p.m.	DAS Conference Rm. B Salem, OR

**Hearing Officer:** Shelli Honeywell

**Stat. Auth.:** ORS 184.340, 240.145(3) & 240.250  
**Stats. Implemented:** ORS 240.012, 240.013, 240.015, 240.145 & 240.250  
**Proposed Amendments:** 105-040-0070  
**Last Date for Comment:** 6-26-03

**Summary:** 105-040-0070(1)(a) - Add "number" to create consistency with the definition of underfill. Replace "reclassified" with "changed" to reflect the employee's position change rather than a

reallocation of the position. 105-040-0070(1)(b) - Reworded to clarify an underfilling employee's right to notification of the requirements necessary to qualify for the position they are underfilling.

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

**Rules Coordinator:** Mary Unger

**Address:** Department of Administrative Services, Human Resource Services Division, 155 Cottage St. NE U90, Salem, OR 97301-3972  
**Telephone:** (503) 378-2349, ext. 320

\*\*\*\*\*

Date:	Time:	Location:
6-19-03	1:30 p.m.	DAS Conference Rm. B Salem, OR

**Hearing Officer:** Shelli Honeywell

**Stat. Auth.:** ORS 184.340, 240.145(3) & 240.250  
**Stats. Implemented:** ORS 240.316(3) & 240.590  
**Proposed Amendments:** 105-040-0080  
**Last Date for Comment:** 6-26-03

**Summary:** 105-040-0080 - Applicability statement was added to clarify the application of the rule. 105-040-0080(1)(c) - The word "State" was added to create consistency throughout OAR Chapter 105. 105-040-0080(2) - "Clarification:" was deleted to create consistency throughout OAR Chapter 105.

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

**Rules Coordinator:** Mary Unger

**Address:** Department of Administrative Services, Human Resource Services Division, 155 Cottage St. NE U90, Salem, OR 97301-3972  
**Telephone:** (503) 378-2349, ext. 320

\*\*\*\*\*

Date:	Time:	Location:
6-19-03	1:30 p.m.	DAS Conference Rm. B Salem, OR

**Hearing Officer:** Shelli Honeywell

**Stat. Auth.:** ORS 184.340, 240.145(3) & 240.250  
**Stats. Implemented:** ORS 240.306, 240.391, 659A.043, 659A.046 & 659A.052  
**Proposed Amendments:** 105-050-0020  
**Last Date for Comment:** 6-26-03

**Summary:** 105-050-0020 - Applicability Statement revised to clarify the application of rule. 105-050-0020(1)(c) - This section was revised with minor grammatical changes. 105-050-0020(1)(d) - Language was added identifying "available" and "suitable" are defined in HRSD State Policy. 105-050-0020(1)(e) - Language was added identifying "available" and "suitable" are defined in HRSD State Policy. 105-050-0020(1)(g) - Housekeeping change to "HRSD" from "Human Resource Services Division to create consistency throughout Chapter 105 of OAR. 105-050-0020(2) - The "Rule Clarification:" section was deleted to create consistency throughout OAR Chapter 105.

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

**Rules Coordinator:** Mary Unger

**Address:** Department of Administrative Services, Human Resource Services Division, 155 Cottage St. NE U90, Salem, OR 97301-3972  
**Telephone:** (503) 378-2349, ext. 320

\*\*\*\*\*

## Department of Agriculture Chapter 603

Date:	Time:	Location:
6-25-03	7 p.m.	Washington County Public Service Bldg. 155 N 1st Ave. Hillsboro, OR 97124

**Hearing Officer:** Stephanie Page

**Stat. Auth.:** ORS 561.190, 561.191, 561.400 & 568.900 - 568.933;  
**Other Auth.:** OAR 603-090

# NOTICES OF PROPOSED RULEMAKING

**Stats. Implemented:** ORS 568.900 - 568.933

**Proposed Amendments:** 603-095-0140

**Last Date for Comment:** 7-15-03

**Summary:** These rule amendments are a result of the state-required biennial review and developed to address land allocations in the Tualatin Total Maximum Daily Load.

**Rules Coordinator:** Sherry Kudna

**Address:** Department of Agriculture, 635 Capitol St. NE, Salem, OR 97301-2532

**Telephone:** (503) 986-4619

\*\*\*\*\*

<b>Date:</b> 6-26-03	<b>Time:</b> 7 p.m.	<b>Location:</b> Yamhill SWCD Office USDA Service Center 2200 SW 2nd St. McMinnville, OR 97128
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**Hearing Officer:** Stephanie Page

**Stat. Auth.:** ORS 561.190, 561.191, 561.400, 568.900 - 568.933 other rules in 603-090

**Stats. Implemented:** ORS 568.900 - 568.933

**Proposed Amendments:** 603-095-0540, 603-095-0560

**Last Date for Comment:** 7-15-03

**Summary:** These rule amendments are a result of the state-required biennial review and were proposed by the Local advisory Committee to further clarify the rules.

**Rules Coordinator:** Sherry Kudna

**Address:** Department of Agriculture, 635 Capitol St. NE, Salem, OR 97301-2532

**Telephone:** (503) 986-4619

\*\*\*\*\*

<b>Date:</b> 7-7-03	<b>Time:</b> 7 p.m.	<b>Location:</b> Burns Senior Center 17 South Alder Burns, OR 97720
 7-8-03	 7 p.m.	 Frenchglen Elementary School Hwy 205 Frenchglen, OR 97736

**Hearing Officer:** Stephanie Page

**Stat. Auth.:** ORS 561.190, 561.400 & 568.900 - 568.933; Other Auth.: OAR 603-090

**Stats. Implemented:** ORS 568.900 - 568.933

**Proposed Adoptions:** 603-095-3300, 603-095-3320, 603-095-3340, 603-095-3360

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

**Summary:** The rules effectuate the implementation of the Greater Harney Basin Agricultural Water Quality Management Area Plan developed pursuant to ORS 568.900 et seq.

**Rules Coordinator:** Sherry Kudna

**Address:** Department of Agriculture, 635 Capitol St. NE, Salem, OR 97301-2532

**Telephone:** (503) 986-4619

\*\*\*\*\*

## Department of Community Colleges and Workforce Development Chapter 589

**Stat. Auth.:** ORS 326.051

**Stats. Implemented:** ORS 341, 326.370, 326.375, 341.425, 341.665, 660.157, 660.160, 660.167 & 660.190

**Proposed Adoptions:** 589-006-0050, 589-006-0150, 589-006-0350, 589-007-0110, 589-007-0120, 589-007-0130, 589-007-0140, 589-007-0150, 589-007-0160, 589-007-0170, 589-007-0180

**Proposed Amendments:** 589-001-0000, 589-002-0200, 589-002-0300, 589-002-0500, 589-002-0600, 589-002-0700, 589-002-0800, 589-002-0900, 589-003-0100, 589-005-0100, 589-005-0200, 589-005-0300, 589-005-0400, 589-005-0500, 589-006-0100, 589-006-0200, 589-006-0300, 589-006-0400, 589-007-0100, 589-007-0200, 589-007-0300, 589-008-0100, 589-008-0200, 589-009-0100, 589-010-0100

**Proposed Repeals:** 589-002-0400

**Last Date for Comment:** 6-27-03

**Summary:** This notice has been prepared on recommendation from the Attorney General in order to correct an oversight in the filing process when the rules were originally adopted, amended or repealed. The step in the process of filing a copy of a rule with the Legislative Counsel within 10 days of filing the Certificate and Order of Filing with the Secretary of State's was mistakenly skipped. No substance was changed with this filing, only a correction in the processing oversight.

**Rules Coordinator:** Laura J. Roberts

**Address:** Department of Community Colleges and Workforce Development, 255 Capitol St. NE, Salem, OR 97310-0001

**Telephone:** (503) 378-8648, ext. 238

\*\*\*\*\*

**Stat. Auth.:** ORS 326.370; Other Auth.: Workforce Investment Act of 1998 (PL 105-220)

**Stats. Implemented:**

**Proposed Adoptions:** 589-020-0110, 589-020-0210, 589-020-0260

**Last Date for Comment:** 6-27-03

**Summary:** This notice has been prepared on recommendation from the Attorney General in order to correct an oversight in the filing process when the rules were originally adopted, amended or repealed. The step in the process of filing a copy of a rule with the Legislative Counsel within 10 days of filing the Certificate and Order of Filing with the Secretary of State's was mistakenly skipped. No substance was changed with this filing, only a correction in the processing oversight.

**Rules Coordinator:** Laura J. Roberts

**Address:** Department of Community Colleges and Workforce Development, 255 Capitol St. NE, Salem, OR 97310-0001

**Telephone:** (503) 378-8648, ext. 238

\*\*\*\*\*

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

<b>Date:</b> 6-19-03	<b>Time:</b> 10 a.m.	<b>Location:</b> 1535 Edgewater NW Salem, OR 97304
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**Hearing Officer:** Joan Davies

**Stat. Auth.:** ORS 480.545 & 480.630

**Stats. Implemented:** ORS 480.630

**Proposed Amendments:** 918-225-0691

**Last Date for Comment:** 6-19-03, 5 p.m.

**Summary:** Clarifies deadline for obtaining continuing education.  
*\*Auxiliary aids for persons with disabilities are available upon advance request.*

**Rules Coordinator:** Louann P. Rahmig

**Address:** Department of Consumer and Business Services, Building Codes Division, P.O. Box 14470, Salem, OR 97309

**Telephone:** (503) 373-7438

\*\*\*\*\*

<b>Date:</b> 6-19-03	<b>Time:</b> 9:30 a.m.	<b>Location:</b> 1535 Edgewater NW Salem, OR 97304
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**Hearing Officer:** Joan Davies

**Stat. Auth.:** ORS 447.072 & 447.076

**Stats. Implemented:** ORS 447.072 & 447.076

**Proposed Ren. & Amends:** 918-780-0120 to 918-780-0035

**Last Date for Comment:** 6-20-03, 5 p.m.

**Summary:** Amends rule to define exempt ordinary minor repairs for commercial structures.

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

**Rules Coordinator:** Louann P. Rahmig

# NOTICES OF PROPOSED RULEMAKING

**Address:** Department of Consumer and Business Services, Building Codes Division, P.O. Box 14470, Salem, OR 97309  
**Telephone:** (503) 373-7438

.....  
**Department of Corrections**  
**Chapter 291**

Date:	Time:	Location:
6-27-03	8 a.m.	Brentwood Bldg. Birch Conference Rm. 1793 13th St. SE Salem, OR 97302

**Hearing Officer:** Birdie Worley  
**Stat. Auth.:** ORS 179.040, 179.740 - 179.770, 423.020, 423.030 & 423.075

**Stats. Implemented:** ORS 179.040, 179.740 - 179.770, 423.020, 423.030 & 423.075

**Proposed Adoptions:** 291-203-0010, 291-203-0020, 291-203-0030, 291-203-0040, 291-203-0050, 291-203-0060, 291-203-0070, 291-203-0080, 291-203-0090

**Last Date for Comment:** 7-17-03

**Summary:** Adoption of these rules is necessary to establish guidelines for determining an inmate's ability to pay and seek reimbursement for the cost of their incarceration and care while under the legal and physical custody of the department.

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

**Rules Coordinator:** David R. Schumacher  
**Address:** Department of Corrections, 2575 Center St. NE, Salem, OR 97310

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

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Date:	Time:	Location:
6-20-03	8 a.m.	Brentwood Bldg. Birch Conference Rm. 1793 13th St. SE Salem, OR 97302

**Hearing Officer:** Birdie Worley  
**Stat. Auth.:** ORS 179.040, 421.440, 423.020, 423.030 & 423.075  
**Stats. Implemented:** ORS 179.040, 421.440, 423.020, 423.030 & 423.075

**Proposed Adoptions:** 291-077-0010, 291-077-0020, 291-077-0030, 291-077-0033, 291-077-0035, 291-077-0040

**Last Date for Comment:** 7-17-03

**Summary:** These rule amendments are necessary to update and expand the department's performance awards program recognizing inmates for good and exceptional performance in their work and program assignments. These amendments expand significantly the non-monetary awards making available enhanced services and privileges to inmates, thereby providing further incentive to encourage good institutional conduct and pro-social behavior among inmates, while holding them accountable.

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

**Rules Coordinator:** David R. Schumacher  
**Address:** Department of Corrections, 2575 Center St. NE, Salem, OR 97310

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

.....  
**Stat. Auth.:** ORS 179.040, 421.166, 421.168, 423.020, 423.030 & 423.075

**Stats. Implemented:** ORS 179.040, 421.166, 421.168, 423.020, 423.030 & 423.075

**Proposed Adoptions:** 291-063-0016, 291-063-0034, 291-063-0036, 291-063-0060

**Proposed Amendments:** 291-063-0005, 291-063-0010, 291-063-0030, 291-063-0040

**Proposed Repeals:** 291-063-0015, 291-063-0020, 291-063-0035

**Proposed Ren. & Amends:** 291-063-0025 to 291-063-0050

**Last Date for Comment:** 6-25-03

**Summary:** The department is amending these rules to bring the inmate eligibility requirements for granting of short-term transitional leave and emergency leave into compliance with statutory requirements. Other modifications were made to enhance the short-term transitional leave program.

**Rules Coordinator:** David R. Schumacher  
**Address:** Department of Corrections, 2575 Center St. NE, Salem, OR 97310

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

.....  
**Department of Environmental Quality**  
**Chapter 340**

Date:	Time:	Location:
6-17-03	9 a.m.	DEQ Headquarters 811 SW 6th Ave. Portland, OR

**Hearing Officer:** Elaine Glendening  
**Stat. Auth.:** ORS 466.020, 183.310 - 183.550, 466.005 - 466.385 & 466.890

**Stats. Implemented:** ORS 183.325, 183.335, 183.337, 192, 459, 366.003, 365.009, 466.015, 466.025, 466.075, 466.090, 466.100, 466.105, 466.195, 468 & 646

**Proposed Amendments:** 340-100-0002, 340-100-0010, 340-101-0001, 340-101-0004, 340-101-0040, 340-101-0050, 340-102-0010, 340-103-0031, 340-104-0001, 340-104-0340, 340-105-0003, 340-105-0010, 340-106-0002, 340-109-0010, 340-110-0061, 340-111-0020, 340-111-0050, 340-113-0020, 340-113-0030

**Proposed Repeals:** 340-101-0050

**Last Date for Comment:** 6-27-03, 5 p.m.

**Summary:** This rule: Adopts, by reference, recent federal hazardous waste rules since July 2000; and Corrects regulatory citations and references.

To submit comments or request additional information, please contact David Rozell at the Department of Environmental Quality (DEQ), 811 SW 6th Ave, Portland, Oregon, toll free in Oregon at 800-452-4011 or 503-229-5918, rozell.dave@deq.state.or.us, 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

.....  

Date:	Time:	Location:
7-1-03	6 p.m.	Central Board of Realtors 2112 NE 4th Bend, OR 97701
7-8-03	6 p.m.	Douglas CO Headquarters Library 1409 NE Diamond Lake Blvd. Roseburg, OR 97470
7-10-03	6 p.m.	DEQ Headquarters Room 3A 811 SW Sixth Avenue 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 proposal would revise the ambient water quality criteria for 167 toxic pollutants, OAR Chapter 340, Division 041. The

# NOTICES OF PROPOSED RULEMAKING

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 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, ext. 5656 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:
7-11-03	8 a.m.	ODFW Commission Rm. 2501 SW First Ave. Portland, OR 97201

**Hearing Officer:** Fish & Wildlife Commission

**Stat. Auth.:** ORS 163.467, 496 & 497

**Stats. Implemented:** ORS 163.467, 496 & 497

**Proposed Amendments:** Rules in 635-048

**Last Date for Comment:** 7-11-03

**Summary:** Amend rules relating to: Hunter Education including requirements to become an Instructor and reasons for revocation of instructor certification; rules for issuance of a duplicate certificate of Hunter Education; conditions for suspension of Master Hunter privileges.

*\*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., Portland, OR 97201

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

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Date:	Time:	Location:
7-11-03	8 a.m.	ODFW Commission Rm. 2501 SW First Ave. Portland, OR 97201

**Hearing Officer:** Fish & Wildlife Commission

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

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

**Proposed Amendments:** Rules in 635-090

**Last Date for Comment:** 7-11-03

**Summary:** Amend rules regarding the Access and Habitat Program 2004 Deer and Elk Auction and Raffle Tags.

*\*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., Portland, OR 97201

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

Date:	Time:	Location:
7-11-03	8 a.m.	ODFW Commission Room 2501 SW First Avenue Portland, OR 97201

**Hearing Officer:** Fish & Wildlife Commission

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

**Stats. Implemented:** ORS 497.308, 497.318, 498.022, 498.052 & 498.222

**Proposed Amendments:** 635-056-0075

**Last Date for Comment:** 7-11-03

**Summary:** Amend rules relating to grass carp to allow exceptions and clarify current rules for stocking.

*\*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., Portland, OR 97201

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

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Date:	Time:	Location:
7-11-03	8 a.m.	ODFW Commission Rm. 2501 SW First Ave. Portland, OR 97201

**Hearing Officer:** Fish & Wildlife Commission

**Stat. Auth.:** ORS 506.119 & 513.020; Other Auth.: HB 3094, 2003 OR State Legislature

**Stats. Implemented:** ORS 506.129, 508.025, 508.040 & 508.550

**Proposed Amendments:** Rules in 635-006

**Last Date for Comment:** 7-11-03

**Summary:** Amend rules to establish a pilot program for the sale of fish at locations away from vessels participating in commercial non-treaty Columbia River fisheries.

*\*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., Portland, OR 97201

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

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## Department of Geology and Mineral Industries Chapter 632

**Stat. Auth.:** ORS 516.090 & 195.260(4)(a)

**Stats. Implemented:** ORS 195.260(4)(a)

**Proposed Amendments:** 632-007-0000, 632-007-0010, 632-007-0020

**Last Date for Comment:** 6-21-03

**Summary:** The rule amends earlier version of rule that specified a certain Oregon Department of Geology and Mineral Industries publication as the map to use for identifying "Further Review Areas" of "Rapidly Moving Landslides". Amended rule defines that maps will be produced in cooperation with state and local jurisdictions as mandated and adopted by agency Governing Board.

**Rules Coordinator:** Gary Lynch

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

**Telephone:** (541) 967-2039

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

Date:	Time:	Location:
6-24-03	4 p.m.	Room 275 Human Services Bldg. 500 Summer St. NE Salem, OR

**Hearing Officer:** Barbara Carranza

**Stat. Auth.:** ORS 418.005

**Stats. Implemented:**

# NOTICES OF PROPOSED RULEMAKING

**Proposed Amendments:** 413-080-0200, 413-080-0260, 413-080-0270

**Last Date for Comment:** 6-30-03

**Summary:** The amendments clarify that tribal courts with an inter-governmental agreement with the Department of Human Services may access residential resources.

*\*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, OR 97301-1067

**Telephone:** (503) 945-6649

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

Date:	Time:	Location:
6-20-03	10:30 a.m.-12 p.m.	Room 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

**Last Date for Comment:** 6-20-03

**Summary:** The Pharmaceutical Services program rules govern Office of Medical Assistance Programs (OMAP) payments for pharmaceutical products and services provided to clients. Rule 410-121-0030 is being revised to update the Plan Drug List by defining the Practitioners Managed Prescription Drug Plan route of administration for the Estrogen class.

*\*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, E-35, Salem, OR 97301-0177

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

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**Stat. Auth.:** ORS 409.010 & 409.110

**Stats. Implemented:** ORS 414.065

**Proposed Amendments:** 410-121-0320

**Last Date for Comment:** 6-20-03

**Summary:** The Pharmaceutical Rules govern Office of Medical Assistance Programs payment for pharmaceutical products provided to clients. Rule 410-121-0320, Oregon Maximum Allowable Cost (OMAC) lists generated monthly and each list indicates the amount, per product, that OMAP will reimburse to providers for products provided to OMAP clients during that particular month. Rule 410-121-0320 is revised to include, by reference, all monthly First Health Service's OMAC listings received by OMAP for the time period of February 1, 2002 through and including December 1, 2003. Current OMAC lists are available on OMAP's website.

**Rules Coordinator:** Darlene Nelson

**Address:** Department of Human Services, Departmental Administration and Medical Assistance Programs, 500 Summer St. NE, E-35, Salem, OR 97301-0177

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

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**Stat. Auth.:** ORS 409.010 & 409.110

**Stats. Implemented:** ORS 414.065

**Proposed Amendments:** 410-121-0157

**Last Date for Comment:** 6-20-03, 5 p.m.

**Summary:** The Pharmaceutical Services program rules govern Office of Medical Assistance Programs (OMAP) payments for pharmaceutical products and services provided to clients. Rule 410-121-0157 is amended to reference the updated information regarding par-

icipating pharmaceutical companies to the Medicaid Drug Rebate Program, in compliance with federal regulations. Updates include information from CMS Release #122, dated April 22, 2003.

Interested persons may obtain copies or submit data or views concerning the proposed rulemaking by writing, faxing or emailing the Rules Coordinator at the address above. Comments received beyond the comment period will not be considered part of the record.

**Rules Coordinator:** Darlene Nelson

**Address:** Department of Human Services, Departmental Administration and Medical Assistance Programs, 500 Summer St. NE, E-35, Salem, OR 97301-0177

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

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

Date:	Time:	Location:
6-24-03	10 a.m.	Room 251 500 Summer St. NE Salem, OR

**Hearing Officer:** Annette Tesch

**Stat. Auth.:** ORS 411.060, 411.816 & 418.100; Other Auth.: Social Security Administration's (SSA) Program Operations Manual System (POMS), SI 00503.200 Basic SSI Alien Eligibility Requirements, Trafficking Victims Protection Act of 2002

**Stats. Implemented:** ORS 411.060, 411.816 & 418.100

**Proposed Amendments:** 461-120-0125

**Last Date for Comment:** 6-24-03

**Summary:** Rule 461-120-0125 is being amended because Social Security Administration (SSA) clarified that noncitizens who were in the United States prior to August 22, 1996 and were receiving SSI will continue to be eligible for SSI. Qualified noncitizens who entered the U.S. before the enactment of PRWORA but were not receiving SSI as of August 22, 1996 can qualify for SSI only if they meet SSI criteria for disability. SSI based on old age (age 65 or over) does not apply to noncitizens regardless of when they were admitted if they were not receiving the benefits on or before August 22, 1996. There are some exceptions, however. Qualified noncitizens who were: 1) admitted as refugees; 2) granted political asylum; 3) not deported because their deportation is being withheld; 4) admitted as a Cuban/Haitian entrant; or 5) admitted as an Amerasian immigrant, may be eligible for SSI for 7 years beginning with the date their status was granted. If their eligibility for SSI is based on being age 65 or older, their SSI benefits end when the 7 years are up. OSIP and OSIPM eligibility is based on SSI eligibility. Noncitizens who were certified as victims of a severe form of trafficking meet the alien status requirement for TANF.

(If you plan to attend the hearing and need auxiliary aids and services such as assistive listening devices or interpreters for the hearing impaired, please contact the Rules Coordinator as soon as possible about the type of aid or service needed. The hearing site is accessible for individuals with mobility impairments.)

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

**Rules Coordinator:** Annette Tesch

**Address:** Department of Human Services, Self-Sufficiency Programs, 500 Summer St. NE, E47, Salem, OR 97301-1066

**Telephone:** (503) 945-6067

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

**Stat. Auth.:** ORS 344.530

**Stats. Implemented:** ORS 344.511-344.690

**Proposed Adoptions:** 411-200-0010

**Last Date for Comment:** 6-23-03

# NOTICES OF PROPOSED RULEMAKING

**Summary:** The Department's Disability Determination Services section is amending 411-200-0010, General Policy rule under the Rates of Payment -- Medical rules to reflect the current fee schedules in the Federal Register.

**Rules Coordinator:** Pam Rouske

**Address:** Department of Human Services, Seniors and People with Disabilities, 500 Summer St. NE, E-25, Salem, OR 97301-1098

**Telephone:** (503) 945-6954

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

**Stat. Auth.:** ORS 181.640

**Stats. Implemented:** ORS 181.640

**Proposed Amendments:** 259-009-0062

**Last Date for Comment:** 6-23-03

**Summary:** The rule changes update the period of time for historical recognition of training completed before August 1, 2003, and puts in place the time line for completion of the task books. A copy of the proposed rules are available on our website, [www.dpsst.state.or.us](http://www.dpsst.state.or.us)

**Rules Coordinator:** Shawn M. Irish

**Address:** Department of Public Safety Standards and Training, 550 N Monmouth Ave., Monmouth, OR 97361

**Telephone:** (503) 378-2100, ext. 2223

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**Stat. Auth.:** ORS 181.640

**Stats. Implemented:** ORS 181.640

**Proposed Amendments:** 259-009-0070

**Last Date for Comment:** 6-23-03

**Summary:** Puts in place mandatory and discretionary criminal disqualifiers based on convictions of crimes for fire service professionals. A copy of the proposed rules are available on our website, [www.dpsst.state.or.us](http://www.dpsst.state.or.us)

**Rules Coordinator:** Shawn M. Irish

**Address:** Department of Public Safety Standards and Training, 550 N Monmouth Ave., Monmouth, OR 97361

**Telephone:** (503) 378-2100, ext. 2223

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**Stat. Auth.:** ORS 181.878

**Stats. Implemented:** ORS 181.878

**Proposed Amendments:** 259-060-0500

**Last Date for Comment:** 6-23-03

**Summary:** Increases the fees paid for issuance of Private Security licenses. A copy of the proposed rules are available on our website, [www.dpsst.state.or.us](http://www.dpsst.state.or.us)

**Rules Coordinator:** Shawn M. Irish

**Address:** Department of Public Safety Standards and Training, 550 N Monmouth Ave., Monmouth, OR 97361

**Telephone:** (503) 378-2100, ext. 2223

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

**Stat. Auth.:** ORS 184.616, 814.619 & 803.570

**Stats. Implemented:** ORS 803.570

**Proposed Amendments:** 735-032-0010

**Last Date for Comment:** 7-10-03

**Summary:** This rule establishes the plate manufacturing fee charged to DMV customers based upon the cost to have plates manufactured, as required by ORS 803.570. The purpose of the amendment is to reduce the plate manufacturing fee for a single plate from \$2.00 to \$1.50 and for a pair of plates from \$3.00 to \$2.50. DMV entered into a new agreement for the manufacture of plates, which resulted in a reduction in costs.

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

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## **Department of Transportation, Highway Division Chapter 734**

**Stat. Auth.:** ORS 184.616, 184.619, 810.050, 810.060 & 818.200

**Stats. Implemented:** ORS 810.060, 818.200 & 818.220

**Proposed Amendments:** 734-071-0005, 734-071-0010, 734-082-0009

**Last Date for Comment:** 7-10-03

**Summary:** House Bill 2686, introduced in the 2003 Legislative Session proposed establishing a variance permit exemption for fire apparatus that exceed maximum allowable size limits. Discussion regarding the bill led to a review of OAR 734-071-0005, which authorizes fire apparatus to exceed maximum statutory size limitations under certain circumstances without the need for a variance permit. But further review of federal law, 23 CFR 658.17, and subsequent discussion with the Oregon Department of Justice confirms that the excess size limits provided under OAR 734-071-0005 are not permissible on the National Network of highways. The proposed amendments to OAR 734-071-0005 and 0010 repeal the current exemption and the amendment to OAR 734-082-0009 establishes a variance permit requirement for oversized fire apparatus. The changes are necessary to comply with federal limits. In addition, the variance permit process will be used to create a database of all oversized fire apparatus providing the Department a means to communicate emergency highway or bridge restriction information to fire apparatus operators.

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, Highway Division, 1905 Lana Ave. NE, Salem, OR 97314

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

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## **Department of Transportation, Motor Carrier Transportation Division Chapter 740**

**Stat. Auth.:** ORS 823.011 & 825.232

**Stats. Implemented:** ORS 825.450

**Proposed Repeals:** 740-045-0160

**Last Date for Comment:** 7-10-03

**Summary:** One of the Motor Carrier Transportation Division missions is to reduce regulatory requirements wherever appropriate. The Governor's Regulatory Streamlining Initiative requires agencies to identify and eliminate regulations that impose unnecessary burdens on industry. OAR 740-045-0160 has been identified as a rule that is no longer necessary. The rule authorizes motor carriers who transport logs, poles, piling, or other wood residuals to augment their fleet as needed through a contractor/sub-contractor agreement with other motor carriers. The rule provides shippers with a single point of contact to fulfill their shipping needs and was originally necessary because motor carrier regulations did not allow a motor carrier to also act as a broker. The rule currently serves little purpose because motor carrier regulations no longer prohibit a motor carrier from acting as a broker. Repeal of this rule should not impact shippers, as the contractor carrier can broker excess loads to other authorized motor carriers to meet shipper demands.

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, Motor Carrier Transportation Division, 1905 Lana Ave. NE, Salem, OR 97314

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

# NOTICES OF PROPOSED RULEMAKING

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

**Date:** 8-20-03      **Time:** 10 a.m.      **Location:** Oregon Office of Energy  
Salem, OR

**Hearing Officer:** David Stewart-Smith  
**Stat. Auth.:** ORS 469.470 - 469.992; Other Auth.: OAR 345-001-0000

**Stats. Implemented:** ORS 469.300 - 469.619 & ORS 469.992

**Proposed Adoptions:** 345-024-0680

**Proposed Amendments:** 345-001-0010, 345-001-0090, 345-015-0085, 345-015-0110, 345-015-0190, 345-015-0310, 345-015-0320, 345-015-0350, 345-015-0360, 345-020-0011, 345-021-0000, 345-021-0010, 345-022-0000, 345-022-0022, 345-022-0030, 345-022-0040, 345-024-0550, 345-024-0560, 345-024-0590, 345-024-0600, 345-024-0620, 345-024-0630, 345-026-0080, 345-026-0390, 345-027-0023, 345-027-0060, 345-027-0070, 345-027-0110

**Last Date for Comment:** 8-20-03

**Summary:** In this rulemaking, the Energy Facility Siting Council (Council) would adopt rules relating to carbon dioxide (CO2) offset projects. Under current Council rules, a site certificate applicant may satisfy the CO2 emissions standard by proposing to implement offset projects. Proposed amendments in Division 21 would address information requirements for a CO2 offset project. Proposed amendments in Division 24 would explain how the Council would evaluate a proposed offset project.

Other proposed rule amendments would correct minor errors in the Council's rules, clarify rules and make a limited number of substantive rule changes based on knowledge gained from recent energy facility siting experience. Amendments to accomplish these purposes would affect the rules listed above, but may affect other rules or divisions in OAR Chapter 345.

A public hearing will be held August 20, 2003, at 10:00 AM. The deadline for submission of written comments is the close of the hearing by the hearing officer. In addition, the Council will accept oral public comments, but no further written comments, at a later Council meeting when the Council takes final action on the proposed amendments.

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

**Rules Coordinator:** Loretta Kohanes  
**Address:** Energy Facility Siting Council, 625 Marion St. NE, Salem, OR 97301-3742  
**Telephone:** (503) 378-2843

## Oregon Department of Education Chapter 581

**Date:** 7-1-03      **Time:** 3 p.m.      **Location:** Public Service Bldg.  
255 Capitol St. NE  
Salem, OR  
Room 251-B

**Hearing Officer:** Mike Reed  
**Stat. Auth.:** ORS 326.051 & 338.025  
**Stats. Implemented:** ORS 338.025  
**Proposed Amendments:** 581-020-0341  
**Last Date for Comment:** 7-1-03

**Summary:** The amendments to administrative rule 581-020-0341 will incorporate what has in fact been the State Board's practice since the original implementation of the charter law. In exercise of its discretion in approving waivers under ORS 338.025, the Board has decided to establish criteria for approving waivers, which includes requiring support from both charter school and the charter sponsor. The rule would be made retroactive to January 1, 2002 to be reflected in the waivers that have been approved since that time as well as those that have not been approved.

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  
*\*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

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**Date:** 7-1-03      **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(b)  
**Stats. Implemented:** ORS 326.051(g)  
**Proposed Adoptions:** 581-021-0021  
**Last Date for Comment:** 7-1-03

**Summary:** Mercury Elimination Policies -- Senate Bill 594 was enacted during the 2001 Legislative Session. This bill requires the State Board to adopt administrative rules to eliminate the use and purchase of elemental mercury, mercury compounds and mercury added instructional materials by public elementary and secondary schools. The administrative rule proposed here would implement that statutory requirement.

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  
*\*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:** 7-15-03      **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 471.430(3)  
**Proposed Amendments:** 845-006-0340  
**Last Date for Comment:** 7-29-03

**Summary:** This is the rule wherein the Commission sets out its criteria for assignment of minor posting signs at businesses which allow on-premises consumption. We need to make housekeeping changes to section (4) regarding language on the minor posting signs.  
*\*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

## Oregon Public Employees Retirement System Chapter 459

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**Date:** 6-26-03      **Time:** 2 p.m.      **Location:** Boardroom  
PERS Headquarters  
11410 SW 68th Pkwy  
Tigard, OR

**Hearing Officer:** Yvette Elledge

# NOTICES OF PROPOSED RULEMAKING

**Stat. Auth.:** ORS 238.650 & 235.156; Other Auth.: 38 USC Ch. 43  
**Stats. Implemented:** ORS 238.156  
**Proposed Amendments:** 459-011-0100, 459-011-0110  
**Last Date for Comment:** 7-31-03  
**Summary:** ORS 238.156(1) and (2) direct the PERS Board to adopt rules pertaining to contributions, benefits and service credit for military service, taking into account federal law addressing these topics. The proposed modification to OAR 459-011-0100 is intended to fulfill this requirement; specifically, to conform with the provisions of the federal Uniformed Services Employment and Reemployment Rights Act, or "USERRA."

ORS 238.156(3) provides military service credit for those employees who do not meet the eligibility requirements of USERRA. The proposed modification to OAR 459-011-0110 is intended to interpret and clarify the provisions of this section of the statute.

Copies of the proposed rules are available to any person upon request. The rules are also available at <http://www.pers.state.or.us/TOC.html>. Public Comment may be mailed to the above address or sent via e-mail 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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**Stat. Auth.:** ORS 183.310 - 183.550 & 238.650  
**Stats. Implemented:** ORS 238.320 - 238.345  
**Proposed Amendments:** 459-015-0030  
**Last Date for Comment:** 6-27-03  
**Summary:** The proposed rule modification conforms the provisions of OAR 459-015-0030 with those of OAR 459-001-0035, *Contested Case Hearings*, and OAR 459-001-0040, *Petitions for Reconsideration*.

Copies of the proposed rules are available to any person upon request. The rules are also available at <http://www.pers.state.or.us/TOC.html>. 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)

**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 University System Chapter 580

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
6-19-03	10-11 a.m.	Room 358 Susan Campbell Hall, UO Eugene, OR

**Hearing Officer:** Rebecca Bordreaux, Compensation Mgr.

**Stat. Auth.:** ORS 351.070  
**Stats. Implemented:** ORS 351.070  
**Proposed Amendments:** 580-020-0020  
**Last Date for Comment:** 6-23-03  
**Summary:** Relates to payment of compensation for academic staff. Amendment allows for payments to match the current annual calendar and the terms of the employment contracts.  
**Rules Coordinator:** W. Alayne Switzer  
**Address:** Department of Higher Education, PO Box 3175, Eugene, OR 97403-0175  
**Telephone:** (541) 346-5795

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<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
6-17-03	10-11 a.m.	Room 358 Susan Campbell Hall, UO Eugene, OR

**Hearing Officer:** Loren Stubbert, Assistant Vice Chancellor for Budget Planning and Operations

**Stat. Auth.:** ORS 351.070  
**Stats. Implemented:** ORS 351.070  
**Proposed Amendments:** 580-040-0040  
**Last Date for Comment:** 7-1-03  
**Summary:** To establish tuition and fees for the 2003-04 Academic Year, including room and board rates. The Board will take final action on these fees as a permanent rule at its July 2003 regularly scheduled meeting.

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

**Rules Coordinator:** W. Alayne Switzer  
**Address:** Department of Higher Education, PO Box 3175, Eugene, OR 97403-0175  
**Telephone:** (541) 346-5795

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

**Stat. Auth.:** ORS 351.070  
**Stats. Implemented:** ORS 352.360  
**Proposed Amendments:** 577-060-0020  
**Last Date for Comment:** 6-22-03  
**Summary:** The proposed amendment establishes additional fees, charges, fines, and deposits for General Services for the 2003-2004 fiscal year.

**Rules Coordinator:** Tyrene Bada  
**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) 725-3443

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**Stat. Auth.:** ORS 351.070  
**Stats. Implemented:** ORS 352.360  
**Proposed Amendments:** 577-070-0005 - 577-070-0050  
**Last Date for Comment:** 6-22-03  
**Summary:** To conform rules to changes in PSU regulation in compliance with ORS 352.360; to facilitate the administration and operation of its parking structures and parking lots, and to adjust fees and fines to assure recovery of costs of providing various administrative services.

**Rules Coordinator:** Tyrene Bada  
**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) 725-3443

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### Oregon University System, University of Oregon Chapter 571

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
6-20-03	9:30 a.m.	Board Room Erb Memorial Union, UO Eugene, OR

**Hearing Officer:** Deb Eldredge  
**Stat. Auth.:** ORS 351.070 & 352; Other Auth.: OAR 580-035-0005 et. seq

**Stats. Implemented:** ORS 351.070  
**Proposed Adoptions:** Rules in 571-020  
**Proposed Repeals:** Rules in 571-020  
**Last Date for Comment:** 6-20-03, 5 p.m.  
**Summary:** To update student records policy and bring it current.  
*\*Auxiliary aids for persons with disabilities are available upon advance request.*

**Rules Coordinator:** Deb Eldredge



# NOTICES OF PROPOSED RULEMAKING

**Address:** Oregon State System of Higher Education, University of Oregon, 1226 President's Office, University of Oregon, Eugene, OR 97403-1226

**Telephone:** (541) 346-3082

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## **Oregon Youth Authority Chapter 416**

**Stat. Auth.:** ORS 420A.025

**Stats. Implemented:** ORS 183.335, 183.341, 183.360

**Proposed Amendments:** 416-001-0000, 416-001-0005

**Last Date for Comment:** 7-3-03

**Summary:** The OYA has amended this rule to update language and reorganize its rule divisions; the names of organizations on the mailing list (416-001-0005) have been updated.

Interested persons may request a copy of this rule from Michelle Jayna, OYA Rules/Policy Coordinator, 530 Center Street, Suite 200, Salem, OR 97301; 503-378-3864.

**Rules Coordinator:** Michelle Jayna

**Address:** Oregon Youth Authority, 530 Center St. NE - Suite 200, Salem, OR 97301

**Telephone:** (503) 378-3864

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**Stat. Auth.:** ORS 420A.025

**Stats. Implemented:** ORS 420.014 & 420A.010

**Proposed Adoptions:** 416-010-0000, 416-010-0010

**Last Date for Comment:** 7-3-03

**Summary:** These rules provide for consistent definition of common terms relating to the OYA. It is intended that these definitions be applied to all rule divisions in Chapter 416.

Interested persons may request a copy of this rule from Michelle Jayna, OYA Rules/Policy Coordinator, 530 Center Street, Suite 200, Salem, OR 97301; 503-378-3864.

**Rules Coordinator:** Michelle Jayna

**Address:** Oregon Youth Authority, 530 Center St. NE - Suite 200, Salem, OR 97301

**Telephone:** (503) 378-3864

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**Stat. Auth.:** ORS 420A.025

**Stats. Implemented:** ORS 420A.010, 420A.014, 420A.015, 420A.108, 419C, 420 & 420A

**Proposed Amendments:** 416-020-0000, 416-020-0010, 416-020-0020, 416-020-0030, 416-020-0040, 416-020-0050

**Proposed Repeals:** 416-020-0060, 416-020-0070, 416-020-0080, 416-020-0090

**Last Date for Comment:** 7-3-03

**Summary:** The OYA has amended this rule to update language and reorganize its rule divisions. The reference to contracted providers grievance processes was removed from this rule language, because they are governed by contract language.

Interested persons may request a copy of this rule from Michelle Jayna, OYA Rules/Policy Coordinator, 530 Center Street, Suite 200, Salem, OR 97301; 503-378-3864.

**Rules Coordinator:** Michelle Jayna

**Address:** Oregon Youth Authority, 530 Center St. NE - Suite 200, Salem, OR 97301

**Telephone:** (503) 378-3864

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**Stat. Auth.:** ORS 420A.025

**Stats. Implemented:** ORS 183.310 - 183.550

**Proposed Amendments:** 416-030-0000, 416-030-0010, 416-030-0020

**Proposed Repeals:** 416-030-0030, 416-030-0040, 416-030-0050, 416-030-0060, 416-030-0070, 416-030-0080, 416-030-0090, 416-030-0100, 416-030-0110

**Last Date for Comment:** 7-3-03

**Summary:** The OYA has amended this rule to update language and reorganize its rule divisions.

Interested persons may request a copy of this rule from Michelle Jayna, OYA Rules/Policy Coordinator, 530 Center Street, Suite 200, Salem, OR 97301; 503-378-3864.

**Rules Coordinator:** Michelle Jayna

**Address:** Oregon Youth Authority, 530 Center St. NE - Suite 200, Salem, OR 97301

**Telephone:** (503) 378-3864

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**Stat. Auth.:** ORS 420A.025

**Stats. Implemented:** ORS 97.170 - 97.210, 420A.010, 419C.481, 419C.550, 419C.555 - 419C.561

**Proposed Amendments:** 416-050-0000, 416-050-0010

**Proposed Repeals:** 416-050-0020, 416-050-0030

**Last Date for Comment:** 7-3-03

**Summary:** The OYA has amended this rule to update language and reorganize its rule divisions. Discussion of allowable costs is added.

Interested persons may request a copy of this rule from Michelle Jayna, OYA Rules/Policy Coordinator, 530 Center Street, Suite 200, Salem, OR 97301; 503-378-3864.

**Rules Coordinator:** Michelle Jayna

**Address:** Oregon Youth Authority, 530 Center St. NE - Suite 200, Salem, OR 97301

**Telephone:** (503) 378-3864

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**Stat. Auth.:** ORS 420A.025

**Stats. Implemented:** ORS 419C.478, 419C.550, 419C.555, 419C.558, 420.011

**Proposed Amendments:** 416-120-0000, 416-120-0010, 416-120-0020

**Last Date for Comment:** 7-3-03

**Summary:** The OYA has amended this rule to update language and reorganize its rule divisions. As well, references to delegation of duties was updated to reflect recent changes in OYA administrative structure.

Interested persons may request a copy of this rule from Michelle Jayna, OYA Rules/Policy Coordinator, 530 Center Street, Suite 200, Salem, OR 97301; 503-378-3864.

**Rules Coordinator:** Michelle Jayna

**Address:** Oregon Youth Authority, 530 Center St. NE - Suite 200, Salem, OR 97301

**Telephone:** (503) 378-3864

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**Stat. Auth.:** ORS 420A.025

**Stats. Implemented:** ORS 131.040, 420.014, 420A.010

**Proposed Adoptions:** 416-150-0040, 416-150-0050

**Proposed Amendments:** 416-150-0000, 416-150-0010, 416-150-0020, 416-150-0030

**Last Date for Comment:** 7-3-03

**Summary:** The OYA has amended this rule to update language and reorganize its rule divisions. As well, process is amended to allow for tape recording of offender interviews by law enforcement agencies.

Interested persons may request a copy of this rule from Michelle Jayna, OYA Rules/Policy Coordinator, 530 Center Street, Suite 200, Salem, OR 97301; 503-378-3864.

**Rules Coordinator:** Michelle Jayna

**Address:** Oregon Youth Authority, 530 Center St. NE - Suite 200, Salem, OR 97301

**Telephone:** (503) 378-3864

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**Stat. Auth.:** ORS 420A.025

**Stats. Implemented:**

**Proposed Repeals:** 416-160-0000, 416-160-0010, 416-160-0020, 416-160-0030, 416-160-0040, 416-160-0050, 416-160-0060, 416-160-0070

# NOTICES OF PROPOSED RULEMAKING

**Last Date for Comment:** 7-3-03

**Summary:** The federal Indian Child Welfare Act does not pertain to juvenile delinquency cases, therefore this rule division is unnecessary.

Interested persons may request a copy of this rule from Michelle Jayna, OYA Rules/Policy Coordinator, 530 Center Street, Suite 200, Salem, OR 97301; 503-378-3864.

**Rules Coordinator:** Michelle Jayna

**Address:** Oregon Youth Authority, 530 Center St. NE - Suite 200, Salem, OR 97301

**Telephone:** (503) 378-3864

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**Stat. Auth.:** ORS 420A.025

**Stats. Implemented:** ORS 420A.045, 420A.105, 420A.115, 420A.120, 420A.905, 420A.910

**Proposed Amendments:** 416-300-0000, 416-300-0010, 416-300-0020, 416-300-0030, 416-300-0040, 416-300-0050, 416-300-0060, 416-300-0070, 416-300-0080, 416-300-0090

**Proposed Repeals:** 416-300-0100, 416-300-0110, 416-300-0120

**Last Date for Comment:** 7-3-03

**Summary:** The OYA has amended this rule to update language and reorganize its rule divisions.

Interested persons may request a copy of this rule from Michelle Jayna, OYA Rules/Policy Coordinator, 530 Center Street, Suite 200, Salem, OR 97301; 503-378-3864.

**Rules Coordinator:** Michelle Jayna

**Address:** Oregon Youth Authority, 530 Center St. NE - Suite 200, Salem, OR 97301

**Telephone:** (503) 378-3864

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**Stat. Auth.:** ORS 420A.025

**Stats. Implemented:**

**Proposed Repeals:** 416-310-0000, 416-310-0010, 416-310-0020, 416-310-0030

**Last Date for Comment:** 7-3-03

**Summary:** The relevant topics in this rule division were moved to Division 300.

Interested persons may request a copy of this rule from Michelle Jayna, OYA Rules/Policy Coordinator, 530 Center Street, Suite 200, Salem, OR 97301; 503-378-3864.

**Rules Coordinator:** Michelle Jayna

**Address:** Oregon Youth Authority, 530 Center St. NE - Suite 200, Salem, OR 97301

**Telephone:** (503) 378-3864

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**Stat. Auth.:** ORS 420A.025

**Stats. Implemented:** ORS 420.910 & 420.915

**Proposed Amendments:** 416-320-0000, 416-320-0010, 416-320-0020, 416-320-0030

**Last Date for Comment:** 7-3-03

**Summary:** The OYA has amended this rule to update language and reorganize its rule divisions.

Interested persons may request a copy of this rule from Michelle Jayna, OYA Rules/Policy Coordinator, 530 Center Street, Suite 200, Salem, OR 97301; 503-378-3864.

**Rules Coordinator:** Michelle Jayna

**Address:** Oregon Youth Authority, 530 Center St. NE - Suite 200, Salem, OR 97301

**Telephone:** (503) 378-3864

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**Stat. Auth.:** ORS 420A.025

**Stats. Implemented:** ORS 420A.010 & 420A.014

**Proposed Adoptions:** 416-330-0020, 416-330-0030, 416-330-0040

**Proposed Amendments:** 416-330-0000, 416-330-0010

**Last Date for Comment:** 7-3-03

**Summary:** The OYA has amended this rule to update language and reorganize its rule divisions.

Interested persons may request a copy of this rule from Michelle Jayna, OYA Rules/Policy Coordinator, 530 Center Street, Suite 200, Salem, OR 97301; 503-378-3864.

**Rules Coordinator:** Michelle Jayna

**Address:** Oregon Youth Authority, 530 Center St. NE - Suite 200, Salem, OR 97301

**Telephone:** (503) 378-3864

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**Stat. Auth.:** ORS 420A.025

**Stats. Implemented:** ORS 418.517, 420A.010, 420A.014 & 420.054

**Proposed Amendments:** 416-340-0000, 416-340-0010, 416-340-0020, 416-340-0030, 416-340-0040, 416-340-0050, 416-340-0060

**Proposed Repeals:** 416-340-0070, 416-340-0080, 416-340-0090, 416-340-0100, 416-340-0110

**Last Date for Comment:** 7-3-03

**Summary:** The OYA has amended this rule to update language and reorganize its rule divisions. Relevant portions of three divisions were combined here, and the process updated to reflect current medication administration/storage standards and OYA administrative structure.

Interested persons may request a copy of this rule from Michelle Jayna, OYA Rules/Policy Coordinator, 530 Center Street, Suite 200, Salem, OR 97301; 503-378-3864.

**Rules Coordinator:** Michelle Jayna

**Address:** Oregon Youth Authority, 530 Center St. NE - Suite 200, Salem, OR 97301

**Telephone:** (503) 378-3864

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**Stat. Auth.:** ORS 420A.025

**Stats. Implemented:** ORS 420A.010, 420.014, 420.077 & 420.892

**Proposed Amendments:** 416-350-0000, 416-350-0010, 416-350-0020, 416-350-0030

**Last Date for Comment:** 7-3-03

**Summary:** The OYA has amended this rule to update language and reorganize its rule divisions. Related topics from other rule divisions were added.

Interested persons may request a copy of this rule from Michelle Jayna, OYA Rules/Policy Coordinator, 530 Center Street, Suite 200, Salem, OR 97301; 503-378-3864.

**Rules Coordinator:** Michelle Jayna

**Address:** Oregon Youth Authority, 530 Center St. NE - Suite 200, Salem, OR 97301

**Telephone:** (503) 378-3864

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**Stat. Auth.:** ORS 420A.025

**Stats. Implemented:**

**Proposed Repeals:** 416-360-0000, 416-360-0010, 416-360-0020, 416-360-0030, 416-360-0040

**Last Date for Comment:** 7-3-03

**Summary:** Relevant topics from this rule division were moved to Division 330.

Interested persons may request a copy of this rule from Michelle Jayna, OYA Rules/Policy Coordinator, 530 Center Street, Suite 200, Salem, OR 97301; 503-378-3864.

**Rules Coordinator:** Michelle Jayna

**Address:** Oregon Youth Authority, 530 Center St. NE - Suite 200, Salem, OR 97301

**Telephone:** (503) 378-3864

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**Stat. Auth.:** ORS 420A.025

**Stats. Implemented:**

**Proposed Repeals:** 416-370-0000, 416-370-0010, 416-370-0020, 416-370-0030, 416-370-0040, 416-370-0050, 416-370-0060, 416-370-0070, 416-370-0080

## NOTICES OF PROPOSED RULEMAKING

**Last Date for Comment:** 7-3-03

**Summary:** This rule topic does not apply to delinquency cases.

Interested persons may request a copy of this rule from Michelle Jayna, OYA Rules/Policy Coordinator, 530 Center Street, Suite 200, Salem, OR 97301; 503-378-3864.

**Rules Coordinator:** Michelle Jayna

**Address:** Oregon Youth Authority, 530 Center St. NE - Suite 200, Salem, OR 97301

**Telephone:** (503) 378-3864

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**Stat. Auth.:** ORS 420A.025

**Stats. Implemented:**

**Proposed Repeals:** 416-380-0000, 416-380-0010, 416-380-0020, 416-380-0030, 416-380-0040, 416-380-0050, 416-380-0060, 416-380-0070

**Last Date for Comment:** 7-3-03

**Summary:** Relevant portions of this rule division were moved to Division 350.

Interested persons may request a copy of this rule from Michelle Jayna, OYA Rules/Policy Coordinator, 530 Center Street, Suite 200, Salem, OR 97301; 503-378-3864.

**Rules Coordinator:** Michelle Jayna

**Address:** Oregon Youth Authority, 530 Center St. NE - Suite 200, Salem, OR 97301

**Telephone:** (503) 378-3864

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**Stat. Auth.:** ORS 420A.025

**Stats. Implemented:** ORS 420A

**Proposed Amendments:** 416-390-0000 - 416-390-0360

**Last Date for Comment:** 7-3-03

**Summary:** The OYA has amended this rule to update language and reorganize its rule divisions.

Interested persons may request a copy of this rule from Michelle Jayna, OYA Rules/Policy Coordinator, 530 Center Street, Suite 200, Salem, OR 97301; 503-378-3864.

**Rules Coordinator:** Michelle Jayna

**Address:** Oregon Youth Authority, 530 Center St. NE - Suite 200, Salem, OR 97301

**Telephone:** (503) 378-3864

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**Stat. Auth.:** ORS 420A.025

**Stats. Implemented:**

**Proposed Repeals:** 416-400-0000, 416-400-0010

**Last Date for Comment:** 7-3-03

**Summary:** Relevant portions of this rule division were moved to Division 150.

Interested persons may request a copy of this rule from Michelle Jayna, OYA Rules/Policy Coordinator, 530 Center Street, Suite 200, Salem, OR 97301; 503-378-3864.

**Rules Coordinator:** Michelle Jayna

**Address:** Oregon Youth Authority, 530 Center St. NE - Suite 200, Salem, OR 97301

**Telephone:** (503) 378-3864

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**Stat. Auth.:** ORS 420A.025

**Stats. Implemented:** ORS 419C.495, 420.011, 420.014 & 420.019

**Proposed Amendments:** 416-410-0000, 416-410-0010, 416-410-0020, 416-410-0030, 416-410-0050, 416-410-0060

**Proposed Repeals:** 416-410-0070

**Last Date for Comment:** 7-3-03

**Summary:** The OYA has amended this rule to update language and reorganize its rule divisions. Information from three different rule divisions was combined.

Interested persons may request a copy of this rule from Michelle Jayna, OYA Rules/Policy Coordinator, 530 Center Street, Suite 200, Salem, OR 97301; 503-378-3864.

**Rules Coordinator:** Michelle Jayna

**Address:** Oregon Youth Authority, 530 Center St. NE - Suite 200, Salem, OR 97301

**Telephone:** (503) 378-3864

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**Stat. Auth.:** ORS 420A.025

**Stats. Implemented:** ORS 420.014

**Proposed Amendments:** 416-420-0000, 416-420-0010, 416-420-0020, 416-420-0030

**Proposed Repeals:** 416-420-0040, 416-420-0050

**Last Date for Comment:** 7-3-03

**Summary:** The OYA has amended this rule to update language and reorganize its rule divisions.

Interested persons may request a copy of this rule from Michelle Jayna, OYA Rules/Policy Coordinator, 530 Center Street, Suite 200, Salem, OR 97301; 503-378-3864.

**Rules Coordinator:** Michelle Jayna

**Address:** Oregon Youth Authority, 530 Center St. NE - Suite 200, Salem, OR 97301

**Telephone:** (503) 378-3864

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**Stat. Auth.:** ORS 420A.025

**Stats. Implemented:** ORS 419C.478, 420A.125, 420.014 & 420A.010

**Proposed Amendments:** 416-430-0000, 416-430-0010, 416-430-0020, 416-430-0025, 416-430-0030, 416-430-0040

**Proposed Repeals:** 416-430-0050

**Last Date for Comment:** 7-3-03

**Summary:** The OYA has amended this rule to update language and reorganize its rule divisions.

Interested persons may request a copy of this rule from Michelle Jayna, OYA Rules/Policy Coordinator, 530 Center Street, Suite 200, Salem, OR 97301; 503-378-3864.

**Rules Coordinator:** Michelle Jayna

**Address:** Oregon Youth Authority, 530 Center St. NE - Suite 200, Salem, OR 97301

**Telephone:** (503) 378-3864

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**Stat. Auth.:** ORS 420A.025

**Stats. Implemented:** ORS 420A.010 & 420A.014

**Proposed Amendments:** 416-440-0000, 416-440-0010, 416-440-0020, 416-440-0030

**Last Date for Comment:** 7-3-03

**Summary:** The OYA has amended this rule to update language and reorganize its rule divisions.

Interested persons may request a copy of this rule from Michelle Jayna, OYA Rules/Policy Coordinator, 530 Center Street, Suite 200, Salem, OR 97301; 503-378-3864.

**Rules Coordinator:** Michelle Jayna

**Address:** Oregon Youth Authority, 530 Center St. NE - Suite 200, Salem, OR 97301

**Telephone:** (503) 378-3864

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**Stat. Auth.:** ORS 420A.025

**Stats. Implemented:** ORS 420A.010

**Proposed Amendments:** 416-450-0010, 416-450-0040, 416-450-0060

**Last Date for Comment:** 7-3-03

**Summary:** The OYA has amended this rule to update language and reorganize its rule divisions; and reflects changes in the OYA administrative structure.

Interested persons may request a copy of this rule from Michelle Jayna, OYA Rules/Policy Coordinator, 530 Center Street, Suite 200, Salem, OR 97301; 503-378-3864.

**Rules Coordinator:** Michelle Jayna

**Address:** Oregon Youth Authority, 530 Center St. NE - Suite 200, Salem, OR 97301

**Telephone:** (503) 378-3864

# NOTICES OF PROPOSED RULEMAKING

**Stat. Auth.:** ORS 420A.025  
**Stats. Implemented:**  
**Proposed Repeals:** 416-510-0000, 416-510-0010, 416-510-0020, 416-510-0030, 416-510-0040, 416-510-0050, 416-510-0060, 416-510-0070, 416-510-0080, 416-510-0090

**Last Date for Comment:** 7-3-03  
**Summary:** Relevant sections of this rule division were moved to Division 530.

Interested persons may request a copy of this rule from Michelle Jayna, OYA Rules/Policy Coordinator, 530 Center Street, Suite 200, Salem, OR 97301; 503-378-3864.

**Rules Coordinator:** Michelle Jayna  
**Address:** Oregon Youth Authority, 530 Center St. NE - Suite 200, Salem, OR 97301  
**Telephone:** (503) 378-3864

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**Stat. Auth.:** ORS 420A.025  
**Stats. Implemented:**  
**Proposed Repeals:** 416-520-0000, 416-520-0010, 416-520-0020, 416-520-0030, 416-520-0040, 416-520-0050, 416-520-0060, 416-520-0070, 416-520-0080, 416-520-0090, 416-520-0100, 416-520-0110, 416-520-0120

**Last Date for Comment:** 7-3-03  
**Summary:** Relevant sections of this rule division were moved to Division 330.

Interested persons may request a copy of this rule from Michelle Jayna, OYA Rules/Policy Coordinator, 530 Center Street, Suite 200, Salem, OR 97301; 503-378-3864.

**Rules Coordinator:** Michelle Jayna  
**Address:** Oregon Youth Authority, 530 Center St. NE - Suite 200, Salem, OR 97301  
**Telephone:** (503) 378-3864

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**Stat. Auth.:** ORS 420A.025  
**Stats. Implemented:** ORS 420.888 - 420.892, 420A.014 & 420A.010  
**Proposed Adoptions:** 416-530-0125, 416-530-0130, 416-530-0140, 416-530-0150, 416-530-0160  
**Proposed Amendments:** 416-530-0000, 416-530-0010, 416-530-0020, 416-530-0030, 416-530-0040, 416-530-0050, 416-530-0060, 416-530-0070, 416-530-0080, 416-530-0090, 416-530-0100, 416-530-0110

**Last Date for Comment:** 7-3-03  
**Summary:** The OYA has amended this rule to update language and reorganize its rule divisions.

Interested persons may request a copy of this rule from Michelle Jayna, OYA Rules/Policy Coordinator, 530 Center Street, Suite 200, Salem, OR 97301; 503-378-3864.

**Rules Coordinator:** Michelle Jayna  
**Address:** Oregon Youth Authority, 530 Center St. NE - Suite 200, Salem, OR 97301  
**Telephone:** (503) 378-3864

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**Stat. Auth.:** ORS 420A.025  
**Stats. Implemented:**  
**Proposed Repeals:** 416-550-0000, 416-550-0010, 416-550-0020, 416-550-0030, 416-550-0040, 416-550-0050, 416-550-0060, 416-550-0070, 416-550-0080

**Last Date for Comment:** 7-3-03  
**Summary:** Relevant sections of this rule division were moved to Division 530.

Interested persons may request a copy of this rule from Michelle Jayna, OYA Rules/Policy Coordinator, 530 Center Street, Suite 200, Salem, OR 97301; 503-378-3864.

**Rules Coordinator:** Michelle Jayna

**Address:** Oregon Youth Authority, 530 Center St. NE - Suite 200, Salem, OR 97301  
**Telephone:** (503) 378-3864

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**Stat. Auth.:** ORS 420A.025  
**Stats. Implemented:**  
**Proposed Repeals:** 416-630-0000, 416-630-0010, 416-630-0020, 416-630-0030, 416-630-0040, 416-630-0050

**Last Date for Comment:** 7-3-03  
**Summary:** Relevant sections of this rule division were moved to Division 340.

Interested persons may request a copy of this rule from Michelle Jayna, OYA Rules/Policy Coordinator, 530 Center Street, Suite 200, Salem, OR 97301; 503-378-3864.

**Rules Coordinator:** Michelle Jayna  
**Address:** Oregon Youth Authority, 530 Center St. NE - Suite 200, Salem, OR 97301  
**Telephone:** (503) 378-3864

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**Stat. Auth.:** ORS 420A.025  
**Stats. Implemented:** ORS 420A  
**Proposed Amendments:** 416-640-0000 - 416-640-0030  
**Last Date for Comment:** 7-3-03  
**Summary:** The OYA has amended this rule to update language and reorganize its rule divisions.

Interested persons may request a copy of this rule from Michelle Jayna, OYA Rules/Policy Coordinator, 530 Center Street, Suite 200, Salem, OR 97301; 503-378-3864.

**Rules Coordinator:** Michelle Jayna  
**Address:** Oregon Youth Authority, 530 Center St. NE - Suite 200, Salem, OR 97301  
**Telephone:** (503) 378-3864

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**Stat. Auth.:** ORS 420A.025  
**Stats. Implemented:**  
**Proposed Repeals:** 416-650-0000, 416-650-0010, 416-650-0020, 416-650-0030, 416-650-0040, 416-650-0050

**Last Date for Comment:** 7-3-03  
**Summary:** Relevant sections of this rule division were moved to Division 410.

Interested persons may request a copy of this rule from Michelle Jayna, OYA Rules/Policy Coordinator, 530 Center Street, Suite 200, Salem, OR 97301; 503-378-3864.

**Rules Coordinator:** Michelle Jayna  
**Address:** Oregon Youth Authority, 530 Center St. NE - Suite 200, Salem, OR 97301  
**Telephone:** (503) 378-3864

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## Parks and Recreation Department Chapter 736

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
6-25-03	7 p.m.	OPRD Headquarters 1115 Commercial Street Salem, OR
7-1-03	7 p.m.	Beverly Beach State Park Yurt Meeting Hall 198 NE 123rd St. Newport, OR 97367
7-1-03	7 p.m.	Central Oregon Environmental 16 NE Kansas Bend, OR 97701
7-8-03	7 p.m.	Human Resource Building 104 Litch St. Enterprise, OR 97828
7-9-03	7 p.m.	Coos Bay City Council Chambers 500 Central Coos Bay, OR 97420

# NOTICES OF PROPOSED RULEMAKING

- |         |        |                                                                                |
|---------|--------|--------------------------------------------------------------------------------|
| 7-9-03  | 7 p.m. | Pendleton City Hall<br>Public Meeting Rm.<br>501 SW Emigrant<br>Pendleton, OR  |
| 7-15-03 | 7 p.m. | John Day Senior Center<br>142 NE Dayton<br>John Day, OR                        |
| 7-17-03 | 7 p.m. | Gold Beach<br>City Council Chambers<br>29592 Ellensburg Ave.<br>Gold Beach, OR |

**Hearing Officer:** Kate Schutt, Steve Brutscher

**Stat. Auth.:** ORS 390.124

**Stats. Implemented:** ORS 390.111 & 390.121

**Proposed Amendments:** 736-010-0120

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

**Summary:** The amendment to ORS 736-010-0120 increases the number of Oregon State Parks where day use fees are collected. These changes are necessary to partially offset future revenue shortfalls, apply the program consistently statewide, and keep the fees affordable to the public. The amendment will also clarify the process for obtaining 12 and 24 month day use passes for extra-vehicles and establish the Certificate of Approval to Provide Foster Care issued by Oregon Department of Human Services as the acceptable form of identification for obtaining fee exemptions at Oregon State Park campgrounds and day use areas.

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

**Rules Coordinator:** Angie Springer

**Address:** Parks and Recreation Department, 1115 Commercial St. NE, Salem, OR 97301

**Telephone:** (503) 378-4168, ext. 223

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- | Date:   | Time:  | Location:                                                       |
|---------|--------|-----------------------------------------------------------------|
| 6-17-03 | 7 p.m. | 1115 Commercial St. NE<br>Salem, OR                             |
| 6-18-03 | 7 p.m. | Jefferson Co. Senior Center<br>860 SW Madison St.<br>Madras, OR |

**Hearing Officer:** Jan Houck

**Stat. Auth.:** ORS 390.124; Other Auth.: Lower Deschutes River Management Plan

**Stats. Implemented:** ORS 390.805 - 390.940

**Proposed Amendments:** 736-040-0070, 736-040-0071

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

**Summary:** Proposed amendments to 736-040-0070(4) modify rules affecting the public use of the Deschutes River Scenic Waterway by adding new definitions and provisions affecting camping, designated camp sites, group size and capacity, riding on the exterior of vehicles or in or on loads on the back or top of a vehicle and swimming or floating through Moody Rapids with or without a flotation device.

Proposed amendments to OAR 736-040-0071(2), (6) and (8) modify existing definitions, add new definitions, change the effective dates of Deschutes annual passes and add Internet sales as a source of daily Deschutes boater passes.

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

**Rules Coordinator:** Angie Springer

**Address:** Parks and Recreation Department, 1115 Commercial St. NE, Salem, OR 97301

**Telephone:** (503) 378-4168, ext. 223

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## Physical Therapist Licensing Board Chapter 848

- | Date:   | Time:   | Location:                                                    |
|---------|---------|--------------------------------------------------------------|
| 6-24-03 | 12 p.m. | 800 NE Oregon Street<br>Suite 445<br>Portland, OR 97232-2162 |

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

**Stat. Auth.:** ORS 182.462

**Stats. Implemented:** ORS 182.462

**Proposed Amendments:** 848-010-0105

**Last Date for Comment:** 6-24-03

**Summary:** [The Board's budgeted operating expenditures for the 2001-2003 biennium are \$562,202.]

The Physical Therapist Licensing Board hereby adopts by reference the Physical Therapist Licensing Board 2003-005 Biennium Budget of \$740,765 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 \$740,765 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 holding a public hearing thereon as required by ORS Chapter 182.462(1) and (2). Copies of the budget are available 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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## Public Utility Commission Chapter 860

**Stat. Auth.:** ORS 183, 192, 756, 757 & 759

**Stats. Implemented:** ORS 756.040, 756.310, 756.320 & 756.350

**Proposed Adoptions:** 860-036-0097, 860-037-0097

**Proposed Amendments:** 860-011-0022, 860-011-0023, 860-011-0024, 860-021-0034, 860-021-0037, 860-036-0095, 860-037-0095

**Last Date for Comment:** 6-21-03

**Summary:** The rules for electric, gas, steam heat, wastewater, and water utilities (public utilities) should be consistent with the rules for telecommunications utilities and competitive telecommunications providers (telecommunications providers). However, the annual PUC fee rules for public utilities do not contain all the collection and audit provisions required for telecommunications providers. Therefore, the Commission should open a rulemaking proceeding to add OARs 860-036-0097 and 860-037-0097, and amend OARs 860-011-0022, 860-011-0023, 860-011-0024, 860-021-0034, 860-021-0037, 860-036-0095 and 860-037-0095.

**Rules Coordinator:** Lauri Salisbury

**Address:** Public Utility Commission of Oregon, 550 Capitol St. NE, Suite 215, Salem, OR 97301-2551

**Telephone:** (503) 378-4372

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## Real Estate Agency Chapter 863

**Stat. Auth.:** ORS 92, 94, 183.335 & 696.385; Other Auth.: Attny. General's Model Rules of Procedure, 12-23-99

**Stats. Implemented:** ORS 94.803, 94.823, 94.826, 94.873, 94.878, 94.959 & 94.980

**Proposed Amendments:** 863-030-0060, 863-030-0065, 863-030-0075, 863-030-0080, 863-040-0010, 863-040-0040

**Last Date for Comment:** 6-23-03

**Summary:** In accordance with the Governor's directive to eliminate unnecessary regulation and to streamline the regulatory process, these proposed administrative rules eliminate redundant and unnecessary regulations.

**Rules Coordinator:** Brian DeMarco

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

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

# ADMINISTRATIVE RULES

## Appraiser Certification and Licensure Board Chapter 161

Hist.: ACLB 4-2001(Temp), f. & cert. ef. 9-12-01 thru 3-1-02; ACLB 1-2002, f. & cert. ef. 2-26-02; ACLB 1-2003(Temp), f. & cert. ef. 1-14-03 thru 7-11-03; ACLB 3-2003, f. & cert. ef. 5-1-03

**Adm. Order No.:** ACLB 3-2003

**Filed with Sec. of State:** 5-1-2003

**Certified to be Effective:** 5-1-03

**Notice Publication Date:** 4-1-03

**Rules Amended:** 161-001-0010, 161-006-0025, 161-006-0175, 161-010-0020, 161-010-0025, 161-010-0035, 161-010-0045, 161-010-0055, 161-010-0080, 161-015-0000, 161-020-0045, 161-020-0055, 161-020-0110, 161-020-0120, 161-020-0150, 161-050-0050

**Subject:** Permanent changes to Oregon Administrative Rules 161, Division 1 regarding notice of proposed rulemaking; Division 6 regarding amendment of budget dollar amount, and enforcement guidelines; Division 10 regarding qualifying appraiser experience, education and experience requirements; Division 15 regarding application process; Division 20 regarding education courses and requirements; and Division 50 regarding reciprocity.

**Rules Coordinator:** Karen Turnbow — (503) 485-2555

### 161-001-0010

#### Notice of Proposed Rulemaking

Prior to adoption, amendment or repeal of any rule, the Board shall give notice of the intended action as required by ORS chapter 183 and by mailing or furnishing a copy of the notice to:

- (1) The Associated Press;
- (2) Capitol Press Room;
- (3) The following associations and organizations:
  - (a) American Society of Appraisers - Oregon Chapter;
  - (b) American Society of Farm Managers and Rural Appraisers — Oregon Chapter;
  - (c) Appraisal Foundation;
  - (d) Oregon Federal Housing Agency;
  - (e) Greater Oregon Chapter of the Appraisal Institute;
  - (f) International Association of Assessing Officers — Oregon Chapter;

(g) International Society of Appraisers - NW Chapter;  
(h) International Right-of-Way Appraisers Association — Oregon Chapter 3;

(i) National Association of Independent Fee Appraisers — Oregon Chapter;

- (j) National Association of Master Appraisers;
- (k) Oregon Association of Realtors;
- (l) Oregon Bankers Association;
- (m) Oregon League of Financial Institutions;
- (n) Oregon Mortgage Bankers Association;
- (o) The Appraisal Subcommittee of the Federal Financial Institutions Examinations Council;

- (p) The Appraiser Qualifications Board of the Appraisal Foundation;
- (q) The Appraisal Standards Board of the Appraisal Foundation;
- (r) Veterans' Administration;
- (s) Federal Housing Administration;
- (t) Oregon Department of Transportation;
- (u) Oregon Department of Veteran's Affairs;
- (v) Oregon Department of Revenue;
- (w) Oregon Association of Mortgage Brokers.

Stat. Auth.: ORS 674.305 & ORS 674.310  
Stats. Implemented: ORS 674

Hist.: ACLB 1-1991(Temp), f. & cert. ef. 5-15-91; ACLB 7-1991, f. & cert. ef. 12-23-91; ACLB 1-1994, f. & cert. ef. 2-1-94; ACLB 1-1998, f. & cert. ef. 7-1-98; ACLB 1-2002, f. & cert. ef. 2-26-02; ACLB 3-2003, f. & cert. ef. 5-1-03

### 161-006-0025

#### Budget

The Board hereby adopts by reference the Board's 2001-2003 Biennium Budget of \$766,764 covering the period from August 22, 2001 through June 30, 2003. The Board will amend budgeted accounts as necessary within the approved budget of \$766,764 for the effective operation of the Board. The Board will not exceed the approved 2001-2003 Biennium Budget without amending this rule, notifying holders of licenses, and holding a public hearing thereon as required by ORS Chapter 182.462(1)(2). Copies of the budget are available from the Board's office.

Stat. Auth.: ORS 674.305(8) & ORS 674.310  
Stats. Implemented: ORS 674

### 161-006-0175

#### Enforcement Guidelines

The primary objective of the enforcement guidelines is to fairly and consistently apply appropriate sanctions for violations of Oregon Revised Statutes and Oregon Administrative Rules governing real estate appraisal activity.

(1) Sanction Guidelines Grid [Grid not included. See ED. NOTE]

(2) The Notice shall propose the presumptive sanction(s) provided by the guidelines in OAR 161-006-0175(1) unless there are substantial and compelling reason(s) to propose a departure. If the Notice departs from the presumptive sanctions, the Notice shall state the substantial and compelling reason(s) for the departure.

(3) The Administrator or the Administrator's designee shall have the authority to negotiate and approve a stipulated settlement at any time prior to review of a Proposed Order by the Board. If the parties stipulate to depart from the guidelines, the Administrator or the Administrator's designee shall consider the purpose and principles of the guidelines and may agree to sanctions that are proportionate to the seriousness of the violations.

(4) Departure from the guidelines shall also be allowed in issuance of a Proposed Order by an Administrative Law Judge and/or a Final Order by the Board upon a showing of substantial and compelling reason(s) for said departure. Substantial and compelling reason(s) shall be stated in the Proposed Order and/or Final Order.

(5) In the event of second or subsequent violations of ORS 674.140(2) and/or 674.140(7), the Administrator shall not consider a prior Final Order that was issued more than five (5) years preceding the date of the second or subsequent notice of proposed sanctions.

[ED NOTE: Grid referenced is available from the agency.]

Stat. Auth.: ORS 674.140 & ORS 674.310

Stats. Implemented: ORS 674

Hist.: ACLB 1-1998, f. & cert. ef. 6-24-98, cert. ef. 7-1-98; ACLB 1-2002, f. & cert. ef. 2-26-02; ACLB 2-2002, f. & cert. ef. 5-30-02; ACLB 3-2003, f. & cert. ef. 5-1-03

### 161-010-0020

#### Qualifying Appraiser Experience for Certification and Licensure

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

- (a) Fee Appraisal prepared in conformance with USPAP;
- (b) Staff Appraisal prepared in conformance with USPAP;
- (c) Review Appraisal prepared in conformance with USPAP;
- (d) Real Property Appraisal Consulting prepared in conformance with USPAP;
- (e) Highest and Best Use Analysis prepared in conformance with USPAP;

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

(g) Technical or administrative appraisal review performed by employees of State or Federal regulatory agencies responsible for verifying compliance with Title XI of the Federal Financial Institutions Reform, Recovery and Enforcement Act of 1989.

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

Stats. Implemented: ORS 674

Hist.: ACLB 8-1991(Temp), f. & cert. ef. 12-31-91; ACLB 2-1992, f. & cert. ef. 4-30-92; ACLB 1-1994, f. & cert. ef. 2-1-94; ACLB 3-1996, f. & cert. ef. 2-13-96; ACLB 1-1998, f. & cert. ef. 7-1-98; ACLB 1-2002, f. & cert. ef. 2-26-02; ACLB 2-2003, f. & cert. ef. 1-27-03; ACLB 3-2003, f. & cert. ef. 5-1-03

### 161-010-0025

#### Requirements for Acceptable Appraisal Experience

As a prerequisite to taking the applicable appraisal examination, the applicant shall present evidence of satisfactory completion of acceptable appraisal experience. An hour of experience is defined as verifiable time spent performing tasks in accordance with acceptable appraisal experience, as defined in OAR 161-010-0020, and does not include travel time. Each hour of experience is equivalent to one (1) "point" for purposes of OAR 161-010-0025(5). There is no time limit as to when experience may be obtained. Education cannot be substituted for experience. Acceptable appraisal experience must meet the following criteria:

(1) Review appraisals shall be awarded experience credit when the appraiser performs review(s) in accordance with USPAP.

# ADMINISTRATIVE RULES

(2) An appraiser who signs a real property appraisal report prepared by another, even under the label of "review appraiser", must accept full responsibility for the contents of the report. This will appropriately be considered as appraisal experience.

(3) Experience credit obtained under OAR 161-010-0020(1)(g) shall be verified by an affidavit from the applicant's immediate supervisor or agency administrator.

(4) Maximum allowable experience points: [Table not included. See ED. NOTE.]

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

Stat. Auth.: ORS 674.305 & ORS 674.310

Stats. Implemented: ORS 674

Hist.: ACLB 1-1994, f. & cert. ef. 2-1-94; ACLB 3-1996, f. & cert. ef. 2-13-96; ACLB 1-1997(Temp), f. 10-13-97, cert. ef. 1-1-98; ACLB 1-1998, f. 6-24-98, cert. ef. 7-1-98; ACLB 4-1999, f. 11-8-99, cert. ef. 1-1-00; ACLB 1-2002, f. & cert. ef. 2-26-02; ACLB 3-2003, f. & cert. ef. 5-1-03

## 161-010-0035

### Prerequisite Experience and Education Requirements for State Certified General Appraisers

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

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

(2) Successfully completed not less than 180 classroom hours of acceptable appraisal courses as set forth in OAR 161-020-0110, to include no less than 105 hours of courses other than non-complex residential real estate appraisal. Included within that requirement, each applicant shall have successfully completed the 15-hour Appraisal Foundation's National USPAP Course, or its equivalent, within two (2) years preceding the date of application and have successfully passed an examination thereon.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 674.305 & ORS 674.310

Stats. Implemented: ORS 674

Hist.: ACLB 2-1991(Temp), f. & cert. ef. 7-1-91; ACLB 7-1991, f. & cert. ef. 12-23-91; ACLB 7-1991, f. & cert. ef. 12-23-91; ACLB 1-1994, f. & cert. ef. 2-1-94; Renumbered from 161-010-0030 & 161-010-0040; ACLB 1-1997(Temp), f. 10-13-97, cert. ef. 1-1-98; ACLB 1-1998, f. 6-24-98, cert. ef. 7-1-98; ACLB 1-2002, f. & cert. ef. 2-26-02; ACLB 3-2003, f. & cert. ef. 5-1-03

## 161-010-0045

### Prerequisite Experience and Education Requirements for State Certified Residential Appraisers

(1) As a prerequisite to taking the examination for certification as a state certified residential appraiser, an applicant shall present evidence satisfactory to the Administrator that the applicant has completed at least 2,500 cumulative hours of acceptable appraisal experience. "Cumulative" is defined as meaning that experience may be acquired over any time period of at least twenty-four (24) months.

(2) As a prerequisite to taking the examination for certification as a state certified residential appraiser an applicant shall present evidence satisfactory to the Administrator that the applicant has successfully completed no less than 120 classroom hours of acceptable appraisal courses as set forth in OAR 161-020-0110, which may include courses that fulfill the educational requirement for state licensed appraisers set forth in OAR 161-020-0110. Included within that requirement, each applicant shall have successfully completed the 15-hour Appraisal Foundation's National USPAP Course, or its equivalent, within two (2) years preceding the date of application and have successfully passed an examination thereon.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 674.305 & ORS 674.310

Stats. Implemented: ORS 674

Hist.: ACLB 1-1994, f. & cert. ef. 2-1-94; ACLB 1-1997(Temp), f. 10-13-97, cert. ef. 1-1-98; ACLB 1-1998, f. 6-24-98, cert. ef. 7-1-98; ACLB 1-2002, f. & cert. ef. 2-26-02; ACLB 3-2003, f. & cert. ef. 5-1-03

## 161-010-0055

### Prerequisite Experience and Education Requirements for State Licensed Appraisers

(1) As a prerequisite to taking the examination for licensure as a state licensed appraiser, an applicant shall present evidence satisfactory to the Administrator that the applicant has completed at least 2,000 hours of acceptable appraisal experience.

(2) As a prerequisite to taking the examination for licensure as a state licensed appraiser, an applicant shall present evidence satisfactory to the Administrator that the applicant has successfully completed not less than

105 classroom hours of acceptable appraisal courses as set forth in OAR 161-020-0110. Included within these requirements, each applicant shall have successfully completed the 15-hour Appraisal Foundation's National USPAP Course, or its equivalent, within two (2) years preceding the date of application and have successfully passed an examination thereon.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 674.305 & ORS 674.310

Stats. Implemented: ORS 674

Hist.: ACLB 2-1991(Temp), f. & cert. ef. 7-1-91; ACLB 5-1991(Temp), f. & cert. ef. 11-18-91; ACLB 7-1991, f. & cert. ef. 12-23-91; ACLB 1-1994, f. & cert. ef. 2-1-94; Renumbered from 161-010-0050 & 161-010-0060; ACLB 1-1998, f. 6-24-98, cert. ef. 7-1-98; ACLB 1-2002, f. & cert. ef. 2-26-02; ACLB 3-2003, f. & cert. ef. 5-1-03

## 161-010-0080

### Appraiser Assistant Registration Requirements

(1) In order to gain experience credit, an appraiser assistant must register with the Board. Experience gained prior to registration will not be accepted.

(2) As a prerequisite to registering as an appraiser assistant with the Board, an applicant must:

(a) Complete the mandatory 15-hour Appraisal Foundation's National USPAP Course, or its equivalent, within two (2) years preceding the date of application.

(b) Complete no less than 60 hours of other qualifying education as set forth in OAR 161-020-0110 within five (5) years preceding the date of application. The five (5) year requirement does not apply to licensed or certified appraisers registering as appraiser assistants to upgrade their license;

(c) Obtain one or more supervising appraisers who will directly supervise their appraisal activities; and

(d) Submit a complete Appraiser Assistant Registration signed by all supervising appraisers.

(3) A registered appraiser assistant must renew annually. The renewal must document all qualifying education obtained within the previous year and include an experience log documenting all appraisal activity for the previous year.

(4) An appraiser assistant who remains in this classification in excess of two years shall be required, in the third and successive years, to obtain the equivalent of fourteen classroom hours of instruction for continuing education in courses or seminars for each year preceding the renewal. Continuing education hours may be obtained anytime during the term preceding the annual renewal of the appraiser assistant registration.

(5) During the period beginning on the day following the expiration date of the registration, and ending on the date of the renewal of the registration, an appraiser assistant may not receive experience credit for any experience accrued during the lapse in registration. If the appraiser assistant fails to renew his or her registration within one year from the date of expiration, the status of the registration becomes terminated and he or she must reapply for appraiser assistant registration pursuant to OAR 161-010-0080.

[Publications: Publications referenced are available from the agency.]

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

Stats. Implemented: ORS 674

Hist.: ACLB 8-1991(Temp), f. & cert. ef. 12-31-91; ACLB 2-1992, f. & cert. ef. 4-30-92; ACLB 4-1993(Temp), f. & cert. ef. 6-25-93; ACLB 1-1994, f. & cert. ef. 2-1-94; ACLB 3-1996, f. & cert. ef. 2-13-96; ACLB 1-1998, f. 6-24-98, cert. ef. 7-1-98; ACLB 1-2002, f. & cert. ef. 2-26-02; ACLB 3-2003, f. & cert. ef. 5-1-03

## 161-015-0000

### Application Process

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

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

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

(3) Applicants must submit a pre-printed experience log which detail hours of appraisal experience claimed for credit. Such hours must meet the requirements of OAR 161-010-0035, 161-010-0045, or 161-010-0055, as applicable.

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

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

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

# ADMINISTRATIVE RULES

Stats. Implemented: ORS 674

Hist.: ACLB 2-1991(Temp), f. & cert. ef. 7-1-91; ACLB 3-1991(Temp), f. & cert. ef. 8-29-91; ACLB 8-1991(Temp), f. & cert. ef. 12-31-91; ACLB 2-1992, f. & cert. ef. 4-30-92; ACLB 1-1994, f. & cert. ef. 2-1-94; ACLB 1-1998, f. 6-24-98, cert. ef. 7-1-98; ACLB 1-2002, f. & cert. ef. 2-26-02; ACLB 3-2003, f. & cert. ef. 5-1-03

## 161-020-0045

### Criteria for Approval of Course as Qualifying Education

In order to be approved as qualifying education, the course shall be found to satisfy all the criteria described in this rule:

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

(2) Course Length and Content — The course shall be a real estate appraisal course that provides a minimum of 15 classroom hours of instruction (including examination time when applicable) and must comply with the “Qualifying Education Course Content Guidelines” in these rules.

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

(4) Summary Outline — The course materials or syllabus shall include a summary outline of major topics and the number of classroom hours devoted to each major topic.

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

- (a) Are appropriate for a qualifying education course;
- (b) Clearly state the specific knowledge and/or skills students are expected to acquire by completing the course;
- (c) Are consistent with the course description;
- (d) Are consistent with the textbook and/or other instructional materials; and
- (e) Are reasonably achievable within the number of classroom hours allotted for the course.

(6) Work Assignments — The course materials or syllabus shall provide for in-class work assignments and/or out-of-class work/reading assignments, if necessary, to accomplish the stated learning objectives.

(7) Instructional Materials — Instructional materials to be used by students in the course shall:

- (a) Cover the subject matter in sufficient depth to achieve the stated course learning objectives;
- (b) Provide appropriately balanced coverage of the subject matter in view of the stated course learning objectives;
- (c) Reflect current knowledge and practice;
- (d) Contain no significant errors;
- (e) Reflect correct grammatical usage and spelling;
- (f) Effectively communicate and explain the information presented;
- (g) Be suitable in layout and format; and
- (h) Be suitably bound/packaged and be produced in a quality manner.

(8) Examination(s) — Course examinations shall consist of either a series of examinations or a comprehensive final examination or both. The course examination(s) shall comply with the following criteria:

- (a) The examination(s) contains a sufficient number of questions to adequately test the subject matter covered in the course;
- (b) The amount of time devoted to the examination(s) is appropriate for the course;
- (c) The examination questions, individually and collectively, test at a difficulty level appropriate to measure student achievement of the stated course learning objectives;
- (d) The subject matter tested by examination questions is adequately addressed in the course instructional materials;
- (e) The examination questions are written in a clear and unambiguous manner; and
- (f) The examination questions are accurate and the intended correct answer is clearly the best answer choice.

(9) Prerequisites — The course owner/affiliated entity must have established appropriate prerequisites for any course other than an introductory course on Basic Real Estate Appraisal Principles and Practices or a course on Appraisal Standards and Ethics.

(10) Instructor Qualifications — The course owner/affiliated entity shall keep records documenting that their instructors meet the Board qualifications as follows:

- (a) A baccalaureate degree in any field and three years of experience directly related to the subject matter to be taught; or

(b) A masters degree in any field and two years of experience directly related to the subject matter to be taught; or

(c) A baccalaureate degree in a field that is directly related to the subject matter to be taught and one year of experience directly related to the subject matter to be taught; or

(d) An associate degree in a field that is directly related to the subject matter to be taught and three years of experience directly related to the subject matter to be taught; or

(e) A masters or higher degree in a field that is directly related to the subject matter to be taught; or

(f) Five years of real estate appraisal teaching experience directly related to the subject matter to be taught; or

(g) Seven years of real estate appraisal experience directly related to the subject matter to be taught.

(h) For those instructing the Appraisal Foundation’s National USPAP Course or its equivalent:

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

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

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

- (a) Stipulate the percentage of attendance required by the student;
- (b) Include, on the attendance records form, the instructor(s) name and the criteria under which they qualified;
- (c) Provide that non-members of the course provider’s association or organization may apply for the course without membership in the association;
- (d) Provide for retention of attendance records for a minimum of five years.

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

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

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

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

Stats. Implemented: ORS 674.310

Hist.: ACLB 2-1991(Temp), f. & cert. ef. 7-1-91; ACLB 3-1991(Temp), f. & cert. ef. 8-29-91; ACLB 1-1992(Temp), f. & cert. ef. 1-23-92; ACLB 2-1992, f. & cert. ef. 4-30-92; ACLB 2-1993(Temp), f. & cert. ef. 4-28-93; ACLB 1-1994, f. & cert. ef. 2-1-94; Renumbered from 161-020-0010 & 161-020-0040; ACLB 3-1999, f. 9-23-99, cert. ef. 1-1-2000; ACLB 1-2002, f. & cert. ef. 2-26-02; ACLB 2-2003, f. & cert. ef. 1-27-03; ACLB 3-2003, f. & cert. ef. 5-1-03

## 161-020-0055

### Criteria for Approval of Course as Continuing Education

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

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

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

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

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

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

- (a) Are appropriate for a continuing education course;



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

(c) Are consistent with the course description;

(d) Are consistent with the instructional materials; and

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

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

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

(b) Reflect current knowledge and practice;

(c) Contain no significant errors;

(d) Reflect correct grammatical usage and spelling;

(e) Effectively communicate and explain the information presented;

(f) Be suitable in layout and format; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Stat. Auth.: ORS 674-305(8) & ORS 674.310

Stats. Implemented: ORS 674.310

Hist.: ACLB 8-1991(Temp), f. & cert. ef. 12-31-91; ACLB 1-1992(Temp), f. & cert. ef. 1-23-92; ACLB 2-1992, f. & cert. ef. 4-30-92; ACLB 3-1992(Temp), f. & cert. ef. 11-25-92; ACLB 4-1992(Temp), f. & cert. ef. 12-2-92; ACLB 1-1994, f. & cert. ef. 2-1-94; Renumbered from 161-020-0020 and 161-020-0060; ACLB 3-1999, f. 9-23-99, cert. ef. 1-1-00; ALCB 2-2002, f. & cert. ef. 5-30-02; ACLB 2-2003, f. & cert. ef. 1-27-03; ACLB 3-2003, f. & cert. ef. 5-1-03

## 161-020-0110

### Qualifying Education Course Content Guidelines

(1) General Guidelines:

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) Courses on Basic Appraisal Principles and Practices;

(B) Courses on Applied Residential Appraisal Case Studies;

(C) Courses on Income Property Appraisal Principles and Methodology;

(D) Courses on Advanced Residential Form and Narrative Report Writing

(E) Courses on Applied Income Property Appraisal or Income Property Appraisal Case Studies;

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

(G) Courses eligible for approval as elective courses.

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

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

(B) Course(s) on Applied Residential Appraisal or Residential Appraisal Case Studies (30 hours in not less than 15 hour increments);

(C) Course(s) on Income Property Appraisal Principles and Methodology (30 hours in not less than 15 hour increments);

(D) The Appraisal Foundation's National USPAP Course or its equivalent.

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

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

(B) Course(s) on Applied Residential Appraisal or Residential Appraisal Case Studies (30 hours in not less than 15 hour increments);

(C) Course on Advanced Residential Form and Narrative Report Writing (15 hours);

(D) Course on Income Property Appraisal Principles and Methodology (30 hours in not less than 15 hour increments);

(E) The Appraisal Foundation's National USPAP Course or its equivalent.

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

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

(B) Course(s) on Applied Residential Appraisal or Residential Appraisal Case Studies (30 hours in not less than 15 hour increments);

(i) Course(s) on Income Property Appraisal Principles and Methodology (30 hours in not less than 15 hour increments);

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(ii) Course(s) on Applied Income Property Appraisal or Income Property Appraisal Case Studies (30 hours in not less than 15 hour increments);

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

(iv) Course(s) eligible for Approval as elective courses (45 hours in not less than 15 hour increments).

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

(a) Courses on Basic Real Estate Appraisal Principles and Practices:

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

(i) Basic Concepts of Value (types of value, forces & factors influencing value and economic principles of value);

(ii) Legal Considerations in Real Estate Appraisal;

(iii) Characteristics and Analysis of Real Estate Markets;

(iv) Money/Capital Markets and Real Estate Financing;

(v) The Valuation Process;

(vi) Neighborhood/Area Analysis;

(vii) Collecting Property Data and Property Description;

(viii) Basic Building Construction, Design and Function;

(ix) Basic Statistical Concepts Used in Appraising;

(x) Highest and Best Use Analysis;

(xi) Sales Comparison Approach;

(xii) Site Valuation;

(xiii) Cost Approach;

(xiv) Income Approach;

(xv) Reconciliation;

(xvi) Valuation of Partial Interests.

(B) This category also includes basic real estate appraisal principles and practices courses which are oriented toward the appraisal of residential 1-4 unit properties. Courses that fall within this category may have a variety of titles. Although courses will be judged based on their content rather than their title, listed below are a few examples of course titles that acceptable courses might carry:

(i) Introduction to Real Estate Appraisal;

(ii) Fundamentals of Real Estate Appraisal;

(iii) Real Estate Appraisal Principles;

(iv) Residential Real Estate Appraisal Principles;

(v) Introduction to Residential Appraising;

(vi) Real Estate Appraisal Practices;

(vii) Basic Valuation Procedures;

(viii) Residential Appraisal Practices.

(b) Courses on Applied Residential Appraisal or Residential Appraisal Case Studies: A course(s) in this category will focus on the application of various basic real estate appraisal principles and methodology associated with the valuation process to practical problems encountered in appraising various types of residential 1-4 unit properties. Applied Residential Appraisal or Residential Appraisal Case Studies courses would substantially include the following specific topics:

(A) Practice Problems Related to Appraising Various Residential 1-4 Unit Properties (Problems might relate to data collection, market analysis, highest and best use analysis, site valuation, cash equivalency, paired sales analysis, estimating building costs and depreciation, gross rent multiplier analysis, reconciliation, etc.);

(B) Case Studies of Appraisals of Various Residential 1-4 Unit Properties;

(C) URAR Form Preparation;

(D) Preparation of Narrative Residential Appraisal Report.

(c) Courses on Advanced Residential Form and Narrative Report Writing: A course(s) in this category is a communication course focusing on residential appraisal reports. The emphasis must be on how to successfully communicate the support data in the report and not on "how to fill out a report form". Advanced Residential Form and Narrative Report writing course would substantially include the following specific topics:

(A) Preparation and presentation of the URAR form, ERC Form, etc.;

(B) Preparation and presentation of narrative comments to form reports;

(C) Preparation and presentation of the Small Residential Income-Producing Report Form;

(D) Narrative writing assignments and critiques, including writing style and grammar;

(E) Case Studies of appraisals using the forms and narrative format;

(F) Lectures on editing, proofreading and checking the final draft;

(d) Courses on Income Properties Appraisal Principles and Methodology;

(A) This category includes courses that are broad in scope and that focus on real estate appraisal concepts, principles and methodology that are applicable generally to the appraisal of most types of income property. Income Properties Appraisal Principles and Methodology course would substantially include the following specific topics:

(i) The Valuation Process (review from perspective of appraising income properties);

(ii) Market Analysis (from perspective of appraising income properties);

(iii) Basic Income Property Valuation Concepts (market value and investment value, types of income, rates of return, capitalization concept);

(iv) Compound Interest and Discount Factors (concepts and applications);

(v) Estimating Gross Income, Expenses and Net Operating Income;

(vi) Operating Statement Ratios and Analysis;

(vii) Using Income Multipliers;

(viii) Direct Capitalization;

(I) Using Overall Capitalization Rate Extracted from Market;

(II) Using Overall Capitalization Rate Derived by Band of Investment

Method.

(ix) Using Residual Techniques;

(x) Discounted Cash Flow Analysis (yield capitalization considerations);

(xi) Forecasting Cash Flows and Reversion (including lease considerations);

(xii) Valuation with Basic DCF Formula Using Overall Yield;

(xiii) Discount Rate;

(xiv) Valuation Using Various Yield Capitalization Formulas;

(xv) Mortgage and Equity Interests (concepts and effect of valuation);

(xvi) Investment Measures for the Equity Investor;

(xvii) Valuation Using Equity Capitalization Rate;

(xviii) Mortgage-Equity Analysis Using Ellwood Formula and Akerson Method;

(xix) DCF Analysis Using Equity Yield Rate;

(xx) Deriving Yield Rates by Extraction and Buildup Method;

(xxi) Site Valuation;

(xxii) Sales Comparison Approach (applied to income property appraising);

(xxiii) Cost Approach (applied to income property appraising);

(xxiv) Reconciliation.

(B) In addition to "introductory-level" income property appraisal courses which focus on the general subject areas of "Basic Income Capitalization Concepts" and "Direct Capitalization", this category also includes "advanced" or "second-level" income property appraisal courses which have an introductory-level income property appraisal course as a prerequisite and which focus on the general subject area of "Yield Capitalization (discounted cash flow analysis) Concepts and Methodology". Courses that fall within this category have a variety of titles. Although courses will be judged based on their content rather than their title, listed below are a few examples of course titles that acceptable courses might carry:

(i) Introduction to Income Property Appraising;

(ii) Principles of Income Property Appraisal;

(iii) Appraising Income Property;

(iv) Basic Income Capitalization Theory and Techniques;

(v) Advanced Income Capitalization Theory and Techniques.

(e) Courses on Applied Income Property Appraisal or Income Property Appraisal Case Studies:

(A) This category includes courses that focus on the application of various general real estate appraisal principles and methodology, particularly income capitalization concepts and methods, to practical problems encountered in appraising various types of income properties. Applied Income Property Appraisal or Income Property Appraisal Case Studies courses would substantially include the following specific topics:

(i) Practice Problems Related to Appraising Various Income Properties (problems might relate to market analysis, cash flow forecasting, collecting/analyzing data, subdivision development analysis, extracting/deriving yield rates, applying various discounted cash flow analysis techniques, highest and best use analysis, etc.);

(ii) Case Studies of Appraisals of Various Income Properties;

(iii) Preparation of Narrative Income Property Appraisal Report;

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(iv) UCIAR Form Preparation.

(B) Courses which cover report preparation but which emphasize instruction on application of income property appraisal principles and methodology, or which include one or more comprehensive case studies of income property appraisals, are also acceptable under this category. Courses that focus only on the mechanical aspects of report preparation are not acceptable.

(f) Courses on the Uniform Standards of Professional Appraisal Practice (USPAP):

(A) The Appraisal Foundation's National USPAP Course or its equivalent are the only acceptable courses for this category.

(g) Courses eligible for approval as elective courses for Qualifying Education. These courses are considered more appropriate for Continuing Education than for Qualifying Education under these rules, but can qualify as elective if they are at least 15 hours in duration and an exam is required. To be eligible under this category the focus of the course must be non-residential in course content. Courses must focus primarily on advanced concepts/methods, a specialized aspect of real estate appraising, or appraising one specific type of property. These types of course(s) focus primarily on the following topics:

- (A) Real Estate Investment Analysis;
- (B) Feasibility Analysis;
- (C) Condemnation Appraising/Right of Way Appraising;
- (D) Review Appraising;
- (E) Mass Appraisal;
- (F) Subdivision Analysis;
- (G) Litigation/Testifying as Expert Witness;
- (H) Appraising Condominiums;
- (I) Appraising Manufactured Housing;
- (J) Appraising Multi-Family Housing;
- (K) Appraising Office Buildings;
- (L) Appraising Farms;
- (M) Appraising Land;
- (N) Appraising Machinery and Equipment.

(h) Additional courses which fall into one of the five previous categories, but not a course with essentially the same content as one submitted to meet the requirement under that category.

(4) Courses not eligible for approval as Qualifying Education. These types of courses are considered more appropriate for Continuing Education than for Qualifying Education under these rules. Courses which focus all or a vast majority of their instruction on only one comparatively narrow aspect of real estate appraising and which examine that one aspect in depth. These types of courses focus on the following topics:

- (a) Estimating Building Costs;
- (b) Estimating Accrued Depreciation;
- (c) Cash Equivalency;
- (d) Ellwood Mortgage-Equity Analysis;
- (e) Use of Financial Calculators in Appraising;
- (f) Valuation of Partial Interests.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 674.305 & ORS 674.310

Stats. Implemented: ORS 674

Hist.: ALCB 2-1994(Temp), f. & cert. ef. 5-2-94; ACLB 1-1994, f. & cert. ef. 2-1-94; ACLB 4-1994, f. & cert. ef. 7-27-94; ACLB 3-1996, f. & cert. ef. 2-13-96; ACLB 1-1997(Temp), f. 10-13-97, cert. ef. 1-1-98; ACLB 1-1998, f. 6-24-98, cert. ef. 7-1-98; ACLB 3-1999, f. 9-23-99, cert. ef. 1-1-00; ALCB 2-2002, f. & cert. ef. 5-30-02; ACLB 3-2003, f. & cert. ef. 5-1-03

## 161-020-0120

### Continuing Education Course Content Guidelines

This rule contains the course content guidelines which courses must satisfy in order to be approved under these rules as Continuing Education as defined in these rules:

(1) General Guidelines:

(a) The course must involve a minimum of two classroom hours of instruction on acceptable real estate appraisal or related topics;

(b) The course must contribute to the goal of maintaining or increasing the knowledge, skill and competence of real estate appraisers with regard to the performance of real estate appraisals in a manner that best serves the public interest;

(c) Any course that covers a real estate appraisal topic may be acceptable if it does not present information so basic in nature that the stated goal of continuing education will not be satisfied by the course;

(d) In order to be an acceptable real estate appraisal related topic, the education provided in the course must directly contribute to increasing or maintaining the appraiser's ability to perform real estate appraisals;

(A) Courses are not acceptable if they would merely contribute to the appraiser's personal development rather than to his/her ability to perform real estate appraisals;

(B) Courses are not acceptable if they would contribute only generally to the appraiser's knowledge of the business field, rather than specifically to operating an appraisal business.

(2) Acceptable Topics — This list is to assist education providers in understanding the course content requirements under these rules. Topics may include, but are not limited to, the following:

(a) Real Estate Appraisal Topics:

(A) Appraisal Arbitration;

(B) Appraisal Laws, Standards and Ethics (review/update/applications);

(C) Appraising Any Specific Type of Property (for example: single-family residences, condominiums, manufactured housing, apartment complexes, office buildings, warehouses, farms, rural properties, etc.);

(D) Appraising from Blueprints and Specifications;

(E) Case Study of a Particular Type of Property;

(F) Cash Equivalency;

(G) Cash Flow Forecasting;

(H) Computer Applications in Appraising;

(I) Condemnation/Right of Way Appraising;

(J) Estimating Accrued Depreciation;

(K) Estimating Building Costs;

(L) Feasibility Analysis;

(M) Federal Agency Appraisal Regulations/Requirements;

(N) Highest and Best Use Analysis;

(O) Litigation (involving appraisal issues/appraiser testimony);

(P) Mass Appraisal;

(Q) Mortgage-Equity Analysis (Ellwood Formula);

(R) Real Estate Investment Analysis;

(S) Real Estate Market Analysis (advanced or specialized application);

(T) Review Appraising;

(U) Sales Comparison Techniques (advanced or specialized application);

(V) Special Techniques in Appraising for Ad Valorem Taxation Purposes;

(W) State Agency Appraisal Regulations/Requirements;

(X) Subdivision Analysis;

(Y) The Appraisal Foundation's National USPAP Course, the Appraisal Foundation's National USPAP Update Course, or their equivalents;

(Z) URAR Form Preparation;

(AA) UCIAR Form Preparation;

(BB) Use of Financial Calculators in Appraising;

(CC) Valuation of Partial (special) Interests;

(DD) Writing an Effective Narrative Report.

(b) Real Estate Topics:

(A) Real Estate Development;

(B) Real Estate Finance;

(C) Real Estate Investments;

(D) Real Estate (property) Law ;

(E) Real Estate Property or Asset Management;

(F) Real Estate Mathematics;

(G) Real Estate Syndication;

(H) Real Estate Taxation;

(I) Federal/State Taxation of Real Estate Investments;

(J) Land Use Controls/Zoning.

(c) Business Topics:

(A) Accounting;

(B) Corporate Finance;

(C) Economics (macro and micro);

(D) Investments;

(E) Statistics.

(d) Other Topics:

(A) Appraising Machinery and Equipment;

(B) Business Valuation;

(C) Construction;

(D) Surveying.

(3) Unacceptable Topics — This list is to assist education providers in understanding the course content requirements under these rules. Topics may include, but are not limited to, the following:

(a) Real Estate Topics:

(A) Real Estate Practices:

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- (B) Real Estate Sales (and related topics);
- (C) Real Estate License Law;
- (D) Agency Law;
- (E) Real Estate Office Management.
- (b) Business Topics:
- (A) Advertising/Marketing;
- (B) Bookkeeping;
- (C) Business Administration;
- (D) Business Law;
- (E) Computer Principles/Programming/Systems;
- (F) Office Management/Systems;
- (G) Personnel Management;
- (H) Principles of Management;
- (I) Typing/Word Processing.
- (c) Personal Development Topics:
- (A) Communications (oral or written);
- (B) Interpersonal Communications;
- (C) Memory Improvement;
- (D) Public Speaking;
- (E) Speed Reading;
- (F) Stress Management;
- (G) Time Management.

(d) Other Topics: Appraiser Examination Preparation

[Publications: Publications referenced in this rule are available from the agency.]

Stat. Auth.: ORS 674.305 & ORS 674.310

Stats. Implemented: ORS 674.310

Hist.: ACLB 1-1994, f. & cert. ef. 2-1-94; ACLB 3-1999, f. 9-23-99, cert. ef. 1-1-00; ACLB 3-2003, f. & cert. ef. 5-1-03

## 161-020-0150

### Time Requirements for Qualifying Education and Continuing Education

(1) Qualifying Education:

(a) If approved by the Administrator as meeting the requirements of these rules, audio educational offerings taken prior to July 1, 1990, shall be acceptable to meet the Qualifying Education requirements for certification and licensure;

(b) There is no time limit regarding when qualifying education credit must be obtained, with the following exceptions:

(A) The 15-hour Appraisal Foundation's National USPAP Course, or its equivalent, must be obtained within two (2) years preceding the date of application; and

(B) All other qualifying education for applicants applying to be a registered appraiser assistant must be obtained within five (5) years preceding the date of application, with the exception of licensed or certified appraisers registering as an appraiser assistant to upgrade their license.

(c) The Administrator may grant credit for courses where the applicant obtained credit from the course provider by challenge examination without attending the courses, provided that such credit was granted by the course provider prior to July 1, 1990, and provided further that the Administrator is satisfied with the quality of the challenge examination that was administered by the course provider.

(2) Continuing Education:

(a) Continuing education hours shall be reported as part of the renewal application process. Reporting shall be on a form prescribed by the Board which includes the name of the educational provider, course subject matter, location, number of hours, course name, date of course and appraiser's name. The appraiser shall also submit a copy of the certificate of completion, URCEC form or grade report issued by the course provider;

(b) "Carry over" of hours from past to future years will not be allowed;

(c) The same or like course can not be repeated for use as continuing education within a two year period, with the exception of USPAP;

(d) Extension of time to satisfy continuing education hour requirements will not be permitted;

(e) USPAP:

(A) The Appraisal Foundation's National USPAP Update Course, or its equivalent, is required for renewal of all licensed and certified individuals every two year license cycle. All licensed and certified appraisers whose licenses expire on or after June 30, 2003 shall be required to submit certificates of completion of the National USPAP Update course, or its equivalent, as part of their license renewal. All licensed and certified appraisers are required to complete the Appraisal Foundation's National USPAP Update Course, or its equivalent, before January 1, 2005.

(f) Fourteen hours of classroom instruction for each year preceding the license or certification renewal is required. Continuing education hours may be obtained any time during the term. Credit towards the classroom

hour requirements shall be granted only where the length of the educational offering is at least two hours.

(g) Appraisers may receive up to eight (8) hours of continuing education credit for course instruction of an ACLB approved course per two year license cycle. However, the appraiser cannot receive credit for course instruction of the same course in consecutive license cycles.

Stat. Auth.: ORS 674.305 & ORS 674.310

Stats. Implemented: ORS 674

Hist.: ACLB 1-1994, f. & cert. ef. 2-1-94; ACLB 1-1997(Temp), f. 10-13-97, cert. ef. 1-1-98; ACLB 1-1998, f. 6-24-98, cert. ef. 7-1-98; ACLB 3-1999, f. 9-23-99, cert. ef. 1-1-00; ALCB 2-2002, f. & cert. ef. 5-30-02; ACLB 2-2003, f. & cert. ef. 1-27-03; ACLB 3-2003, f. & cert. ef. 5-1-03

## 161-050-0050

### Reciprocity

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

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

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

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

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

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

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

(b) Fails or refuses on two or more occasions to assist the Administrator in enforcement activity for the protection of Oregon consumers;

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

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

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

(7) For purposes of this rule, "substantially similar" means that the other state's minimum standards qualifications for appraisal experience and education, and examinations meet the standards established by the Appraisal Standards Board and the Appraiser Qualifications Board of the Appraisal Foundation.

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

Stat. Auth.: ORS 183.341, ORS 674.305 & ORS 674.310

Stats. Implemented: ORS 674

Hist.: ACLB 3-1994, f. & cert. ef. 5-2-94; ACLB 1-1998, f. 6-24-98, cert. ef. 7-1-98; ACLB 1-2002, f. & cert. ef. 2-26-02; ACLB 3-2003, f. & cert. ef. 5-1-03

## Board of Clinical Social Workers Chapter 877

**Adm. Order No.:** BCSW 1-2003(Temp)

**Filed with Sec. of State:** 5-15-2003

**Certified to be Effective:** 7-1-03 thru 12-28-03

**Notice Publication Date:**

**Rules Amended:** 877-020-0020

**Subject:** Division 20 identifies the fee schedule for certification and licensing. This amendment identifies the restoration of fees from the 1997-99 biennium which were legislatively reduced. The Legislature has now restored the fees effective 7-1-2003.

**Rules Coordinator:** Elizabeth A. Buys—(503) 378-5735

# ADMINISTRATIVE RULES

877-020-0020

## Fees for Associate Certification and Licensing

The Board shall collect the following fees for application, certification, licensing, annual renewal of certificates and licenses, and delinquent renewal fees. Applicants for licensing shall pay a fee for the written examination to the organization that administers the examination.

(1) The application fee for certificates and licenses shall be \$100.

(2) The fee for initial certification as a Clinical Social Work Associate shall be \$50. The fee for annual renewal of the Associate certificate shall be \$55.

(3) The fee for initial licensing as a Licensed Clinical Social Worker shall be \$65. The fee for annual renewal of a license shall be \$75.

(4) The Board shall impose a delinquent renewal fee of \$25 for certificates and licenses renewed after January 1, but before February 1. Renewal of certificates and licenses received after February 1 are subject to an additional delinquent fee of \$25. However, the Board shall not treat a certificate or license as lapsed unless it is not renewed by March 31. All fees under ORS 675.510 through 675.600 are non-refundable.

Stat. Auth.: ORS 675.510 - ORS 675.600

Stats. Implemented: ORS 675.571

Hist.: BCSW 1-1982, f. & ef. 1-29-82; BCSW 1-1986, f. & ef. 7-7-86; BCSW 1-1988, f. & cert. ef. 11-15-88; BCSW 2-1990, f. & cert. ef. 7-13-90; BCSW 2-1993, f. & cert. ef. 10-13-93; BCSW 1-1995, f. 6-26-95, cert. ef. 7-1-95; BCSW 2-1999(Temp), f. & cert. ef. 7-1-99 thru 11-1-99; BCSW 3-1999, f. & cert. ef. 10-13-99; BCSW 1-2003(Temp), f. 5-15-03, cert. ef. 7-1-03 thru 12-28-03

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## Board of Examiners for Engineering and Land Survey Chapter 820

**Adm. Order No.:** BEELS 3-2003(Temp)

**Filed with Sec. of State:** 5-14-2003

**Certified to be Effective:** 5-15-03 thru 11-11-03

**Notice Publication Date:**

**Rules Amended:** 820-010-0500

**Subject:** Repeals subsection (2) of the rule removing the requirement for licensure as a qualification for the position of Executive Secretary.

**Rules Coordinator:** Edward B. Graham—(503) 362-2966

820-010-0500

## Qualifications of Administrative Officer (Executive Secretary)

The administrative officer of the Oregon State Board of Examiners for Engineering and Land surveying authorized by ORS 670.306 shall:

(1) Not be a member of the Board.

(2) Serve at the pleasure of the Board.

(3) Receive such compensation as the Board may determine.

(4) Perform such duties as assigned by the Board.

Stat. Auth.: ORS 670.310 & ORS 672.255

Stats. Implemented: ORS 672.002 - ORS 672.325

Hist.: EE 13, f. 3-29-72, ef. 4-15-72; EE 20, f. & ef. 12-15-77; EE 1-1983, f. 2-28-83, ef. 3-1-83; EE 1-1984, f. & ef. 3-6-84; BEELS 1-1998, f. & cert. ef. 2-10-98; BEELS 1-2001, f. & cert. ef. 5-22-01; BEELS 3-2002, f. & cert. ef. 11-13-02; BEELS 3-2003(Temp), f. 5-14-03, cert. ef. 5-15-03 thru 11-11-03

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**Adm. Order No.:** BEELS 4-2003

**Filed with Sec. of State:** 5-14-2003

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

**Notice Publication Date:** 4-1-03

**Rules Amended:** 820-010-0325

**Subject:** 820-010-0325 sets the expenditure limitation for the agency's 2003- 2005 biennium.

**Rules Coordinator:** Edward B. Graham—(503) 362-2666

820-010-0325

## Budget

The amount of \$1,644,576 is established for the biennium beginning July 1, 2003, as the intended limit for payment of expenses from fees, moneys or other revenue, including Miscellaneous Receipts, collected or received by the Board. The expenditure limitation includes an operating budget of \$1,435,101 and an examination budget of \$209,475.

Stat. Auth.: ORS 670.310 & ORS 672.155

Stats. Implemented: ORS 672.002 - ORS 672.325

Hist.: BEELS 1-1999, f. 5-27-99, cert. ef. 7-1-99; BEELS 1-2001, f. & cert. ef. 5-22-01; BEELS 2-2002, f. & cert. ef. 5-15-02; BEELS 4-2003, f. 5-14-03, cert. ef. 7-1-03

## Board of Examiners for Speech Pathology and Audiology Chapter 335

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

**Filed with Sec. of State:** 5-7-2003

**Certified to be Effective:** 5-7-03

**Notice Publication Date:** 4-1-03

**Rules Adopted:** 335-070-0075, 335-095-0010, 335-095-0020, 335-095-0030, 335-095-0040, 335-095-0050, 335-095-0060, 335-095-0065

**Rules Amended:** 335-060-0005, 335-060-0010, 335-060-0030, 335-070-0010, 335-070-0020, 335-070-0060, 335-070-0065

**Subject:** Adopted rules define the fees and continuing education requirements for certified speech-language pathology assistants. Other changes in Division 70 delete expired continuing education requirements for other licensees.

New rules under Division 95 provide definitions related to certification of speech-language pathology assistants. They also define grandparenting requirements and certification requirements of speech-language pathology assistants after the grandparenting allowance expires 1/05. Other rules in this division define the requirements for the supervising speech-language pathologist, the duties a speech-language pathology assistant and educational assistant to the speech-language pathologist may and may not perform.

**Rules Coordinator:** Brenda Felber—(503) 731-4050

335-060-0005

## Definitions

(1) An Inactive License or Certificate may be obtained by those otherwise qualified individuals who are not employed in the field of speech-language pathology or audiology, not residing in Oregon, or are retired from the profession.

(2) A Conditional License is a license certificate issued by the Board to applicants meeting the requirements as stated in ORS 681.260(2). The license provides for the licensee to work under supervision while completing the required nine months of supervised post-educational professional experience and/or until the licensee successfully passes the required examination.

Stat. Auth.: ORS 681.340, ORS 681.360, ORS 681.420 & ORS 681.460

Stats. Implemented: ORS 681.460

Hist.: SPA 1-2001, f. & cert. ef. 3-12-01; SPA 1-2002(Temp), f. 11-8-02, cert. ef. 12-1-02 thru 5-1-03; SPA 1-2003, f. & cert. ef. 5-7-03

335-060-0010

## Fees

In accordance with the provisions of ORS 681.340 and 681.360, the following fees, where applicable, are payable to the Board/Health Division by check or money order:

(1) All Applicants:

(a) Application fee shall be \$30, non-refundable.

(b) Delinquent fee shall be \$10.

(c) The Board may provide for waiver of the license or certificate fee where the license or certificate is issued less than 45 days before the date on which it will expire.

(2) Speech-Language Pathologists and Audiologists:

(a) Biennial license fee and renewal thereof shall be \$100.

(b) Prorated license fee for the second year for an active license shall be \$50.

(c) Biennial inactive license fee and renewal thereof shall be \$20.

(d) Prorated license fee for the second year for an inactive license shall be \$10.

(e) Conditional license fee and renewal thereof shall be \$50.

(3) Speech-Language Pathology Assistants:

(a) Annual certificate fee and renewal thereof shall be \$50.

(b) Prorated certificate fee for the second year shall be \$25.

(c) Biennial inactive certificate fee and renewal thereof shall be \$20.

(d) Prorated certificate fee in the second year for an inactive certificate shall be \$10.

Stat. Auth.: ORS 681.340, ORS 681.360, ORS 681.420 & ORS 681.460

Stats. Implemented: ORS 681.340(1), ORS 681.360(2)(b) & ORS 681.360(3)(b)

Hist.: SPA 2-1993(Temp), f. 12-8-93, cert. ef. 12-10-93; SPA 1-1994, f. & cert. ef. 6-10-94; SPA 1-2001, f. & cert. ef. 3-12-01; SPA 1-2002(Temp), f. 11-8-02, cert. ef. 12-1-02 thru 5-1-03; SPA 1-2003, f. & cert. ef. 5-7-03

# ADMINISTRATIVE RULES

## 335-060-0030

### Biennial Licensure and Renewal

(1) All regular and inactive status speech-language pathologists, audiologists and speech-language pathology assistants shall renew their licenses on a biennial basis, by January 30th of each even-numbered year.

(2) The Board shall provide the licensee a license renewal notice sent to the address on file with the Board, which will include the following:

- (a) The expiration date of the license;
- (b) The amount of the renewal fee due; and
- (c) The number of professional development hours required for renewal.

(d) For Speech-Language Pathology Assistants, the license renewal notice will include the requirement for the Assistant to report their current supervising Speech-Language Pathologist.

(3) All applications for license renewal must be received by January 30th of each even-numbered year, and each licensee must submit:

- (a) The renewal application completed in full; and
- (b) Payment of the non-refundable fee for license renewal.

(4) Licensees whose renewal forms are postmarked after January 30 of each even-numbered year will be charged a delinquency fee. The board may renew each expired regular or inactive status license upon payment of the biennial renewal fee and the delinquency fee.

(5) A license is not considered renewed until the licensee has complied in full with items 3 and 4 above and a new license certificate with a current expiration date has been issued by the Board.

Stat. Auth.: ORS 681.340, ORS 681.420 & ORS 681.460

Stats. Implemented: ORS 681.320(1)

Hist.: SPA 2-1993(Temp), f. 12-8-93, cert. ef. 12-10-93; SPA 1-1994, f. & cert. ef. 6-10-94; SPA 1-2001, f. & cert. ef. 3-12-01; SPA 1-2002(Temp), f. 11-8-02, cert. ef. 12-1-02 thru 5-1-03; SPA 1-2003, f. & cert. ef. 5-7-03

## 335-070-0010

### Philosophy

Upon the effective date of these rules, evidence of professional development will be required in order to maintain licensure in speech-language pathology and audiology or certification as a speech-language pathology assistant. Each individual licensed as a speech-language pathologist, audiologist, or speech-language pathology assistant is responsible for optimum service to the client and is accountable to the client, the employer and the profession for evidence of maintaining high levels of skill and knowledge. Credit will be given in a variety of activities which increase knowledge and enhance professional growth.

Stat. Auth.: ORS 681.420(5) & ORS 681.460

Stats. Implemented: ORS 681.320(1)(a) & ORS 681.360(3)(c)

Hist.: SPA 2-1996, f. & cert. ef. 7-22-96; SPA 1-2003, f. & cert. ef. 5-7-03

## 335-070-0020

### Professional Development Hours Defined

(1) Professional development is defined as participation in courses, classes, workshops and other activities for the purpose of developing and updating professional skills directly related to the performance and practice of speech-language pathology and audiology.

(2) Credit for professional development shall be calculated on an hourly basis. One professional development hour (PDH) is defined as sixty (60) minutes or one (1) clock hour of attendance/participation in an approved professional development activity unless otherwise stated. For example, one hour may be considered equivalent to .1 CEU; therefore 10 PDHs = 1.0 ASHA CEU.

(3) Each applicant for renewal of a license shall complete thirty (30) clock hours of documented and approved professional development during each two (2) year renewal period. Effective January 31, 2004, each applicant for renewal of a license shall complete forty (40) clock hours of documented and approved professional development to be reported at renewal on January 30, 2006, and each renewal thereafter. Approved professional development hours completed in excess of the requirement shall not be carried over to the subsequent renewal period.

Stat. Auth.: ORS 681.420(5) & ORS 681.460

Stats. Implemented: ORS 681.320(1)(a)

Hist.: SPA 2-1996, f. & cert. ef. 7-22-96; SPA 1-2001, f. & cert. ef. 3-12-01; SPA 1-2003, f. & cert. ef. 5-7-03

## 335-070-0060

### New Licensees

Professional development for new licensees will be required on the following scale:

- (1) Licensed 0-6 months prior to renewal — 0 hours.
- (2) Licensed 7-18 months — 20 hours.
- (3) Licensed 18 months — 40 hours.

Stat. Auth.: ORS 681.420(5) & ORS 681.460

Stats. Implemented: ORS 681.320(1)(a)

Hist.: SPA 2-1996, f. & cert. ef. 7-22-96; SPA 1-2001, f. & cert. ef. 3-12-01; SPA 1-2003, f. & cert. ef. 5-7-03

## 335-070-0065

### Dual Licensees

(1) Effective January 31, 2002, each applicant for renewal of a dual license shall complete thirty (30) clock hours of documented and approved professional development in audiology and thirty (30) clock hours of documented and approved professional development in speech-language pathology to be reported at renewal on January 30, 2004. A maximum of fifteen (15) hours may be applied to both license categories if the topic is applicable to both types of licenses. A class in CPR may be counted only once.

(2) Effective January 31, 2004, each applicant for renewal of a license shall complete forty (40) clock hours of documented and approved professional development in audiology and forty (40) clock hours of documented and approved professional development in speech-language pathology to be reported at renewal on January 30, 2006 and at each renewal thereafter. A maximum of twenty (20) hours may be applied to both license categories if the topic is applicable to both types of licenses. A class in CPR may be counted only once.

(3) Approved professional development hours completed in excess of the requirement shall not be carried over to the subsequent renewal period.

Stat. Auth.: ORS 681.420(5) & ORS 681.460

Stats. Implemented: ORS 681.250(1) & ORS 681.320(1)(a)

Hist.: SPA 1-2001, f. & cert. ef. 3-12-01; SPA 1-2003, f. & cert. ef. 5-7-03

## 335-070-0075

### Speech-Language Pathology Assistants

Effective January 31, 2004, each applicant for renewal of a certificate shall complete twenty (20) clock hours of documented and approved professional development to be reported at renewal on January 30, 2006 and at each renewal thereafter. Approved professional development hours completed in excess of the requirement shall not be carried over to the subsequent renewal period.

Stat. Auth.: ORS 681.375 & ORS 681.460

Stats. Implemented: ORS 681.360(3)(c)

Hist.: SPA 1-2003, f. & cert. ef. 5-7-03

## 335-095-0010

### Definitions

(1) Approved Training Program: A post secondary training program that has approval by the Oregon Board of Examiners for Speech-Language Pathology & Audiology to offer specific coursework and practica leading to licensure as a speech-language pathology assistant.

(2) Assessment: A qualitative and quantitative process, conducted by a licensed SLP, that measures the degree of communication impairment conducted by a licensed SLP including, but not limited to, screening, norm and criterion referenced testing, behavioral observations, and clinical interview.

(3) Clinical Interaction: Supervised practicum in speech-language pathology.

(4) Direct Supervision: On-site, in-view observation and guidance by a speech-language pathologist while an assigned clinical activity is performed by a speech-language pathology assistant.

(5) Indirect Supervision: Those activities other than direct observation and guidance conducted by a speech-language pathologist that may include consultation, record review, review and evaluation of audio-or videotaped sessions.

(6) Speech-Language Pathology Assistant: A person who provides speech-language pathology services under the direction and supervision of a speech-language pathologist licensed under ORS 681.250.

Stat. Auth.: ORS 681.205, ORS 681.360, ORS 681.370, ORS 681.375, ORS 681.420 & ORS 681.460

Stats. Implemented: ORS 681.360, ORS 681.370 & ORS 681.375

Hist.: SPA 1-2003, f. & cert. ef. 5-1-03

## 335-095-0020

### Grandparenting

An applicant may meet the requirements for a certificate to practice as a speech-language pathology assistant if, prior to January 1, 2005, they submit proof of specific experience, or experience and preparation, as defined below.

(1) Applicants must meet either criterion (1)(a) or (1)(b) or (1)(c) and (2) and (3).

(a) The equivalent of three school years of full-time experience (minimum thirty (30) hours per week, or more than 3,276 total hours) working with an Oregon licensed speech-language pathologist or a speech-language

# ADMINISTRATIVE RULES

pathologist with a certificate of clinical competence (CCC's) from the American Speech and Hearing Association (ASHA); or

(b) The equivalent of two years of full time experience (minimum thirty (30) hours per week, or more than 2,184 total hours) working with an Oregon licensed speech-language pathologist or a speech-language pathologist with a certificate of clinical competence (CCC's) from the American Speech and Hearing Association (ASHA) and the completion of nine (9) hours of speech-language pathology technical coursework;

(c) The equivalent of two years of full time experience by January 2003 with the third year completed by January 2004 to obtain a renewal of the certificate.

(2) Applicants must complete the Competency Checklist (Form SLPA1, Revised 6/02);

(3) Applicants must submit the completed application, all supporting documentation, and the required non-refundable certificate fee prior to January 1, 2005.

[ED. NOTE: Forms referenced in this rule are available from the agency.]  
Stat. Auth.: ORS 681.360, ORS 681.375, ORS 681.420 & ORS 681.460  
Stat. Implemented: ORS 681.360, ORS 681.370 & ORS 681.375  
Hist.: SPA 1-2003, f. & cert. ef. 5-1-03

## 335-095-0030

### Certification of Speech-Language Pathology Assistants

Effective January 1st, 2004, the applicant must submit all of the following to be eligible for certification.

(1) Transcripts showing 45 quarter hours or 30 semester hours of speech-language pathology technical course work; and

(2) Transcripts showing 45 quarter hours or 30 semester hours of general education credit, and

(3) Written evidence of 100 clock contact hours of clinical interaction.  
Stat. Auth.: ORS 681.360, ORS 681.375, ORS 681.420 & ORS 681.460  
Stat. Implemented: ORS 681.360 & ORS 681.375  
Hist.: SPA 1-2003, f. & cert. ef. 5-1-03

## 335-095-0040

### Requirements for the Supervising Speech-Language Pathologist

(1) The supervising speech-language pathologist must have at least two years of full-time professional speech-language pathology experience.

(2) The supervising speech-language pathologist may not supervise more than two full-time or three part-time speech-language pathology assistants.

(3) The supervising speech-language pathologist must document and provide appropriate supervision of the assistant.

Stat. Auth.: ORS 681.360, ORS 681.375, ORS 681.420 & ORS 681.460  
Stat. Implemented: ORS 681.360 & ORS 681.375  
Hist.: SPA 1-2003, f. & cert. ef. 5-1-03

## 335-095-0050

### Supervision Guidelines for the Speech-Language Pathology Assistant

(1) All supervision of services provided by a speech-language pathology assistant must be performed by a speech-language pathologist licensed under ORS Chapter 681.

(2) The amount and type of supervision required will be based on the skills and experience of the speech-language pathology assistant, the needs of the patients/clients served, the service setting, the tasks assigned, and other factors.

(a) A minimum of 30% (20% direct) of all the time an assistant is providing services for the first 90 days of employment shall be supervised.

(b) Subsequent to the first 90 days of employment, a minimum of 20% (10% direct) of all the time an assistant is providing services shall be supervised.

(c) The supervising speech-language pathologist must be able to be reached at all times. A temporary supervisor may be designated as necessary.

(d) The caseload of the supervising clinician must allow for administration, including assistant supervision, evaluation of students and meeting times. (All students assigned to an assistant are considered part of the caseload of the supervising clinician.)

Stat. Auth.: ORS 681.360, ORS 681.370, ORS 681.375, 681.420 & ORS 681.460  
Stat. Implemented: ORS 681.360, ORS 681.370, & ORS 681.375  
Hist.: SPA 1-2003, f. & cert. ef. 5-1-03

## 335-095-0060

### Scope of Duties for the Speech-Language Pathology Assistant

(1) A speech-language pathology assistant may conduct the following tasks under supervision of the licensed Speech-Language Pathologist:

(a) Conduct speech and language screenings without interpretation, utilizing screening protocols specified by the supervising speech-language pathologist.

(b) Provide direct treatment assistance, excluding dysphasia (as opposed to feeding for nutritional purposes), to patients/clients identified by the supervising SLP by following written treatment plans or protocols developed by the supervising SLP.

(c) Document patient/client progress, without interpretation of findings, toward meeting established objectives as stated in the treatment plan, and report this information to the supervising speech-language pathologist.

(d) Assist the speech-language pathologist in collecting and tallying of data for assessment purposes, without interpretation.

(e) Act as second-language interpreters during assessments.

(f) Assist the speech-language pathologist with informal documentation during an intervention session (collecting and tallying data as directed by the speech-language pathologist), prepare materials, and assist with other clerical duties as specified by the supervising speech-language pathologist.

(g) Schedule activities and prepare charts, records, graphs, or other displays of data.

(h) Perform checks and maintenance of equipment.

(i) Participate with the speech-language pathologist in research projects, in-service training, and public relations programs.

(j) Sign and initial treatment notes for review and co-signature by the supervising speech-language pathologist.

(2) The speech-language pathology assistant may not perform the following tasks:

(a) May not conduct swallowing screening, assessment, and intervention protocols, including modified barium swallow studies.

(b) May not administer standardized or non-standardized diagnostic tests, formal or informal evaluations, or interpret test results.

(c) May not participate in parent conferences, case conferences, or any interdisciplinary team without the presence of the supervising speech-language pathologist.

(d) May not write, develop, or modify a patient/client's treatment plan in any way.

(e) May not provide intervention for patients/clients without following the treatment plan prepared by the supervising speech-language pathologist.

(f) May not sign any formal documents (e.g. treatment plans, reimbursement forms, or reports.)

(g) May not select patients/clients for services.

(h) May not discharge patients/clients from services.

(i) May not disclose clinical or confidential information either orally or in writing to anyone not designated by the speech-language pathologist.

(j) May not make referral for additional service.

(k) May not communicate with the patient/client, family, or others regarding any aspect of the patient/client status or service without the specific consent of the supervising speech-language pathologist.

(l) May not represent him/herself as a speech-language pathologist.

(m) May not write a formal screening, diagnostic, progress and/or discharge report.

Stat. Auth.: ORS 681.360, ORS 681.370, ORS 681.375, ORS 681.420 & ORS 681.460  
Stat. Implemented: ORS 681.370 & ORS 681.375  
Hist.: SPA 1-2003, f. & cert. ef. 5-1-03

## 335-095-0065

### Scope of Duties for the Educational Assistant

(1) A speech-language pathologist may assign the following tasks to an educational assistant:

(a) May assign non-instructional activities such as materials preparation.

(b) May assign clerical duties such as scheduling of appointments, maintenance of equipment and the set-up of materials for diagnostic and intervention sessions.

(2) A speech-language pathologist may not assign the following tasks to an educational assistant:

(a) May not assign the task of speech and language screenings.

(b) May not assign provision of direct treatment assistance. This does not mean to imply that carryover and practice activities are restricted to speech-language pathologists and speech-language pathology assistants.

(c) May not assign documentation of patient/client progress.

(d) May not assign the task of assisting the speech-language pathologist in collecting and tallying of data for assessment purposes.

(e) May not assign the task of assisting the speech-language pathologist with informal documentation during an intervention session.

(f) May not assign the task of signing and recording initial treatment notes.

Stat. Auth.: ORS 681.360, ORS 681.370, ORS 681.375, 681.420 & ORS 681.460  
Stat. Implemented: ORS 681.360, ORS 681.370 & ORS 681.375  
Hist.: SPA 1-2003, f. & cert. ef. 5-1-03

# ADMINISTRATIVE RULES

## Board of Licensed Professional Counselors and Therapists Chapter 833

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

**Filed with Sec. of State:** 4-28-2003

**Certified to be Effective:** 4-28-03

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

**Rules Amended:** 833-020-0015, 833-020-0040, 833-020-0060, 833-020-0090, 833-020-0111, 833-025-0001, 833-025-0005, 833-025-0006, 833-040-0001, 833-040-0010

**Rules Repealed:** 833-020-0130, 833-020-0015(T), 833-020-0040(T), 833-020-0060(T), 833-020-0090(T), 833-020-0111(T), 833-025-0001(T), 833-025-0005(T), 833-025-0006(T), 833-040-0001(T), 833-040-0010(T)

**Subject:** Amendments update rules to extend pre-internship hour credits to applicants; to permit more graduate level post-degree supplemental training; to eliminate redundancy in describing our graduate degree standards; to eliminate a conflict between clock and credit hour requirements; to reflect changes in the computerized LPC and LMFT tests, and clarify exam procedures. The changes have no fiscal impact.

**Rules Coordinator:** Julia M. Cooley—(503) 378-2216, ext. 31

### 833-020-0015

#### Methods of Application

(1) Applications for licensure must be made indicating one of the following methods for compliance with the supervised work requirements for licensure.

(a) **Intern Registration Method.** The intern registration method is required for applicants who seek acceptance of post-degree supervised work experience completed in Oregon after June 30, 2002. The intern registration method requires applicant to obtain Board approval of a proposed plan for completing required hours of supervised work experience. No less than 1,000 hours of supervised work experience must be completed under an approved plan. Hours of supervised work experience completed pursuant to OAR 833-020-0150, that were not part of an approved plan, may be credited toward the supervised work experience requirement under this method.

(b) **Direct Method.** The direct method is required for applicants who seek acceptance of supervised work experience completed in another jurisdiction or in Oregon before June 30, 2002, or a combination thereof. The direct method requires the applicant to document no less than the total minimum number of supervised work experience hours required for licensure, all of which must have been completed prior to the date of application for licensure.

(A) For applicants seeking the professional counselor license, the hours must meet the standards set forth in OAR 833-020-0050 and may be comprised of pre-degree hours plus post-degree hours:

- (i) Completed in Oregon prior to June 30, 2002;
- (ii) Completed in another state or country prior to application; or
- (iii) Be a combination of hours completed in Oregon prior to June 30, 2002 and completed in another state prior to application.

(B) For applicants seeking the marriage and family therapist license, the hours must meet the standards set forth in OAR 833-020-0100 and may be comprised of post-degree hours:

- (i) Completed in Oregon prior to June 30, 2002;
- (ii) Completed in another state or country prior to application; or
- (iii) Be a combination of hours completed in Oregon prior to June 30, 2002 and completed in another state prior to application.

(c) **Reciprocity Method.** The reciprocity method is required for applicants who seek acceptance of supervised work experience previously used to obtain a comparable license in another jurisdiction. The reciprocity method requires the applicant to document that the experience requirements under which the applicant obtained a comparable license held in another state are equivalent to the standards required for Oregon licensure as a professional counselor or as a marriage and family therapist pursuant to OAR 833-020-0140.

(d) **Re-Licensure Method.** The re-licensure method is required for applicants who have previously been licensed by the Board. The re-licensure method requires the applicant, as a previous Board licensee, to request a new license with a new license number, but without documenting further supervised work experience pursuant to OAR 833-020-0022.

(2) Applicants may request permission to change their method of application without re-application, if they do so within the year allowed to

complete application. The date of original application will not change; however, applicants may not change the type of license requested without re-application.

(3) Applicants who filed applications and fees prior to June 30, 2002 may complete their applications under the method selected and rules in place at time of application. Applicants, whose applications have not been open for more than one year or who have been granted an extension of time by the Board, may continue to obtain supervised work experience for the purpose of qualifying for licensure after June 30, 2002 without registering as an intern and working under an approved plan until the year or extension ends.

Stat. Auth.: ORS 675.785

Stats. Implemented: ORS 675.715, ORS 675.720, ORS 675.725, ORS 675.735

Hist.: BLPCT 1-2002, f. & cert. ef. 3-1-02; BLPCT 2-2002(Temp), f. 12-13-02, cert. ef. 12-16-02 thru 6-13-03; BLPCT 1-2003, f. & cert. ef. 4-28-03

### 833-020-0040

#### Educational Qualifications for Licensure as a Professional Counselor

To qualify for licensure as a professional counselor under ORS 675.715(2), an applicant shall hold one of the following:

(1) A graduate degree in counseling received from a program of no less than 72 quarter or 48 semester hours approved by the Council for Accreditation of Counseling and Related Educational Programs (CACREP);

(2) A graduate degree in counseling received from a program of no less than 72 quarter or 48 semester hours approved by the Council on Rehabilitation Education (CORE);

(3) A graduate degree determined by the Board to be comparable in both content and quality by meeting the academic and training program standards for graduate degrees set out in OAR 833-025-0001; or

(4) A graduate degree determined by the Board to meet a majority of the graduate degree standards defined in OAR 833-025-0001(2) and the degree coursework standards set forth in OAR 833-025-0005, including additional graduate training as set forth in OAR 833-025-0006, that together meet the graduate degree standards which require a total of no less than 72 quarter or 48 semester hours of graduate academic coursework related to a degree in counseling.

Stat. Auth.: ORS 675.715 & ORS 675.785

Stats. Implemented: ORS 675.715 & ORS 675.785

Hist.: LPCT 1-1990(Temp), f. & cert. ef. 3-6-90; LPCT 2-1990, f. 8-31-90, cert. ef. 9-1-90; LPCT 1-1991, f. 9-30-91, cert. ef. 10-1-91; LPCT 2-1992, f. 11-30-92, cert. ef. 12-1-92; LPCT 1-1993, f. 12-30-93, cert. ef. 1-1-94; LPCT 1-1996, f. 1-3-96, cert. ef. 1-5-96; LPCT 1-1998, f. 1-2-98, cert. ef. 1-5-98; BLPCT 2-2002(Temp), f. 12-13-02, cert. ef. 12-16-02 thru 6-13-03; BLPCT 1-2003, f. & cert. ef. 4-28-03

### 833-020-0060

#### Examination Requirement for Licensure as a Professional Counselor

All applicants for licensure as a professional counselor shall be required to pass an examination consisting of two separate sections: a competency section and an Oregon law and rules section.

(1) To qualify for licensure as a professional counselor under ORS 675.715(5), an applicant shall pass one of the following competency examinations within 10 years from the date of application for licensure:

- (a) National Counselor Examination (NCE);
- (b) Certified Clinical Mental Health Counselor Examination;
- (c) Certified Rehabilitation Counselor Examination; or
- (d) Other exams as approved by the Board.

(2) The Board uses the National Counselor Examination (NCE) as the state examination.

(3) To qualify to sit for the competency examination, a LPC applicant must:

- (a) Submit an application;
- (b) Meet the graduate program and coursework requirements prescribed in OAR 833-020-0040.

(4) Upon review and acceptance of an applicant's educational qualifications, the Board will send written notification of approval to take the competency examination.

(5) Candidates will pay exam and exam administration fees to the prescribed examination providers

(6) Passing scores will be:

(a) Established by the National Board of Certified Counselors for applicants who plan to take the exam *after* making application for Oregon licensure.

(b) Established by the agency verifying passage of its examination for applicants who took a state competency exam *before* making application for Oregon licensure.

(7) The Board will notify examinees, in writing only, of the results of their examination.



# ADMINISTRATIVE RULES

(8) Following passage of the approved competency examination, the Board requires passage of an Oregon state law and rules examination, whose passing score will be determined by the Board.

(9) Applicants by reciprocity do not need to take the state competency examination.

(10) Applicants by direct method, who have not passed an approved examination within 10 years application, shall be required to take the NCE.

Stat. Auth.: ORS 675.785

Stats. Implemented: ORS 675.715 & ORS 675.785

Hist.: LPCT 1-1990(Temp), f. & cert. ef. 3-6-90; LPCT 2-1990, f. 8-31-90, cert. ef. 9-1-90; LPCT 2-1992, f. 11-30-92, cert. ef. 12-1-92; LPCT 1-1996, f. 1-3-96, cert. ef. 1-5-96; BLPCT 2-2002(Temp), f. 12-13-02, cert. ef. 12-16-02 thru 6-13-03; BLPCT 1-2003, f. & cert. ef. 4-28-03

## 833-020-0090

### Educational Requirements for Licensure as a Marriage and Family Therapist

To qualify for licensure as a marriage and family therapist under ORS 675.715(2), an applicant shall hold one of the following:

(1) A graduate degree in marriage and family therapy received from a program of no less than 72 quarter or 48 semester hours approved by the Commission on Accreditation for Marriage and Family Therapy Education (COAMFTE); or

(2) A graduate degree determined by the Board to be comparable in both content and quality by meeting the academic and training program standards for graduate degrees set out in OAR 833-025-0001; or

(3) A graduate degree determined by the Board to meet a majority of the graduate degree standards defined in OAR 833-025-0001(2) and the degree coursework standards set forth in OAR 833-020-0005 including additional graduate training as set forth in OAR 833-025-0006 that together meet the graduate degree standards which require a total of no less than 72 quarter or 48 semester hours of graduate academic coursework related to a degree in marriage and family therapy.

Stat. Auth.: ORS 675.715 & ORS 675.785

Stats. Implemented: ORS 675.715 & ORS 675.785

Hist.: LPCT 1-1990(Temp), f. & cert. ef. 3-6-90; LPCT 2-1990, f. 8-31-90, cert. ef. 9-1-90; LPCT 1-1991, f. 9-30-91, cert. ef. 10-1-91; LPCT 2-1992, f. 11-30-92, cert. ef. 12-1-92; LPCT 1-1993, f. 12-30-93, cert. ef. 1-1-94; LPCT 1-1996, f. 1-3-96, cert. ef. 1-5-96; LPCT 1-1998, f. 1-2-98, cert. ef. 1-5-98; BLPCT 2-2002(Temp), f. 12-13-02, cert. ef. 12-16-02 thru 6-13-03; BLPCT 1-2003, f. & cert. ef. 4-28-03

## 833-020-0111

### Examination Requirement for Licensure as a Marriage and Family Therapist

All applicants for licensure as a marriage and family therapist shall be required to pass an examination consisting of two separate examination sections: a competency section and an Oregon law and rules section.

(1) To qualify for licensure as a marriage and family therapist under ORS 675.715(5), an applicant shall pass a competency examination prescribed by the Board or have passed other approved alternative exams, within 10 years from the date of application for licensure.

(2) The Board prescribes as the competency section the computerized marital and family therapy examination of the Association of Marital and Family Therapy Regulatory Boards (AMFTRB) in association with the Professional Examination Service.

(3) To qualify to sit for the competency examination, a LMFT applicant must:

(a) Submit an application;

(b) Meet the graduate program and coursework requirements prescribed in OAR 833-020-0090.

(c) Meet the supervised work experience requirements prescribed in OAR.

(4) Upon review and acceptance of an applicant's educational qualifications and supervised work experience, the Board will send written notification of approval to take the competency examination.

(5) Candidates will pay exam and exam administration fees to the prescribed examination providers.

(6) Passing scores will be:

(a) Established by the AMFTRB for applicants who plan to take the exam after making application for Oregon licensure.

(b) Established by the agency verifying passage of its examination for applicants who have completed an approved alternative examination.

(7) The Board will notify examinees, in writing only, of the results of their examination.

(8) Following passage of the approved competency examination, the Board requires passage of an Oregon state law and rules examination, whose passing score will be determined by the Board.

(9) Applicants by reciprocity do not need to take the state competency examination.

(10) Applicants by direct method, who have not passed an approved examination within 10 years of application, shall be required to take the AMFTRB examination following official acceptance of their education and experience documentation.

Stat. Auth.: ORS 675.785

Stats. Implemented: ORS 675.715 & ORS 675.785

Hist.: LPCT 1-1990(Temp), f. & cert. ef. 3-6-90; LPCT 2-1990, f. 8-31-90, cert. ef. 9-1-90; LPCT 2-1992, f. 11-30-92, cert. ef. 12-1-92; LPCT 1-1996, f. 1-3-96, cert. ef. 1-5-96; BLPCT 2-2001, f. 9-19-01, cert. ef. 10-1-01; BLPCT 2-2002(Temp), f. 12-13-02, cert. ef. 12-16-02 thru 6-13-03; BLPCT 1-2003, f. & cert. ef. 4-28-03

## 833-025-0001

### Comparable Full Standards and Majority Standards for Graduate Degrees

(1) A graduate degree shall be determined by the Board as comparable in content and quality to degrees from CACREP, COAMFTE, or CORE approved programs, if issued by a degree-granting program that meets the following standards:

(a) The degree was from an institution that:

(A) Was a fully accredited member of one of the regional institutional accreditation bodies at the time the degree was granted;

(B) Offered a minimum of a master's degree;

(C) Was of at least two years' duration, which by standard definition is at least 48 semester or 72 quarter hours;

(D) Included coursework requirements set forth in OAR 833-025-0005.

(E) Included a required supervised clinical experience for all students of no less than 600 clock hours; and

(F) Provided a practicum or internship site that:

(i) Had supervisory staff with a minimum of a master's degree in the program emphasis and with pertinent professional experience;

(ii) Made provision for faculty monitoring of operations;

(iii) Kept records of student-client contact hours including summary of student progress by the supervisor; and

(iv) Had a written agreement with the program and student specifying learning objectives.

(v) Had a mechanism for program evaluation.

(2) Pursuant to ORS 675.715(1)(d), a graduate degree shall be determined to meet a majority of the Board's standards, as set forth in section (1) of the administrative rule, if issued by a degree granting program that:

(a) Was from a regionally accredited institution that provided training in counseling or marriage and family therapy;

(b) Offered a minimum of a master's degree;

(c) Was of at least one year in duration, which by standard definition is at least 30 semester or 45 quarter hours;

(d) Included coursework requirements for the degree as set forth in OAR 833-025-0005;

(e) Included a degree-required clinical experience with on-site supervisors having competence in counseling or marriage and family therapy and field supervision.

Stat. Auth.: ORS 675.715

Stats. Implemented: ORS 675.715 & ORS 675.785

Hist.: LPCT 2-1990, f. 8-31-90, cert. ef. 9-1-90; LPCT 2-1992, f. 11-30-92, cert. ef. 12-1-92; LPCT 1-1993, f. 12-30-93, cert. ef. 1-1-94; LPCT 1-1996, f. 1-3-96, cert. ef. 1-5-96; LPCT 1-1998, f. 1-2-98, cert. ef. 1-5-98; BLPCT 2-2002(Temp), f. 12-13-02, cert. ef. 12-16-02 thru 6-13-03; BLPCT 1-2003, f. & cert. ef. 4-28-03

## 833-025-0005

### Standards for Degree Coursework

The curriculum standards for degrees set forth in OAR 833-025-0001(1)(a)-(F) are to include as follows:

(1) For counseling degrees leading to a professional counselor license, based on a *minimum* of 72 quarter or 48 semester hours:

(a) Counseling Theory, three quarter hours/two semester hours;

(b) Human Growth and Development, three quarter hours/two semester hours;

(c) Social and Cultural Foundations, three quarter hours/two semester hours;

(d) The Helping Relationship, three quarter hours/two semester hours;

(e) Group Dynamics Processing and Counseling, three quarter hours/two semester hours;

(f) Lifestyle and Career Development, three quarter hours/two semester hours;

(g) Appraisal of Individuals, three quarter hours/two semester hours;

(h) Research and Evaluation, three quarter hours/two semester hours;

(i) Professional Orientation, three quarter hours/two semester hours;

(j) Clinical/Applied Experience of at least 600 clock hours; and

# ADMINISTRATIVE RULES

(k) Supporting Coursework for Specialty Areas, 24-33 quarter hours/16-22 semester hours.

(2) For marriage and family therapy degrees leading to a marriage and family therapist license, based on 72 quarter or 48 semester hours:

(a) Human Development, six quarter hours/four semester hours;

(b) Marital and Family Theoretical Foundation Studies, three quarter hours/two semester hours;

(c) Marital and Family Therapy Assessment, Treatment, Principles and Techniques Studies, 12 quarter hours/8 semester hours;

(d) Professional Studies, three quarter hours/two semester hours;

(e) Research Methods or Statistics, three quarter hours/two semester hours;

(f) Clinical/Applied Experience of at least 600 clock hours; and

(g) Supporting Coursework Focusing on the Systems Paradigm for Specialty Areas, 24-33 quarter hours/16-22 semester hours.

Stat. Auth.: ORS 675.715 & ORS 675.785

Stats. Implemented: ORS 675.785

Hist.: LPCT 2-1990, f. 8-31-90, cert. ef. 9-1-90; LPCT 1-1993, f. 12-30-93, cert. ef. 1-1-94; LPCT 1-1998, f. 1-2-98, cert. ef. 1-5-98; BLPCT 2-2002(Temp), f. 12-13-02, cert. ef. 12-16-02 thru 6-13-03; BLPCT 1-2003, f. & cert. ef. 4-28-03

## 833-025-0006

### Additional Graduate Training to Supplement Degree Program

(1) Training used to supplement a degree program pursuant to OAR 833-025-0001(2), shall be taken and successfully completed for graduate credit at an accredited college or university as follows:

(a) For counseling or marriage and family therapy degrees meeting the majority standards requirements of OAR 833-025-0001(2)(a)-(e) as part of a graduate program, or at the graduate level through a counselor or marriage and family therapy program or any other department offering training that meets the competency areas for such a program as defined by CACREP or COAMFTE.

(b) For related degrees leading to the marriage and family therapist license meeting the requirements of OAR 833-025-0001 (2)(a)(A)-(D), as part of a structured degree program designed and offered as part of a clearly identified graduate level marriage and family therapy program;

(c) No more than one course of the training which is theoretical in nature may be by distance learning. Skill building coursework must be through attended classes or training.

(2) Regardless of the total number of quarter or semester hours completed by the applicant:

(a) For the professional counselor license: the majority graduate degree standard set forth in OAR 833-025-0001(2)(a)-(e) must be fulfilled. If the coursework standard set forth in OAR 833-025-0005(1)(a)-(k) has not been fulfilled, then additional courses offering knowledge and skills for the practice of professional counseling shall be required to fulfill the coursework standard.

(b) For the marriage and family therapist license: the majority graduate degree standard set forth in OAR 833-025-0001(2)(a)-(e) must be fulfilled. If the coursework standard set forth in OAR 833-025-0005(2)(a)-(g) has not been fulfilled, then additional courses, presented from a systemic approach, shall be required in studies offering knowledge and skills for the practice of marriage and family therapy.

(3) To fulfill the requirements for the clinical/applied experience, the applicant shall:

(a) Complete a practicum or internship for the required credits and to a total of at least 600 clock hours; or

(b) If the applicant has at least five years of full-time post-degree experience, may complete a class in advanced clinical or applied coursework which may not require site placement, but involves both theoretical and experiential components. Completion will waive the requirement that the clinical experience include at least 600 clock hours;

(c) The clinical experience for applicants for licensure of marriage and family therapists shall consist of work in relationship issues, couples, and families.

Stat. Auth.: ORS 675.715 & ORS 675.785

Stats. Implemented: ORS 675.715

Hist.: LPCT 1-1993, f. 12-30-93, cert. ef. 1-1-94; LPCT 1-1998, f. 1-2-98, cert. ef. 1-5-98; BLPCT 2-2002(Temp), f. 12-13-02, cert. ef. 12-16-02 thru 6-13-03; BLPCT 1-2003, f. & cert. ef. 4-28-03

## 833-040-0001

### Fees

Fees established by the Board of Licensed Professional Counselors and Therapists are as follows:

(1) Application for licensure — \$125.

(2) Initial license — \$100.

(3) Annual renewal of license — \$125.

(4) Restoration fee — \$50.

(5) Examination:

(a) For professional counselor license — Candidates will pay exam and exam administration fees to the prescribed examination providers.;

(b) For marriage and family therapist license — Candidates will pay exam and exam administration fees to the prescribed examination providers.

(6) Duplicate license or certificate of licensure — \$5.

(7) Verification of licensure or examination scores for applicant or licensee to other licensing or certifying agencies — \$10.

(8) Annual renewal of registration as intern — \$80.

Stat. Auth.: ORS 675.785

Stats. Implemented: ORS 675.785

Hist.: LPCT 1-1990(Temp), f. & cert. ef. 3-6-90; LPCT 2-1990, f. 8-31-90, cert. ef. 9-1-90; LPCT 1-1991, f. 9-30-91, cert. ef. 10-1-91; LPCT 1-1993, f. 12-30-93, cert. ef. 1-1-94; LCPT 1-1997, f. 10-10-97, cert. ef. 11-1-97; BLPCT 1-2001(Temp), f. & cert. ef. 7-13-01 thru 1-1-02; BLPCT 2-2001, f. 9-19-01, cert. ef. 10-1-01; BLPCT 2-2002(Temp), f. 12-13-02, cert. ef. 12-16-02 thru 6-13-03; BLPCT 1-2003, f. & cert. ef. 4-28-03

## 833-040-0010

### Fee Refunds

Overpayment of fees or fees submitted as part of application before required, shall be refunded.

Stat. Auth.: ORS 675.785

Stats. Implemented: ORS 675.785

Hist.: LPCT 1-1990(Temp), f. & cert. ef. 3-6-90; LPCT 2-1990, f. 8-31-90, cert. ef. 9-1-90; LPCT 2-1992, f. 11-30-92, cert. ef. 12-1-92; BLPCT 2-2002(Temp), f. 12-13-02, cert. ef. 12-16-02 thru 6-13-03; BLPCT 1-2003, f. & cert. ef. 4-28-03

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## Board of Medical Examiners Chapter 847

**Adm. Order No.:** BME 8-2003

**Filed with Sec. of State:** 4-24-2003

**Certified to be Effective:** 4-24-03

**Notice Publication Date:** 3-1-03

**Rules Amended:** 847-005-0005

**Subject:** The adopted rules reduce the Emeritus registration renewal fee from \$112 per year to \$50 per year. This status is for licensees who wish to volunteer and they may not receive any monetary compensation for their practice.

**Rules Coordinator:** Diana M. Dolstra—(503) 229-5873, ext. 223

## 847-005-0005

### Fees

Fees to be effective upon adoption:

(1) Doctor of Medicine/Doctor of Osteopathy (MD/DO) Initial License Application — \$375.

(2) MD/DO Interview Reschedule — \$150.

(3) MD/DO Registration: Active (in-state), Inactive (out-of-state), and Locum Tenens \$219/year.\*\*\*

(4) MD/DO Emeritus Registration — \$50/year.

(5) Limited License, Institutional Practice, Public Health, SPEX, Visiting Professor, Fellow, Medical Faculty, Postgraduate, Special — \$185.

(6) Acupuncture Initial License Application — \$245.

(7) Acupuncture Registration — \$140/year.\*\*\*

(8) Acupuncture Limited License, Special, Visiting Professor, Postgraduate — \$75.

(9) Physician Assistant Initial License Application — \$245.

(10) Physician Assistant Registration — \$140/year.\*\*\*

(11) Physician Assistant Supervising Physician Change or Practice Change — \$50.

(12) Physician Assistant Limited License, Special, Postgraduate — \$75.

(13) Podiatrist Initial Application/Exam — \$340.

(14) Podiatrist Competency Examination (PMLexis) Fees:

(a) PMLexis Examination — \$350.

(b) PMLexis Administration (plus PMLexis Examination) — \$200.

(c) PMLexis Examinee Review of Scores — \$40.

(15) Podiatrist Interview Reschedule — \$150.

(16) Podiatrist Re-exam — \$100.

(17) Podiatrist Registration: Active (in-state), Inactive (out-of-state), and Locum Tenens — \$219/year.\*\*\*

(18) Podiatrist Limited License, Special, Postgraduate — \$185.

(19) Miscellaneous: All Fines and Late Fees:

(a) MD/DO Registration Renewal Late Fee — \$150.

(b) Acupuncture Registration Renewal Late Fee — \$75.

# ADMINISTRATIVE RULES

- (c) Physician Assistant Registration Renewal Late Fee — \$75.
- (d) Podiatrist Registration Renewal Late Fee — \$150.
- (e) Dispensing MD/DO/DPM Failure to Register — \$150.
- (20) Certification of Grades and Licensure Standing — \$50.
- (21) Oral Specialty or Competency Examination (\$1,000 deposit required) — Actual costs.
- (22) Affidavit Processing Fee for Reactivation — \$50.
- (23) Reissue Certificate of Registration — \$10.
- (24) Duplicate License — \$25.
- (25) Name Change for Licensee (includes new license and amended Certificate of Registration — \$50.
- (26) Name Change for Applicant with a Limited License (includes amended Certificate of Registration) — \$25.
- (27) Duplicate of Wallet Size Card for License — \$10.
- (28) (a) Verification of Licensure - Individual Requests (1-4 Licenses) — \$10 per license.
- (b) Verification of Licensure - Multiple (5 or more) — \$7.50 per license.
- (c) Malpractice Report - Individual Requests — \$10 per license/report.
- (d) Malpractice Report - Multiple (monthly report) — \$15 per report.
- (e) Disciplinary - Individual Requests — \$10 per license.
- (f) Disciplinary Report - Multiple (quarterly report) — \$15 per report.
- (29) Base Service Charge for Copying — \$5 + .20/page.
- (30) Record Search Fee (+ copy charges see section (29) of this rule):
  - (a) Clerical — \$20 per hour.\*
  - (b) Administrative — \$30 per hour.\*
  - (c) Executive — \$50 per hour.\*
  - (d) Medical Consultant — \$75 per hour.\*
- (31) Data Processing Labels:
  - (a) Oregon only — \$300.
  - (b) Complete (Oregon & out-of-state) — \$300.
  - (c) MD/DO Registration Renewal — \$150.
- (32) Data Processing Lists:
  - (a) Oregon only — \$150.
  - (b) Complete (Oregon & out-of-state) — \$150.
  - (c) MD/DO Registration Renewal — \$150/year.
- (33) Data Order:
  - (a) Standard Data License Order — \$300.
  - (b) Custom Data License Order — \$400.
  - (c) Address Label Disk — \$100.
- (34) Quarterly Lists:
  - (a) Active MD's/DO's, including MD's/DO's licensed at quarterly Board meetin — \$75 Each.
  - (b) New Physician List (MD's/DO's Licensed at Quarterly Board Meeting) — \$10.
  - (c) Active DPM's, PA's and AC's Lists, including DPM's, PA's, and AC's licensed at quarterly Board meeting — \$10 per list.
- (35) Physician Handbook — \$15.
- (36) All Board fees and fines are non-refundable, and non-transferable.

\* Plus photocopying charge above, if applicable.

\*\* Collected biennially except where noted in the Administrative Rules.

\*\*\* All active registration fees include annual assessments of \$33.00 for the Diversion Program for Health Professionals and \$10.00 for the Oregon Health Sciences University Library, and are collected biennially.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.265

Hist.: ME 7-1984, f. & ef. 1-26-84; ME 17-1984, f. & ef. 11-5-84; ME 6-1985, f. & ef. 7-30-85; ME 3-1986(Temp), f. & ef. 4-23-86; ME 4-1986, f. & ef. 4-23-86; ME 9-1986, f. & ef. 7-31-86; ME 2-1987, f. & ef. 1-10-87; ME 7-1987(Temp), f. & ef. 1-26-87; ME 9-1987, f. & ef. 4-28-87; ME 25-1987, f. & ef. 11-5-87; ME 9-1988, f. & cert. ef. 8-5-88; ME 14-1988, f. & cert. ef. 10-20-88; ME 1-1989, f. & cert. ef. 1-25-89; ME 5-1989 (Temp), f. & cert. ef. 2-16-89; ME 6-1989, f. & cert. ef. 4-27-89; ME 9-1989(Temp), f. & cert. ef. 8-1-89; ME 17-1989, f. & cert. ef. 10-20-89; ME 4-1990, f. & cert. ef. 4-25-90; ME 9-1990, f. & cert. ef. 8-2-90; ME 5-1991, f. & cert. ef. 7-24-91; ME 11-1991(Temp), f. & cert. ef. 10-21-91; ME 6-1992, f. & cert. ef. 5-26-92; ME 1-1993, f. & cert. ef. 1-29-93; ME 13-1993, f. & cert. ef. 11-1-93; ME 14-1993(Temp), f. & cert. ef. 11-1-93; ME 1-1994, f. & cert. ef. 1-24-94; ME 6-1995, f. & cert. ef. 7-28-95; ME 7-1996, f. & cert. ef. 10-29-96; ME 3-1997, f. & cert. ef. 11-3-97; BME 7-1998, f. & cert. ef. 7-22-98; BME 7-1999, f. & cert. ef. 4-22-99; BME 10-1999, f. 7-8-99, cert. ef. 8-3-99; BME 14-1999, f. & cert. ef. 10-28-99; BME 4-2000, f. & cert. ef. 2-22-00; BME 6-2001(Temp), f. & cert. ef. 7-18-01 thru 11-30-01; BME 10-2001, f. & cert. ef. 10-30-01; BME 8-2003, f. & cert. ef. 4-24-03

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**Adm. Order No.:** BME 9-2003  
**Filed with Sec. of State:** 5-2-2003  
**Certified to be Effective:** 5-2-03  
**Notice Publication Date:** 3-1-03  
**Rules Amended:** 847-010-0070

**Subject:** Adopted rule clarifies that if the Board requires a licensee to take a medical examination, whether it is the Special Purpose Examination (SPEX), an oral examination, or any other examination the Board considers appropriate, the examination shall be paid for by the licensee.

**Rules Coordinator:** Diana M. Dolstra—(503) 229-5873, ext. 223

## 847-010-0070

### Competency Examination

(1) Whenever the Board of Medical Examiners orders a medical competency examination pursuant to ORS 677.420, it may require or administer one, all, or any combination of the following examinations:

- (a) The Special Purpose Examination (SPEX);
- (b) Oral Examination;
- (c) Any other examination that the Board determines appropriate.

(2) Failure to achieve a passing grade on any examination shall constitute grounds for suspension or revocation of examinee's license on the grounds of Manifest Incapacity to Practice Medicine as provided by ORS 677.190 (15).

(3) If an oral examination is ordered by the Board, an Examination Panel shall be appointed. The examination shall include questions which test basic knowledge and also test for knowledge expected of a physician with a practice similar in nature to that of the examinee's. The panel shall establish a system for weighing the score for each question in the examination. After it is prepared, the examination shall be submitted to the Board for review and approval.

(4) Appointment of an Examination Panel is required only when administering an oral examination.

(5) The examinee shall be given no less than two weeks' notice of the date, time and place of any examination to be administered.

(6) The medical competency examination shall be paid for by the licensee.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.110

Hist.: ME 34, f. & ef. 5-10-77; ME 3-1979, f. & ef. 5-1-79; ME 8-1982, f. & ef. 10-27-82; ME 3-1985, f. & ef. 5-6-85; BME 12-2000, f. & cert. ef. 10-30-00; BME 9-2003, f. & cert. ef. 5-2-03

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**Adm. Order No.:** BME 10-2003

**Filed with Sec. of State:** 5-2-2003

**Certified to be Effective:** 5-2-03

**Notice Publication Date:** 3-1-03

**Rules Amended:** 847-020-0170, 847-020-0180

**Subject:** The rule adoption adds continuing medical education as a possible waiver of the Special Purpose Examination (SPEX) for a physician applicant or licensee who has not practiced for 12 or more consecutive months.

**Rules Coordinator:** Diana M. Dolstra—(503) 229-5873, ext. 223

## 847-020-0170

### Written Examination, SPEX Examination and Personal Interview

(1) After complying with OAR 847-020-0110 through 847-020-0200 the applicant applying for licensure must have passed one of the following examination combinations:

(a) Part I of the National Board of Medical Examiners examination or Step 1 of the USMLE, Part II of the National Board of Medical Examiners examination or Step 2 of the USMLE, and Part III of the National Board of Medical Examiners examination or Step 3 of the USMLE or Component 2 of the FLEX examination. The score achieved on each Step, Part or Component must equal or exceed the figure established by the USMLE Program, the National Board of Medical Examiners or the Federation of State Medical Boards as a passing score. All Steps, Parts or Components must be administered prior to January 2000; or

(b) Component 1 of the FLEX examination and Step 3 of the USMLE. A score of 75 or above must be achieved on Component 1 and the score achieved on Step 3 must be equal to or exceed the figure established by the Federation as a recommended passing score. The Component and Step must have been administered prior to January 2000; or

(c) USMLE Steps 1, 2, and 3. All three Steps must be passed within a seven-year period which begins when the first Step, either Step 1 or Step 2, is passed. The applicant must have passed each step within three attempts within the seven-year period, or they are disqualified. The score achieved on each Step must equal or exceed the figure established by the Federation as a recommended passing score. Applicants who have not passed all three Steps within the seven-year period may request an exception to the seven-

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year requirement if their education was delayed due to personal illness or their participation in an MD/DO/PhD program.

(2) Step 3 of the USMLE may be taken during the first year of postgraduate training, or after the first year of postgraduate training has been completed. A Limited License, Postgraduate will be required for training beyond the postgraduate 1 level if the USMLE is not yet passed.

(3) The applicant will not be allowed to take the USMLE for this state nor apply for licensure in this state if the FLEX has been previously failed four or more times.

(4) The applicant must have passed the written examination (FLEX) under the following conditions:

(a) The applicant who has taken the FLEX examination (Day I, II, and III) administered between June 1968 and December 1984 must have taken the entire examination at one sitting. The applicant who has taken the FLEX examination (Component 1 and Component 2), first administered in June 1985, was not required to take both Components 1 and 2 of the FLEX examination at one sitting. Both must have been passed within seven years of the first attempt.

(b) The applicant may not have taken the FLEX examination more than a total of four times, whether in Oregon or other states, whether the components were taken together or separately. After the third failed attempt, the applicant must have satisfactorily completed one year of approved training in the United State or Canada prior to having taken the entire FLEX examination at one sitting on the fourth and final attempt.

(c) Only the applicant's scores on the most recently taken FLEX examination will be considered to determine eligibility.

(5) The applicant may also be required to pass the Special Purpose Examination (SPEX). This requirement may be waived if:

(a) The applicant has within ten years of filing an application with the Board, completed an accredited one year residency, or an accredited or Board approved one year clinical fellowship;

(b) The applicant has within ten years of filing an application with the Board, been certified or recertified by a specialty board recognized by the American Board of Medical Specialties or the American Osteopathic Association; or

(c) The applicant has received an appointment as Professor or Associate Professor at the Oregon Health Sciences University; and

(d) Has not ceased the practice of medicine for a period of 12 or more consecutive months. The SPEX examination may be waived if the applicant, after ceasing practice for a period of 12 or more consecutive months, has subsequently:

(A) Completed an accredited one year residency, or

(B) Completed an accredited or Board approved one year clinical fellowship; or

(C) Been certified or recertified by a specialty board recognized by the American Board of Medical Specialties or the American Osteopathic Association; or

(D) Obtained continuing medical education to the Board's satisfaction.

(6) The applicant, who fails the SPEX examination three times, whether in Oregon or other states, shall successfully complete an accredited one year residency or an accredited or approved one-year clinical fellowship before retaking the SPEX.

(a) However, after the first or second failed attempt, the Board may allow the applicant to take an oral specialty examination, at the applicant's expense, to be given by a panel of physicians in such specialty. The applicant shall submit the cost of administering the oral examination prior to the examination being scheduled.

(b) If an oral specialty examination is requested by the applicant, an Examination Panel of at least three physicians shall be appointed.

(c) The examination shall include questions which test basic knowledge and also test for knowledge expected of a physician with a practice similar in nature to examinee's. The panel shall establish a system for weighing their score for each question in the examination. After it is prepared, the examination shall be submitted to the Board for review and approval.

(d) The Board shall require a passing grade of 75 on the oral specialty examination.

(e) If such oral examination is passed, the applicant would be granted a license limited to the applicant's specialty. If failed, the license would be denied and the applicant would not be eligible for licensure.

(7) The Limited License, SPEX may be granted for a period of 6 months and permits the licensee to practice medicine only until the grade results of the Special Purpose Examination are available and the applicant completes the initial registration process. The Limited License, SPEX

would become invalid should the applicant fail the SPEX examination and the applicant, upon notification of failure of the examination, must cease practice in this state as expeditiously as possible, but not to exceed two weeks after the applicant receives notice of failure of the examination.

(8) After the applicant has met all requirements for licensure, the applicant may be required to appear before the Board for a personal interview regarding information received during the processing of the application. The interview shall be conducted during a regular meeting of the Board. An applicant who fails to cancel a scheduled interview at least one week prior to such interview, or who confirms and does not appear, shall be rescheduled only after paying a rescheduling fee prior to the filing deadline date.

(9) All of the rules, regulations and statutory requirements pertaining to the medical school graduate shall remain in full effect.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.110

Hist. BME 9-2001, f. & cert. ef. 7-24-01; BME 5-2003, f. & cert. ef. 1-27-03; BME 10-2003, f. & cert. ef. 5-2-03

## 847-020-0180

### Endorsement or Reciprocity, SPEX Examination and Personal Interview

(1) After complying with OAR 847-020-0110 through 847-020-0200, the applicant may base an application upon certification by the National Board of Medical Examiners of the United States of America, the National Board of Examiners for Osteopathic Physicians and Surgeons, Inc., the Medical Council of Canada, or upon reciprocity with a license obtained by FLEX examination, USMLE examination, or written examination from a sister state. The FLEX and USMLE examination must have been taken in accordance with OAR 847-020-0170. The examination grades must meet Oregon standards pursuant to ORS 677.110(1). In order to reciprocate with a lapsed license, such license must have been in good standing while registered in that state and that board must furnish a current, original certification of grades to the Oregon Board.

(2) The applicant may also be required to pass the Special Purpose Examination (SPEX). This requirement may be waived if:

(a) The applicant has within ten years of filing an application with the Board, completed an accredited one year residency, or an accredited or Board approved clinical fellowship; or

(b) The applicant has within ten years of filing an application with the Board, been certified or recertified by a specialty board recognized by the American Board of Medical Specialties or the American Osteopathic Association; or

(c) The applicant has received an appointment as Professor or Associate Professor at the Oregon Health Sciences University; and

(d) Has not ceased the practice of medicine for a period of 12 or more consecutive months. The SPEX examination may be waived if the applicant, after ceasing practice for a period of 12 or more consecutive months, has subsequently:

(A) Completed an accredited one year residency; or

(B) Completed an accredited or Board approved one year clinical fellowship; or

(C) Been certified or recertified by a specialty board recognized by the American Board of Medical Specialties or the American Osteopathic Association; or

(D) Obtained continuing medical education to the Board's satisfaction.

(3) The applicant who fails the SPEX examination three times, whether in Oregon or other states, shall successfully complete an accredited one year residency, or an accredited or approved one year clinical fellowship before retaking the SPEX.

(a) However, after the first or second failed attempt, the Board may allow the applicant to take an oral specialty examination, at the applicant's expense, to be given by a panel of physicians in such specialty. The applicant shall submit the cost of administering the oral examination prior to the examination being scheduled.

(b) If an oral specialty examination is requested by the applicant, an Examination Panel of at least three physicians shall be appointed.

(c) The examination shall include questions which test basic knowledge and also test for knowledge expected of a physician with a practice similar in nature to examinee's. The panel shall establish a system for weighing their score for each question in the examination. After it is prepared, the examination shall be submitted to the Board for review and approval.

(d) The Board shall require a passing grade of 75 on the oral specialty examination.

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(e) If such oral examination is passed, the applicant would be granted a license limited to the applicant's specialty. If failed, the license would be denied and the applicant would not be eligible for licensure.

(4) The Limited License, SPEX may be granted for a period of 6 months and permits the licensee to practice medicine only until the grade results of the Special Purpose Examination are available, and the applicant completes the initial registration process. The Limited License, SPEX would become invalid should the applicant fail the SPEX examination and the applicant, upon notification of failure of the examination, must cease practice in this state as expeditiously as possible, but not to exceed two weeks after the applicant receives notice of failure of the examination.

(5) After the applicant has met all requirements for licensure, the applicant may be required to appear before the Board for a personal interview regarding information received during the processing of the application. The interview shall be conducted during a regular meeting of the Board. An applicant who fails to cancel a scheduled interview at least one week prior to such interview, or who confirms and does not appear, shall be rescheduled only after paying a rescheduling fee prior to the filing deadline date.

(6) All of the rules, regulations and statutory requirements pertaining to the medical school graduate shall remain in full effect.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.110

Hist. BME 9-2001, f. & cert. ef. 7-24-01; BME 10-2003, f. & cert. ef. 5-2-03

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## Board of Nursing Chapter 851

**Adm. Order No.:** BN 3-2003

**Filed with Sec. of State:** 4-23-2003

**Certified to be Effective:** 4-23-03

**Notice Publication Date:** 3-1-03

**Rules Amended:** 851-021-0120

**Subject:** This rule is being amended to expand the definition of those localities and practice specialty areas in the state that are considered "nursing critical shortage areas" for the purpose of implementing the Oregon Nursing Services Program (Senate Bill 331, 2001 Legislative Session).

**Rules Coordinator:** KC Cotton—(503) 731-4754

**851-021-0120**

**Nursing-Critical Shortage Area Defined for the Purpose of the Oregon Nursing Services Program**

(1) For the purposes of the Oregon Nursing Services Program, a student loan repayment program administered by the Oregon Student Assistance Commission, a "nursing-critical shortage area" means:

(a) A locality or practice setting in a county defined by the Office of Rural Health as "frontier" or "rural", as follows:

(A) "Frontier" counties (counties with a population density of six people per square miles or less) include: Baker, Crook, Gilliam, Grant, Harney, Lake, Malheur, Morrow, Sherman, Wallowa and Wheeler;

(B) "Rural" counties (counties with a geographical area ten or more miles from a population center of 30,000 or more) include: Clatsop, Columbia, Coos, Curry, Douglas, Hood River, Jefferson, Josephine, Klamath, Lincoln, Polk, Tillamook, Umatilla, Union, Wasco and Yamhill;

(C) Areas of Benton, Clackamas, Deschutes, Jackson, Lane, Linn, Marion, Multnomah and Washington Counties that are 40 or more miles outside a Metropolitan Statistical Area; and/or

(b) A practice specialty determined to be "critical" by the Board of Nursing, in consultation with the Office of Rural Health.

(2) A complete list of practice settings and/or practice specialties considered to be "critical" will be identified annually in Board policy.

Stat. Auth: ORS 348.115

Stats. Implemented: ORS 348.115 & ORS 348.117

Hist.: BN 1-2002, f. & cert. ef. 3-5-02; BN 3-2003, f. & cert. ef. 4-23-03

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**Adm. Order No.:** BN 4-2003

**Filed with Sec. of State:** 4-23-2003

**Certified to be Effective:** 4-23-03

**Notice Publication Date:** 3-1-03

**Rules Amended:** 851-050-0131

**Subject:** The Board is authorized by ORS 678.385 to determine by rule and revise periodically the drugs and medicines to be included in the formulary that may be prescribed by a nurse practitioner act-

ing under ORS 678.375, including controlled substances listed in Schedules II, III, III N, IV and V. The amendment add the February and March 2003 updates to Drug Facts and Comparisons to the formulary.

**Rules Coordinator:** KC Cotton—(503) 731-4754

**851-050-0131**

**Formulary for Nurse Practitioners with Prescriptive Authority**

(1) The following definitions apply for the purpose of these rules:

(a) "Appliance or device" means an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent or other similar or related article, including any component part or accessory, which is required under federal or state law to be prescribed by a practitioner and dispensed by a pharmacist.

(b) "Formulary" means a specific list of drugs determined by the Board. The formulary for nurse practitioners with prescriptive authority shall be all the drugs in the Drug Facts and Comparisons dated March 2003 with the exception of certain drugs and drug groups which are listed below.

(c) "Board" means the Oregon State Board of Nursing.

(2) The Board as authorized by ORS 678.385 (1993), shall determine the drugs which nurse practitioners may prescribe, shall periodically revise the formulary by rulemaking hearing at each regular Board meeting and shall transmit the list of those drugs which are exceptions to the formulary, and which nurse practitioners may not prescribe, to nurse practitioners with prescriptive authority and other interested parties.

(3) The formulary is constructed based on the following premises:

(a) Nurse practitioners may provide care for specialized client populations within each nurse practitioner category/scope of practice;

(b) Nurse practitioner prescribing is limited by the nurse practitioner's scope of practice and knowledge base within that scope of practice;

(c) Nurse practitioners may prescribe the drugs appropriate for patients within their scope of practice as defined by OAR 851-050-0005;

(d) Nurse practitioners may prescribe drugs for conditions the nurse practitioner does not routinely treat within the scope of their practice provided there is ongoing consultation/ collaboration with another health care provider who has the authority and experience to prescribe the drug(s);

(e) Nurse practitioners shall be held strictly accountable for their prescribing decisions;

(f) All drugs on the formulary shall have Food and Drug Administration (FDA) approval.

(4) Nurse practitioners with prescriptive authority are authorized to prescribe:

(a) All over the counter drugs;

(b) Appliances and devices.

(5) Nurse Practitioners are authorized to prescribe the following drugs as listed in Drug Facts and Comparisons dated March 2003:

(a) Nutrients and Nutritional Agents — all drugs;

(b) Hematological Agents — all drugs except Drotrecogin Alfa (Xigris);

(c) Endocrine and Metabolic Agents — all drugs except:

(A) I 131;

(B) Gallium Nitrate; and

(C) Mifepristone (Mifeprex).

(d) Cardiovasculars — all drugs except:

(A) Cardioplegic Solution;

(B) Fenoldopam Mesylate (Corlopam);

(C) Dofetilide (Tikosyn); and

(D) Bosentan (Tracleer).

(e) Renal and Genitourinary Agents — all drugs;

(f) Respiratory Agents — all drugs;

(g) Central Nervous System Agents:

(A) Class II Controlled Substances — Only the following drugs:

(i) Tincture of opium;

(ii) Codeine;

(iii) Hydromorphone;

(iv) Morphine;

(v) Oxycodone, Oxymorphone;

(vi) Topical Cocaine Extracts and Compounds;

(vii) Fentanyl;

(viii) Meperidine;

(ix) Amphetamines;

(x) Methylphenidates;

(xi) Pentobarbital;

(xii) Secobarbital;

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(xiii) Methadone Hydrochloride (in accordance with OAR 851-045-0015(2)(n) and 851-050-0170); and

(xiv) Levorphanol.

(B) General Anesthetic Agents — no drugs which are general anesthetic barbiturates, volatile liquids or gases, with the exception of nitrous oxide; and

(C) Chymopapain is excluded.

(h) Gastrointestinal Agents — all drugs except: Monoctanoic;

(i) Anti-infectives, Systemic — all drugs;

(j) Biological and Immunologic Agents—all drugs except Basiliximab (Simulect);

(k) Dermatological Agents — all drugs except Psoralens;

(l) Ophthalmic and Otic Agents — all drugs except:

(A) Punctal plugs;

(B) Collagen Implants;

(C) Indocyanine Green;

(D) Hydroxypropyl (Methyl) Cellulose;

(E) Polydimethylsiloxane;

(F) Fomivirsin Sodium (Vitravene);

(G) Verteporfin;

(H) Levobetaxolol HCL (Betaxon);

(I) Travoprost (Travatan);

(J) Bimatoprost (Lumigan); and

(K) Unoprostone Isopropyl (Rescula).

(m) Antineoplastic Agents — all drugs except:

(A) NCI Investigational Agents;

(B) Samarium Sm53;

(C) Denileukin Diftitox (Ontak);

(D) BCG, Intravesical (Pacis);

(E) Arsenic Trioxide (Trisenox); and

(F) Ibritumomab Tiuxetan (Zevalin).

(n) Diagnostic Aids:

(A) All drugs except Arbutamine (GenESA);

(B) Thyrotropin Alfa (Thyrogen);

(C) Miscellaneous Radiopaque agents — no drugs from this category

except:

(i) Iopamidol;

(ii) Iohexol; and

(iii) Ioxilan (Oxilan).

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 678.375 & ORS 678.385

Stats. Implemented: ORS 678.385

Hist.: NB 11-1993(Temp), f. 10-26-93, cert. ef. 11-4-93; NB 2-1994, f. & cert. ef. 4-15-94; NB 7-1994, f. & cert. ef. 9-28-94; NB 3-1995, f. & cert. ef. 4-12-95; NB 6-1995(Temp), f. & cert. ef. 6-15-95; NB 8-1995, f. & cert. ef. 6-29-95; NB 11-1995, f. & cert. ef. 10-9-95; NB 1-1996, f. & cert. ef. 2-29-96; NB 3-1996, f. & cert. ef. 6-11-96; NB 8-1996, f. & cert. ef. 10-30-96; NB 10-1996, f. & cert. ef. 12-2-96; NB 5-1997, f. & cert. ef. 3-6-97; NB 7-1997, f. & cert. ef. 5-13-97; NB 8-1997, f. & cert. ef. 7-1-97; NB 13-1997, f. & cert. ef. 9-29-97; NB 14-1997, f. & cert. ef. 12-11-97; NB 4-1998, f. & cert. ef. 3-13-98; NB 5-1998, f. & cert. ef. 5-11-98; NB 8-1998, f. & cert. ef. 7-16-98; NB 12-1998, f. & cert. ef. 9-22-98; NB 13-1998, f. & cert. ef. 12-1-98; NB 1-1999, f. & cert. ef. 3-4-99; NB 3-1999, f. & cert. ef. 5-4-99; NB 5-1999, f. & cert. ef. 7-1-99; NB 9-1999, f. & cert. ef. 10-20-99; NB 13-1999, f. & cert. ef. 12-1-99; NB 3-2000, f. & cert. ef. 2-25-00; NB 5-2000, f. & cert. ef. 4-24-00; NB 8-2000, f. & cert. ef. 7-3-00; NB 9-2000, f. & cert. ef. 9-18-00; NB 10-2000, f. & cert. ef. 12-15-00; NB 2-2001, f. & cert. ef. 2-21-01; NB 6-2001, f. & cert. ef. 4-24-01; NB 9-2001, f. & cert. ef. 7-9-01; NB 13-2001, f. & cert. ef. 10-16-01; NB 4-2002, f. & cert. ef. 3-5-02; NB 11-2002, f. & cert. ef. 4-25-02; NB 14-2002, f. & cert. ef. 7-17-02; NB 19-2002, f. & cert. ef. 10-18-02; NB 21-2002, f. & cert. ef. 12-17-02; NB 2-2003, f. & cert. ef. 3-6-03; NB 4-2003, f. & cert. ef. 4-23-03

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**Adm. Order No.:** BN 5-2003

**Filed with Sec. of State:** 4-23-2003

**Certified to be Effective:** 4-23-03

**Notice Publication Date:** 3-1-03

**Rules Amended:** 851-063-0060

**Subject:** The amendment to the rule adds cast removal to the additional tasks that Certified Nursing Assistants are authorized to perform.

**Rules Coordinator:** KC Cotton—(503) 731-4754

**851-063-0060**

**List of the Additional Task(s) of Nursing Care Which May Be Assigned to CNAs**

If the additional task(s) of nursing care have been taught and assigned according to these rules, CNAs may perform the following tasks:

(1) Tasks associated with oxygen:

(a) Turn oxygen on and off at predetermined, established flow rate;

(b) Attach or detach continuous or episodic pulse oximeter; read pulse oximeter and record reading.

(2) Tasks associated with skin care:

(a) Change simple, nonsterile dressings using aseptic technique when no wound debridement or packing is involved;

(b) Clean ostomy sites and change dressings or appliances for established, non-acute ostomies;

(c) Apply topical over-the-counter creams and ointments for prophylactic treatment of skin conditions.

(3) Tasks associated with monitoring intake and output:

(a) Discontinue foley catheters;

(b) Perform clean intermittent straight urinary catheterization for chronic conditions;

(c) Collect clean-catch urine specimen;

(d) Empty, measure and record output from other drainage devices.

(4) Tasks associated with vaginal care:

(a) Administer douches;

(b) Insert over-the-counter vaginal suppositories and vaginal creams;

(5) Tasks associated with testing and monitoring:

(a) Perform tests on urine specimens;

(b) Perform hemocult test for occult blood.

(c) Perform capillary blood glucose (CBGs);

(d) Perform phlebotomy;

(e) Place electrodes and leads for electrocardiogram, cardiac monitoring and telemetry;

(f) Run 12-lead EKGs or rhythm strips;

(g) Assist with incentive spirometer;

(h) Perform newborn hearing screening.

(6) In addition, if the additional task(s) of nursing care have been taught and assigned according to these rules, CNAs may:

(a) Suction oral pharynx;

(b) Set up traction equipment;

(c) Add fluid to established tube feedings and change established tube feeding bags;

(d) Insert over-the-counter suppositories for bowel care;

(e) Assist clients in and out of Continuous Passive Motion machines if previously applied and regulated by a qualified health care professional;

(f) Apply pediculicides; and

(g) Remove casts.

Stat. Auth.: ORS 678.440, ORS 678.442

Stats. Implemented: ORS 678.440, ORS 678.442

Hist.: BN 6-1999, f. & cert. ef. 7-8-99; BN 12-1999, f. & cert. ef. 12-1-99; BN 6-2002, f. & cert. ef. 3-5-02; BN 5-2003, f. & cert. ef. 4-23-03

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

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

**Filed with Sec. of State:** 5-13-2003

**Certified to be Effective:** 5-13-03

**Notice Publication Date:** 3-1-03

**Rules Amended:** 255-032-0005, 255-032-0010, 255-032-0015

**Subject:** The amendment of the proposed rules are needed to bring the dates within the rules into conformity with the effective date of House bill 3586 passed into law by the 1999 Oregon legislature.

**Rules Coordinator:** Michael R. Washington—(503) 945-0900

**255-032-0005**

**Prison Term Hearing to Be Held**

(1) An adult person convicted of Aggravated Murder under ORS 163.095 shall receive a hearing within one year of sentencing. A person convicted of Murder under ORS 163.115 that was committed on or after June 30, 1995, and who was sentenced to life with a twenty-five (25) year minimum shall receive a hearing within one year of sentencing. At the hearing the Board shall set a review date congruent with the minimum terms set forth in OAR 255-032-0010 rather than a parole release date.

(2) Adult persons sentenced to death or life without the possibility of release or parole shall not receive a hearing.

(3) Adult persons sentenced to life with a twenty (20) or thirty (30) year minimum for aggravated murder shall receive a prison term hearing pursuant to ORS 144.120 if they also have a sentence to the Department of Corrections' custody for a crime other than aggravated murder.

(4) Inmates, who were juveniles and waived to adult court pursuant to ORS 419C.340 through 419C.364, and were under the age of 17 years at the time of their crime(s), and were convicted of Aggravated Murder, per ORS 163.095, and whose crimes were committed after October 31, 1989 and prior to April 1, 1995, shall receive a prison term hearing. At the hear-

# ADMINISTRATIVE RULES

ing, the Board shall set a review date consistent with the terms set forth in OAR 255-032-0011 rather than a projected parole release date.

Stat. Auth.: ORS 144.120, ORS 163.095, ORS 163.115, ORS 419c.340 & ORS 419c.364  
Stats. Implemented: ORS 163.105  
Hist.: 2PB 8-1985, f. & ef. 5-31-85; PAR 4-1989, f. & ef. 11-1-89; PAR 1-1991, f. & cert. ef. 1-16-91; PAR 8-1992, f. & cert. ef. 10-9-92; PAR 4-1997, f. 3-11-97, cert. ef. 3-14-97; PAR 4-1999, f. & cert. ef. 5-18-99; PAR 2-2000, f. 1-3-00, cert. ef. 1-4-00; PAR 1-2003, f. & cert. ef. 5-13-03

## 255-032-0010

### Minimum Period of Confinement Pursuant to ORS 163.105 or ORS 163.115

(1) The minimum period of confinement for an adult person convicted of Aggravated Murder as defined by ORS 163.105(1) shall be thirty (30) years.

(2) The minimum period of confinement for an adult person convicted of Aggravated Murder as defined by ORS 163.105(2) prior to December 6, 1984, shall be twenty (20) years.

(3) The minimum period of confinement for a person sentenced to life for Murder under ORS 163.115 committed on or after June 30, 1995, shall be twenty-five (25) years.

Stat. Auth.: ORS 144.110, ORS 163.105 & ORS 163.115  
Stats. Implemented: ORS 144, ORS 163.105 & ORS 163.115  
Hist.: 2PB 8-1985, f. & ef. 5-31-85; PAR 6-1988, f. & ef. 5-19-88; PAR 4-1999, f. & cert. ef. 5-18-99; PAR 2-2000, f. 1-3-00, cert. ef. 1-4-00; PAR 1-2003, f. & cert. ef. 5-13-03

## 255-032-0015

### Petition/Purpose for Review Hearing

An inmate not described in OAR 255-032-0005(4) may petition and the Board shall hold a hearing to determine whether the inmate is likely to be rehabilitated within a reasonable period of time:

(1) Any time after thirty (30) years from the date of imposition of a minimum period of confinement pursuant to OAR 255-032-0010(1) for an offense committed on or after June 30, 1995; or

(2) Any time after twenty-five (25) years from the date of imposition of a minimum period of confinement pursuant to OAR 255-032-0010(1) for an offense committed between April 1, 1995 through June 30, 1995; or

(3) Any time after twenty (20) years from the date of imposition of a minimum period of confinement pursuant to OAR 255-032-0010(1) for an offense committed before April 1, 1995; or

(4) Any time after fifteen (15) years from the date of imposition of a minimum period of confinement pursuant to OAR 255-032-0010(2); or

(5) Anytime after twenty-five (25) years from the date of imposition of confinement pursuant to OAR 255-032-0010(3).

Stat. Auth.: ORS 163.115  
Stats. Implemented:  
Hist.: 2PB 8-1985, f. & ef. 5-31-85; PAR 6-1988, f. & ef. 5-19-88; PAR 1-1991, f. & cert. ef. 1-16-91; PAR 4-1993, f. & cert. ef. 10-29-93; PAR 4-1997, f. 3-11-97, cert. ef. 3-14-97; PAR 4-1999, f. & cert. ef. 5-18-99; PAR 2-2000, f. 1-3-00, cert. ef. 1-4-00; PAR 1-2003, f. & cert. ef. 5-13-03

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

**Filed with Sec. of State:** 5-13-2003

**Certified to be Effective:** 5-13-03

**Notice Publication Date:** 3-1-03

**Rules Amended:** 255-075-0067, 255-075-0079

**Subject:** The amendment of the proposed rules brings the rules into conformity with other board rules regarding the period for retention of the records by hearing officers or the agency designee. The amendment also brings the board's rules into conformity with the administrative rules for sentencing guidelines regarding the sanction and revocation authority for offenders convicted of murder and aggravated murder.

**Rules Coordinator:** Michael R. Washington—(503) 945-0900

## 255-075-0067

### Final Action: Authority to Impose Administrative (Local) Sanctions, Revoke Supervision or Modify Conditions of Supervision

(1) If an offender waives a hearing after receipt and review of the notice of rights, as provided in OAR 255-075-0005(6) a supervising officer may order administrative sanctions, including a local confinement sanction not exceeding thirty (30) days. The Local Supervisory Authority's designee may review the decision to order a local confinement sanction if the offender's underlying sentence was for 12 months or less. The Board may review the decision if the underlying sentence was more than 12 months.

(2) After a hearing, or if an offender waives a hearing after receipt of the notice of rights, as provided in OAR 255-075-0005(6), a Hearings

Officer or agency designee may order administrative sanctions, including a local confinement sanction not exceeding sixty (60) days. The Hearings Officer or agency designee shall send a copy of the final order and report to the Sanction Authority and, upon request, shall send the record of the hearing as described in OAR 255-075-0056. The Hearings Officer or agency designee shall retain the record for four (4) years.

(3) After a hearing, or waiver, the Board may order administrative sanctions for offenders originally sentenced to more than 12 months, and a Local Supervisory Authority designee may order administrative sanctions for offenders originally sentenced to 12 months or less. The Board or a Local Supervisory Authority designee ordered local administrative confinement sanction may not exceed ninety (90) days.

(4) The Board (for offenders originally sentenced to more than 12 months) or the Local Supervisory Authority designee (for offenders originally sentenced to 12 months or less) may override any sanction ordered by a supervising officer, agency designee or Hearings Officer.

(5) Administrative Sanctions, including local confinement shall be applied in accordance with the Department of Corrections rules for structured, intermediate sanctions, OAR 291-058-010 et al., subject to jointly drafted revisions by the Department of Corrections and the Board.

(6) If an administrative sanction is not sufficient to address the violation or to protect the public, the Sanction Authority may revoke supervision for a period(s) as set out in OAR 255-075-0079, or deny re-release for offenders on parole.

(7) Conditions of supervision may be modified at any time by the Sanction Authority when necessary for the offender or public safety. If an offender objects to the modification, administrative review must be made within 45 days of the mailing date on the Board order or receipt of a written order by the Local Supervisory Authority.

Stat. Auth.: ORS 144.106 & ORS 144.343  
Stats. Implemented: ORS 144.096, ORS 144.098, ORS 144.102, ORS 144.106, ORS 144.108, ORS 144.346 & Ch. 525 OL 1997 (Enrolled SB 156)  
Hist.: PAR 4-1992(Temp), f. & cert. ef. 4-30-92; PAR 8-1992, f. & cert. ef. 10-9-92; PAR 4-1993, f. & cert. ef. 10-29-93; PAR 11-1997(Temp), f. & cert. ef. 11-14-97; PAR 1-1998, f. & cert. ef. 5-11-98; PAR 2-2003, f. & cert. ef. 5-13-03

## 255-075-0079

### Guidelines for Re-release

(1) For technical violation(s):

(a) An offender whose parole has been revoked may serve further incarceration of up to 90 days for each revocation.

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

(2) For conduct constituting a crime:

(a) An offender whose parole has been revoked may serve further incarceration of up to 180 days for each revocation.

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

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

(4) Offenders sentenced to life imprisonment for murder committed on or after 06-30-95 may serve further incarceration to the sentence expiration date. Offenders sentenced to life imprisonment for aggravated murder may serve further incarceration to the sentence expiration date.

(5) Offenders sentenced as dangerous offenders may serve repeated incarcerations of 180 days or more up to the sentence expiration date.

(6) Offenders sentenced as sexually violent dangerous offenders pursuant to HB 2327 (1999 Legislative Session) for crimes committed on or after October 23, 1999, may serve repeated incarcerations of 180 days or more for any violation of post-prison supervision unless or until the post-prison supervision is terminated by a court.

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

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

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

# ADMINISTRATIVE RULES

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

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

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

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

Stat. Auth.: ORS 135.055, ORS 144.103, ORS 144.107, ORS 144.108, ORS 144.120(4), ORS 144.125, ORS 144.232, ORS 144.345, ORS 144.346, ORS 144.395 & ORS 161.735  
Stats. Implemented:

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

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## Department of Administrative Services, Human Resource Services Division Chapter 105

**Adm. Order No.:** HRSD 3-2003

**Filed with Sec. of State:** 4-30-2003

**Certified to be Effective:** 4-30-03

**Notice Publication Date:** 3-1-03

**Rules Amended:** 105-040-0020

**Subject:** Minor housekeeping changes were needed to clarify the rule. The applicability statement was deleted to create consistency throughout OAR Chapter 105. A general statement was added to clarify how the rule applies to positions covered by a collective bargaining agreement.

105-040-0020(1)(b): Revisions of this section are necessary to clarify that only employees that have passed trial service are allowed to be placed on the Agency Layoff List. 105-040-0020(1)(b)(A): Revisions to this section were made to conform the rule with HRSD State Policy. The policy allows for one right of refusal before being removed off the Agency Layoff List. 105-040-0020(1)(c): Revisions of this rule are needed to clarify that only employees that have passed trial service are allowed to be placed on the Statewide Reemployment Layoff List. 105-040-0020(1)(c)(A): Revisions to this rule are needed to afford the same rights of one right of refusal to management service as provided to classified unrepresented employees. 105-040-0020(1)(d)(D): Revisions to this rule are needed to clarify that current state employees that have gained regular status in a classification is deemed qualified and can be on the Open Competitive List. 105-040-0020(2): The rule clarification needs to be deleted. The information is referenced within the body of the rule. Documentation Retention language was added to clarify the requirements of this rule under record retention.

**Rules Coordinator:** Mary Unger—(503) 378-2349, ext. 320

### 105-040-0020

#### Types and Order of Applicant Lists

Not applicable to represented positions where in conflict with a collective bargaining agreement.

(1) The State of Oregon uses a variety of applicant lists (some of which have an established order of use) to facilitate the selection of qualified applicants.

(a) First Consideration: Injured Worker Lists shall consist of the names of employees who are injured while employed with a state agency in the Executive Branch. The injury must have been determined to be a compensable work related injury, and the employee must not have waived reinstatement and reemployment rights in accordance with state workers' compensation laws.

(A) These lists are established by classification for specific entry level classes. Placement on the list shall be in order of year the employee requested return to work. The term of eligibility on the list is until the employee is returned to an available and suitable position in any agency within the Executive Branch as long as they meet eligibility requirements under HRSD State Policy 50.020.01, Return to Work of Injured Workers.

(B) Injured Worker lists shall be used first when filling a vacant position in an entry level class identified for the return of injured workers except as provided for in OAR 105-050-0020(1)(f), Return to Work of

Injured Workers. Employees shall be appointed in the order in which they appear on the list if the employee meets the qualifications for the position.

**NOTE:** This list is by-passed when the class of the position to be filled is other than an injured worker entry level class.

(b) Second Consideration: Agency Layoff Lists shall consist of the names of permanent (full or part-time) and/or seasonal employees who have completed initial trial service with the State and have separated from the service in good standing due to layoff or demotion in lieu of layoff.

(A) These lists are established by classification within the type of service (i.e. classified represented, classified unrepresented, management service). The term of eligibility on the list is two years from date of layoff/demotion. An individual shall be removed from the list upon the second refusal of a job offer unless an agency layoff plan allows for additional refusals or when the employee is returned to an equivalent position from which laid off (other than temporary work).

(B) Agency Layoff Lists shall be used when no qualified injured worker is available to fill the vacant position or the position is other than an injured worker entry level class. An employee, on the agency layoff list of the same class and type of service of the position to be filled, shall be appointed if the employee meets the special qualifications, if any, for the position. Appointments from the list shall be made consistent with the agency's layoff plan.

(c) Third Consideration: Statewide Reemployment Layoff Lists shall consist of names of permanent (full or part-time) employees in either the management or classified unrepresented service who have separated due to a layoff from state service or unclassified executive service employees terminated from state service due to reduction in force. Employees on the Statewide Reemployment Layoff List shall have completed initial trial service.

(A) These lists are established by class. An employee may request placement on the list via his/her agency's personnel office for classes for which qualified and which are the same classification, or same, equal, or lower salary range number. The term of eligibility on the list shall not be longer than two years from the date of layoff. An individual shall be removed from the list upon the second refusal of a job offer or when a person accepts a position and is returned to work (other than temporary work).

(B) Statewide Reemployment Layoff Lists shall be used when there are no qualified employees on the agency's layoff list or no agency layoff list exists. An agency shall consider employees on the list for the classification and may consider related classifications having similar knowledge and skills as the position to be filled and shall interview those employees who meet the special qualifications, if any, for the position.

(C) Agency promotion lists, statewide promotion lists, statewide transfer lists and open competitive lists may be used to supplement the applicant pool when fewer than five qualified applicants appear on the Statewide Reemployment Layoff List.

(d) The consideration of using other lists shall follow the injured worker, agency layoff, and statewide reemployment layoff lists, at the agency's discretion, with sequence optional.

(A) Agency Promotion Lists shall consist of names of an agency's employees who meet the qualifications for the position and pass the appropriate promotional test, if any. These lists are established by class. The term of eligibility shall not be less than one month nor more than two years from date of placement or adoption of the list, whichever is later;

(B) Statewide Promotion Lists shall consist of names of state employees who meet the qualifications of the position and pass the appropriate promotional test, if any. These lists are established by class. The term of eligibility shall not be less than one month nor more than two years from date of placement or adoption of the list, whichever is later;

(C) Statewide Transfer Lists shall consist of names of qualified state employees who desire a transfer to a position of the same classification, or same, equal, or lower salary range number. These lists are established by class. Employees may request placement on these lists via their agency's personnel office. The term of eligibility shall be two years from date of application or until the administrator elects to discontinue use of such lists;

(D) Open Competitive Lists shall consist of names of persons seeking employment with the state who meet the qualification of the position and pass the appropriate entrance test, if any. In addition, the list will consist of any state employee seeking other employment with the state who has gained regular status in the classification of the position applied for and who meets any special qualification if any, for the position. These lists are established by class. The term of eligibility shall not be less than one month nor more than two years from the date of placement or adoption of the list, whichever is later.

(2) Documentation retention requirements are outlined under HRSD State Policy 40.010.001, Recruitment and Selection Records Retention.



# ADMINISTRATIVE RULES

[Publications: Publications referenced are available from the agency.]  
Stat. Auth.: ORS 184.340, ORS 240.145 & ORS 240.250  
Stats. Implemented: ORS 240.306, ORS 659A.052, ORS 659A.043 & ORS 659A.046  
Hist.: PD 2-1994, f. & cert. ef. 8-1-94; HRSD 1-2003(Temp), f. & cert. ef. 1-13-03 thru 7-12-03; HRSD 3-2003, f. & cert. ef. 4-30-03

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**Adm. Order No.:** HRSD 4-2003  
**Filed with Sec. of State:** 4-30-2003  
**Certified to be Effective:** 4-30-03  
**Notice Publication Date:** 3-1-03  
**Rules Amended:** 105-040-0040

**Subject:** 105-040-0040 - Applicability statement was deleted to create consistency in OAR chapter 105. A general statement was added to clarify how the rule applies to positions covered by a collective bargaining agreement.

105-040-0040(1)(d) - Add language that allows agencies with limited options the flexibility to hire limited duration employees to meet critical workload needs. A policy change (HRSD State Policy 40.025.01, Temporary Appointments) has taken effect and the rule must be immediately changed to conform to policy. 105-040-0040(1)(d)(C) - Language added to clarify limited duration appointments shall not exceed two years. This allows for conformity amongst other types of limited duration contracts. In addition, this makes the rule consistent with policy and past practice. 105-040-0040(2) - Delete rule clarification in order to create consistency throughout chapter 105 of OARs. 105-040-0040(3) - Add language indicating to agencies where to find documentation retention requirements.

**Rules Coordinator:** Mary Unger—(503) 378-2349, ext. 320

## 105-040-0040

### Types of Appointments

Not applicable to positions represented by a collective bargaining agreement.

(1) The State of Oregon has a variety of appointment types which are made in accordance with the type of position being filled and the individual needs of the agency. An agency head shall use one of the following methods to appoint persons to state service:

(a) Permanent Appointment: The appointment of a person to a permanent position;

(b) Seasonal Appointment: The appointment of a person to a position which occurs, terminates and recurs periodically or regularly;

(c) Temporary Appointment: The noncompetitive, non-status, appointment of a person for the purpose of meeting emergency, nonrecurring or short-term workload needs of the agency. A temporary employee shall be exempt from all provisions of the State Personnel Relations Law, Administrative Rules and HRSD Policies unless otherwise specified in accordance with HRSD State Policy 40.025.01, Temporary Appointments;

(d) Limited Duration Appointment: The appointment of a person for a study, project, workload need or when position reduction is anticipated.

(A) An appointment made for a study or project shall be for a period not to exceed two years, except when the position is grant funded, but shall expire upon the completion of the study or project or when funding is exhausted.

(B) Appointments made when position reduction is anticipated shall not exceed the end of the current biennium or current season that ends prior to the end of the biennium.

(C) Appointments made for workload need shall be for a period not to exceed two years.

(D) An employee accepting a limited duration appointment shall be informed of the conditions of the appointment, including employee status at the termination of the appointment, and shall acknowledge in writing acceptance of the appointment under those conditions.

(E) The Limited Duration Agreement model serves as a guide to establish conditions of a limited duration appointment. The agreement will require modification to fit each employee's individual appointment circumstance.

(e) Academic Year Appointment: The appointment of a person to a position which generally conforms to the academic year of mid-September to mid-June. Appointing authorities may extend employment into the period between academic years;

(A) Employees appointed to positions designated as academic year shall be placed on leave without pay during the unextended period between academic years. The employee shall be returned to the position on termina-

tion of leave without pay status. Time spent on such leave shall constitute service for purposes of computing vacation accrual rates, recognized service dates and any other purpose where service time is computed except for the period of trial service;

(B) A person accepting an academic year appointment shall be informed of the conditions of the appointment and shall acknowledge in writing acceptance of the appointment under those conditions.

(2) Documentation retention requirements are outlined under HRSD State Policy 40.010.001, Recruitment and Selection Records Retention.

[ED. NOTE: The Agreement model referenced is available from the agency.]

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 240.145

Stats. Implemented: ORS 240.306, ORS 240.309, ORS 240.321 & ORS 240.425

Hist.: PD 7-1981, f. & cert. ef. 12-18-81; PD 2-1985(Temp), f. & cert. ef. 7-26-85; PD 1-1986, f. & cert. ef. 1-23-86; PD 2-1989, f. & cert. ef. 12-1-89; PD 2-1992(Temp), f. & cert. ef. 2-21-92; PD 4-1992, f. & cert. ef. 8-12-92; PD 2-1994, f. & cert. ef. 8-1-94, Renumbered from 105-043-0000; HRSD 2-2003(Temp), f. & cert. ef. 1-13-03 thru 7-12-03; HRSD 4-2003, f. & cert. ef. 4-30-03

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**Adm. Order No.:** HRSD 5-2003  
**Filed with Sec. of State:** 5-15-2003  
**Certified to be Effective:** 5-21-03  
**Notice Publication Date:** 4-1-03  
**Rules Amended:** 105-001-0000

**Subject:** 105-001-0000 - Delete the word "Rule." This was a minor housekeeping change to create consistency throughout OAR chapter 105.

**Rules Coordinator:** Mary Unger—(503) 378-2349, ext. 320

## 105-001-0000

### Notice of Rulemaking

Prior to the adoption, amendment or repeal of any rule, the Department of Administrative Services, shall give notice of the intended action:

(1) In the Secretary of State's Bulletin referred to in ORS 183.360 at least 21 days before the effective date of the rule.

(2) By mailing a copy of the notice to persons on the division mailing list established pursuant to ORS 183.335(7) at least 28 days before the effective date of the rule; and

(3) By mailing or furnishing a copy of the notice to:

(a) The Associated Press;

(b) Agency Heads;

(c) Agency Personnel Managers;

(d) Employee organizations certified by the Employment Relations Board if the rule affects employees represented by them; and

(e) The Capitol Press Room.

Stat. Auth.: ORS 183.335, ORS 183.341, ORS 184.340, ORS 240.250 & ORS 240.145(3)

Stats. Implemented: ORS 183.335 & ORS 183.341

Hist.: PD 7-1981, f. & cert. ef. 12-18-81; PD 2-1989, f. & cert. ef. 12-1-89; PD 2-1994, f. & cert. ef. 8-1-94; HRSD 5-2003, f. 5-15-03, cert. ef. 5-21-03

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**Adm. Order No.:** HRSD 6-2003  
**Filed with Sec. of State:** 5-15-2003  
**Certified to be Effective:** 5-21-03  
**Notice Publication Date:** 4-1-03  
**Rules Amended:** 105-010-0011

**Subject:** 105-010-0011 - Delete the "Applicability" statement as a housekeeping change to create consistency throughout OAR chapter 105. 105-010-0011(2)(a)(C) - Language added to clarify intent of the section. 105-010-0011(2)(a)(D) - Language added to clarify intent of the section. 105-010-0011(2)(a)(E) - Language added to clarify intent of the section.

**Rules Coordinator:** Mary Unger—(503) 378-2349, ext. 320

## 105-010-0011

### Human Resource Services Division Public Records

(1) It is the policy of the state to ensure every person has a right to inspect any public record except as otherwise expressly provided by ORS 192.501 to 192.505.

(2) Division Public Records Subject to or Exempt from Disclosure.

(a) The following division public records, falling within the disclosure exemptions under ORS 192.501 to 192.502, shall not be subject to inspection except by authorized division or agency personnel, unless the public interest requires disclosure:

# ADMINISTRATIVE RULES

(A) Test questions, scoring keys, and other data used to administer the selection process;

(B) A notice of disciplinary action and materials or documents supporting that action;

(C) A communication within the division or between the division and another public body of an advisory nature to the extent that it covers other than purely factual materials and is preliminary to any final agency determination of policy or action. The division has the burden of showing that the public interest in encouraging frank communications between officials and employees of the division clearly outweighs the public interest in disclosure;

(D) Information of a personal nature, such as but not limited to that kept in a personal, medical or similar file, if the public disclosure thereof would constitute an unreasonable invasion of privacy, unless the public interest by clear and convincing evidence requires disclosure in a particular instance. The party seeking disclosure shall have the burden of showing that public disclosure would not constitute an unreasonable invasion of privacy;

(E) The home addresses, dates of birth, social security numbers and telephone numbers of state employees or volunteers in the agency's or division's personnel records. The exemption from disclosure of the addresses, dates of birth and telephone numbers of state employees and volunteers does not apply if the party seeking disclosure shows by clear and convincing evidence that the public interest requires disclosure in a particular instance; and

(F) Information submitted to the division in confidence and not otherwise required by law to be submitted where such information is reasonably considered confidential, the division has obliged itself in good faith not to disclose the information, and when the public interest would suffer by the disclosure.

(b) A division public record pertaining to an individual applicant or employee may be inspected by that applicant or employee or other specifically designated party as follows:

(A) An applicant or employee may inspect a division public record contained in the applicant's or employee's file including a confidential report from a previous employer if the source-identifying information can be redacted.

(B) An applicant's or employee's official representatives, with the applicant's or employee's signed authorization, may inspect a division public record contained in that applicant's or employee's file including a confidential report from a previous employer, if the source-identifying information can be redacted.

(C) The following parties may inspect any division public record contained in an individual employee's file:

(i) An employee's immediate supervisor or higher level supervisor in direct line within the program area;

(ii) The personnel manager or authorized staff of the employing agency;

(iii) The head of the employing agency;

(iv) Human Resource Services Division staff;

(v) A representative of the Employment Relations Board with subpoena or signed authorization;

(vi) A legally authorized law enforcement agency; and

(vii) The Audits Division of the Office of Secretary of State when carrying out its statutory duties.

(D) An agency may inspect a division public record containing the name, home address, social security number, or employing agency of an employee when such data is to be used to enforce a claim due the state or to defend against a claim.

(E) An agency may inspect an application, examination, or certification record relating to a recruitment specifically for that agency or to a certificate received for a job vacancy.

(F) An investigating officer from the Bureau of Labor and Industries Civil Rights Division, Department of Justice or Equal Employment Opportunity Commission may inspect an application or examination record that is pertinent to an official investigation.

(c) A member of the public may inspect the following division public records pertaining to an applicant or employee:

(A) Information contained in an employment application;

(B) Sex identification;

(C) Grouping by age category;

(D) Ethnic identification;

(E) Performance evaluation;

(F) Date of initial hire to state service;

(G) Name, city and zip code;

(H) City and county of work station;

(I) Position number;

(J) Representation code;

(K) Benefit code;

(L) Position type;

(M) Employee's rate of pay;

(N) A confidential report from a previous employer, if the source-identifying information can be redacted.

(3) The State Personnel Records Officer is designated as the custodian of division public records. An alternate shall be designated to act in the absence of the Officer.

(4) A request for inspection of a division public record shall be made either in writing, or in person during normal working hours, to the State Personnel Records Officer, Salem, Oregon.

(5) Information which is exempt from disclosure, but contained within information open to disclosure, shall be blanked out. Upon request, the State Personnel Records Officer shall certify, on a cover sheet or the last page of the copy, that the copy has been compared with the original and that the copy is a true and exact copy of the original. The State Personnel Records Officer shall sign and date such certification.

(6) The State Personnel Records Officer, upon determining that requested records are open to inspection, shall make records, or copies thereof, available within a reasonable time. The division may establish fees reasonably calculated to reimburse it for actual cost to make such records available. Requesting parties shall be provided with estimates of costs to provide requested records.

Stat. Auth: ORS 184.340 & ORS 240.145(3)

Stats. Implemented: ORS 192.502

Hist.: PD 7-1981, f. & ef. 12-18-81; PD 5-1988, f. & cert. ef. 6-28-88; PD 2-1989, f. & cert. ef. 12-1-89; PD 2-1994, f. & cert. ef. 8-1-94; Renumbered from 105-010-0035; HRSD 1-1997, f. 9-30-97, cert. ef. 10-4-97; HRSD 1-1998, f. 6-29-98, cert. ef. 7-1-98; HRSD 2-2000, f. 7-12-00, cert. ef. 7-14-00; HRSD 6-2003, f. 5-15-03, cert. ef. 5-21-03

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**Adm. Order No.:** HRSD 7-2003

**Filed with Sec. of State:** 5-15-2003

**Certified to be Effective:** 5-21-03

**Notice Publication Date:** 4-1-03

**Rules Amended:** 105-010-0016

**Subject:** 105-010-0016 - Delete the "Applicability" statement as a housekeeping change to create consistency throughout OAR chapter 105. 105-010-0016(1) - A minor housekeeping change. 105-010-0016(4) - Delete the words "Rule Clarification" as a housekeeping change to create consistency throughout OAR chapter 105.

**Rules Coordinator:** Mary Unger—(503) 378-2349, ext. 320

**105-010-0016**

**Public Disclosure**

(1) Each agency head shall provide for public access, upon request, the relevant employment history or financial information on any employee who worked for, or has a financial interest in, an organization he or she is regulating.

(2) Persons hired in positions to regulate persons or organization where there is, or may be perceived, a personal conflict of interest shall be informed that public disclosure of such potential conflict is required.

(3) Materials developed for recruitment of people to positions where they will be performing regulatory duties shall make clear that relevant employment and financial information may be disclosed to the public upon request.

(4) Regulating includes proposing rules, issuing orders, and/or making decisions or recommendations which benefit or impair the person or organization being regulated.

Stat. Auth: ORS 184.340, ORS 240.145(3)

Stats. Implemented: Executive Order 78-10

Hist.: PD 7-1981, f. & ef. 12-18-81; PD 2-1989, f. & cert. ef. 12-1-89; PD 2-1994, f. & cert. ef. 8-1-94, Renumbered from 105-049-0000; HRSD 7-2003, f. 5-15-03, cert. ef. 5-21-03

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**Adm. Order No.:** HRSD 8-2003

**Filed with Sec. of State:** 5-15-2003

**Certified to be Effective:** 5-21-03

**Notice Publication Date:** 4-1-03

**Rules Amended:** 105-020-0001

**Subject:** 105-020-0001(1) - A minor housekeeping change to capitalize the word "evaluation." 105-020-0001(2) - Language updated

# ADMINISTRATIVE RULES

to accurately reflect what the Hay Method of Job Evaluation measures.

**Rules Coordinator:** Mary Unger—(503) 378-2349, ext. 320

## 105-020-0001

### Comparability of Work

(1) The Department of Administrative Services shall use the Hay Method of Job Evaluation as the neutral and objective method to determine the comparability of the value of work performed by employees within the State Executive Branch and the compensation and classification structure of the state system.

(2) This methodology measures the know-how, problem solving, accountability and working conditions required to perform the duties within a classification of work.

Stat. Auth.: ORS 184.340, ORS 240.145, ORS 240.240, ORS 240.245 & ORS 240.250  
Stats. Implemented: ORS 240.190 & ORS 240.235  
Hist.: PD 4-1988, f. & cert. ef. 4-29-88; PD 2-1989, f. & cert. ef. 12-1-89; PD 2-1994, f. & cert. ef. 8-1-94, Renumbered from 105-030-0095; HRSD 8-2003, f. 5-15-03, cert. ef. 5-21-03

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**Adm. Order No.:** HRSD 9-2003

**Filed with Sec. of State:** 5-15-2003

**Certified to be Effective:** 5-21-03

**Notice Publication Date:** 4-1-03

**Rules Amended:** 105-050-0004

**Subject:** 105-050-0004 sections (1)(a), (1)(b), (1)(b)(A), (1)(d)(B), (1)(f) language was changed from plural to singular. 105-050-0004(1)(a) - Language was deleted from section (2)(b) and moved to section (1)(a) for clarification. 105-050-0004(1)(g) - Housekeeping change to correct a spelling error. 105-050-0004(2) - Delete the word "Clarification:" as a housekeeping change to create consistency throughout OAR chapter 105. 105-050-0004(4) - Add the word "opiates" to conform with HRSD State Policy.

**Rules Coordinator:** Mary Unger—(503) 378-2349, ext. 320

## 105-050-0004

### Drug Testing of Final Applicants for Certain State Classifications/Positions

(1) It is the policy of the Executive Branch of Oregon state government to provide the public with a drug-free workplace. Accordingly:

(a) An appointing authority of an agency providing public safety and/or mental health services may institute a drug testing program for the final applicant for classifications and/or positions designated by the appointing authority. A final applicant is the employing agency's first choice after completion of all hiring tests and standards, including reference checks, prior to offering employment.

(b) Prior to implementing the drug testing program for the final applicant the appointing authority shall develop an agency drug testing policy which shall include:

(A) The designated classifications and/or positions for which the final applicant shall be tested for prohibited drugs;

(B) The prohibited drugs/controlled substances for which a final applicant shall be tested;

(C) Assurance that the drug testing shall be conducted by a laboratory which is licensed and operated in accordance with ORS 438.010 and OAR 333-024-0305 through 333-024-0350;

(D) A description of the drug testing protocol, i.e., how and when the drug testing shall be carried out.

(e) An appointing authority shall not select a final applicant who refuses to take or fails a test for prohibited drug use.

(d) An applicant disqualified under this rule for a current opening may reapply for subsequent openings for those positions designated for pre-employment drug testing:

(A) Upon presenting proof of successful completion of a drug rehabilitation program; or

(B) Passing any drug test required for the final applicant for subsequent openings.

(e) Drug tests for the final applicant shall be paid for by the hiring agency and conducted in accordance with the agency's drug testing policy.

(f) At the time of implementation, an appointing authority shall submit a copy of the agency drug testing policy for the final applicant to the Division for filing.

(g) All recruiting announcements for designated classifications/positions shall include the statement: "All applicants for, and employees in this

classification/position, shall be subject to testing for the use of prohibited drugs."

(h) An appointing authority shall maintain records of drug testing, stating the number of applicants tested, the number of confirmed positive tests and the classifications/positions involved.

(i) An agency's administration of its drug testing policy and drug testing records for applicants shall be subject to audit by the Division.

(2) Failing a drug test means the confirmation test result indicates positive evidence of a prohibited drug.

(3) Mental health services are those provided at Mental Health and Developmental Disability Services Division institutions.

(4) Prohibited drugs are marijuana, cocaine, opiates, phencyclidine (PCP), amphetamines and substances specified in Schedules I through V of Section 202 of the Controlled Substances Act, 21 USC 811, 812 and as defined in 21 CFR 1300.11 through 1300.15 unless authorized by legal prescription or are exempt from federal or state law.

(5) Public safety services are those performed by police officers, firefighters, public safety trainers, correctional officers, group life coordinators at juvenile corrections institutions, parole and probation officers, strike-prohibited employees at mental health institutions and services performed by other strike-prohibited employees.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 183.340, ORS 240.145(3) & ORS 240.250

Stats. Implemented: ORS 240.135 & ORS 240.250

Hist.: HRMD 1-1996, f. & cert. ef. 1-31-96; HRSD 9-2003, f. 5-15-03, cert. ef. 5-21-03

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## Department of Agriculture Chapter 603

**Adm. Order No.:** DOA 15-2003

**Filed with Sec. of State:** 4-18-2003

**Certified to be Effective:** 4-18-03

**Notice Publication Date:** 3-1-03

**Rules Amended:** 603-052-1025

**Subject:** The amendments eliminate mandatory seed sampling and testing from the small broomrape quarantine. Instead, red clover seed lots grown in western Oregon have to meet one of three conditions: be cleaned by a process that includes an air separator, indent roller and gravity separator; be cleaned by a facility under compliance agreement, or be tested and found free of small broomrape contamination. Required reporting of infested fields and seed lots is also eliminated.

**Rules Coordinator:** Sherry Kudna—(503) 986-4619

## 603-052-1025

### Quarantine; Small Broomrape

(1) Establishing Quarantine. A quarantine is established to prevent the spread of small broomrape, *Orobanche minor*, within Oregon and to protect markets for Oregon seed crops. This quarantine is established under ORS 561.510 and 561.540 to protect Oregon's agricultural industries from the artificial spread of small broomrape. Small broomrape is not widely prevalent within or distributed throughout the state of Oregon. Small broomrape is dangerous to Oregon's agricultural industries because it parasitizes the root systems of host crop plants in the legume, potato, carrot and sunflower families. Red clover is the most susceptible host. Damage includes direct yield losses, up to and including crop failure, as well as possible market losses due to restrictions imposed by trading partners on commodities potentially contaminated with small broomrape seed.

(2) Area under Quarantine: State of Oregon

(3) Commodities Covered: Small broomrape plants including seeds, red clover (*Trifolium pratense*) seed, and soil, commodities and equipment that may be contaminated with small broomrape seeds.

(4) Provisions of the Quarantine:

(a) Imported red clover seed lots must have been cleaned by a process that includes, at a minimum, the stages in (4)(b)(A-C) below or an official seed sample must be taken and tested prior to planting to ensure freedom from contamination by small broomrape seed. Contaminated lots will be returned or destroyed without expense or indemnity paid by the State.

(b) All red clover seed lots harvested in counties west of the Cascade Mountains must be cleaned by an approved process before transport, purchase, sale or offering for sale. Approved cleaning processes must include, at a minimum, all the stages in A-C below. Seed lots meeting this requirement need not be sampled and tested for small broomrape contamination.

(A) Air separator;

(B) Indent roller;

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(C) Gravity separator.

(c) Alternative cleaning processes may also be acceptable if approved by the Department. Cleaning facilities using alternative processes must be under compliance agreement with the Department.

(d) The Department may take random samples of finished red clover seed lots from cleaners meeting the requirements of (b) or (c) above and test them for small broomrape. The cost of this random sampling and testing will be born by the Department. If small broomrape is found, cleaning of red clover seed will be curtailed until the cleaning process is reviewed and problems corrected. All available clover seed lots from that cleaner will be sampled and tested for small broomrape. Any infested lots will be re-cleaned and released only after testing negative for small broomrape. The costs of all follow-up sampling and testing after a positive find will be the responsibility of the cleaner. The cleaner will be put under compliance agreement before additional lots of red clover seed may be cleaned.

(e) Seed lots not meeting the cleaning requirements outlined in (b) or (c) above must be officially sampled, tested and found free of small broomrape seeds before transport, purchase, sale or offering for sale. Upon request, Department inspectors will draw official seed samples, which will be analyzed at a laboratory using a USDA-approved protocol for small broomrape testing. Costs of sampling and testing will be the responsibility of the grower or other responsible party. Contact: Commodity Inspection Division, Oregon Department of Agriculture, 635 Capitol St. NE, Salem, OR 97301. Telephone: (503) 986-4620. Any seed lots found to contain small broomrape seed are prohibited from transport, purchase, sale, or offering for sale until they are re-cleaned, re-tested and determined to be free from small broomrape.

(f) Screenings from seed lots contaminated with small broomrape shall be disposed of in a manner that will devitalize the seed or eliminate the risk of spread of the weed such as pelletization, burning or burying.

(5) Violation of this quarantine may result in a fine, if convicted, of not less than \$500 nor more than \$5,000, as provided by ORS 561.990(4). Violators may also be subject to civil penalties of up to \$10,000 as provided by Oregon Laws 1999, chapter 390, section 2. Commodities harvested or shipped in violation of this quarantine shall be treated or destroyed without expense or indemnity paid by the State.

Stat. Auth.: ORS 561.510 & ORS 561.190

Stats. Implemented:

Hist.: DOA 6-2000, f. & cert. ef. 2-24-00; DOA 33-2000, f. & cert. ef. 12-15-00; DOA 15-2003, f. & cert. ef. 4-18-03

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**Adm. Order No.:** DOA 16-2003(Temp)

**Filed with Sec. of State:** 4-22-2003

**Certified to be Effective:** 4-22-03 thru 10-18-03

**Notice Publication Date:**

**Rules Amended:** 603-057-0410

**Subject:** Amends rule to state that the Department will not take enforcement action against pesticide use reporters who not file pesticide use report records for calendar year 2002.

**Rules Coordinator:** Sherry Kudna—(503) 986-4619

## 603-057-0410

### Pesticide Users Required to Report

(1) All pesticide products used by each pesticide user shall be reported at least once yearly to the Department. All pesticide use in a given calendar year shall be reported no later than January 31 of the following calendar year. Pesticide use for the calendar year 2002 shall be reported no later than April 30, 2003. However, the Department will not take enforcement action as provided for in ORS Chapter 634 and provisions of OAR 603-057-0405 through 603-057-0425 for failure to comply with pesticide use reporting requirements for calendar year 2002 as required by Chapter 1059 Oregon Laws 1999. A pesticide user may report the use of pesticide products on a more frequent basis if so selected by the pesticide user. Each report will include the required pesticide use information for the preceding specified period, or since the most recent filing of a pesticide use report, whichever time period is shorter.

(2) Commercial pesticide operators are required to file the pesticide use report when a commercial pesticide operator uses a pesticide product in the course of business.

(3) All agencies, instrumentalities, subdivisions, counties, cities, towns, municipal corporations, districts, governmental bodies and utilities are required to file the pesticide use report when a pesticide product is used by their employees.

(4) Employers are required to file the pesticide use report when an employee uses a pesticide product as an employee in the scope of his or her employment.

(5) All other pesticide users, other than as described in subsection (2), (3), or (4) of this section, using a pesticide product, are required to file the pesticide use report.

(6) Reports of pesticide use shall be made to the Department using forms or methods specified by the Department.

Stat. Auth.: ORS 634, ORS 561.190 & Ch. 1059 OL 1999

Stats. Implemented: Ch. 1059 OL 1999

Hist.: DOA 27-2001, f. & cert. ef. 12-4-01; DOA 23-2002(Temp), f. 12-2-02., cert. ef. 12-4-02 thru 6-1-03; DOA 16-2003(Temp), f. & cert. ef. 4-22-03 thru 10-18-03

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**Adm. Order No.:** DOA 17-2003

**Filed with Sec. of State:** 5-15-2003

**Certified to be Effective:** 5-15-03

**Notice Publication Date:** 7-1-02

**Rules Amended:** 603-077-0115, 603-077-0155

**Subject:** These rules govern the operation and enforcement of the Willamette Valley field burning program. The rules are necessary for the Department of Agriculture to operate the field burning program.

**Rules Coordinator:** Sherry Kudna—(503) 986-4619

## 603-077-0115

### Daily Burning Authorization Criteria

As part of the Smoke Management Program provided for in ORS 468A.590, the Department shall set forth the types and extent of open field burning, propane flaming, and stack burning to be allowed each day according to the provisions established in this section and this Division:

(1) During the active burning season and on an as needed basis, the Department shall announce the burning schedule over the burning radio network operated specifically for this purpose or by other appropriate means. The schedule shall specify the times, locations, amounts and other restrictions in effect for open field burning, propane flaming, and stack burning. The Department shall notify Oregon Emergency Management of the burning schedule for dissemination to appropriate Willamette Valley agencies.

(2) Prohibition conditions:

(a) Prohibition conditions shall be in effect at all times unless specifically determined and announced otherwise by the Department;

(b) Under prohibition conditions, no permits shall be issued and no open field burning shall be conducted in any area except for individual burns specifically authorized by the Department on a limited extent basis. Such limited burning may include field-by-field burning, preparatory burning, or burning of test fires, except that:

(A) No open field burning shall be allowed:

(i) In any area subject to a ventilation index of less than 10.0;

(ii) In any area upwind, or in the immediate vicinity, of any area in which, based upon real-time monitoring, a violation of federal or state air quality standards is projected to occur.

(B) Only test-fire burning may be allowed:

(i) In any area subject to a ventilation index of between 10.0 and 15.0, inclusive, except for experimental burning specifically authorized by the Department pursuant to OAR 603-077-0135;

(ii) When relative humidity at the nearest reliable measuring station exceeds 50 percent under forecast northerly winds or 65 percent under forecast southerly winds.

(3) Marginal conditions:

(a) The Department shall announce that marginal conditions are in effect and open field burning is allowed when, in its best judgment and within the established limits of this Division, the prevailing atmospheric dispersion and burning conditions are suitable for satisfactory smoke dispersal with minimal impact on the public, provided that the minimum conditions set forth in paragraphs (2)(b)(A) and (B) of this rule are satisfied;

(b) Under marginal conditions, permits may be issued and open field burning may be conducted in accordance with the times, locations, amounts, and other restrictions set forth by the Department and this Division.

(4) Hours of burning:

(a) Burning hours shall be limited to those specifically authorized by the Department each day and may be changed at any time when necessary to attain and maintain air quality;

(b) Burning hours may be reduced by the fire chief or his deputy, and burning may be prohibited by the State Fire Marshal, when necessary to prevent danger to life or property from fire, pursuant to ORS 478.960.

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## (5) Locations of burning:

(a) Locations of burning shall at all times be limited to those areas specifically authorized by the Department; except that

(b) No priority or fire safety buffer zone acreage shall be burned upwind of any city, airport, Interstate freeway or highway within the same priority area or buffer zone;

(c) No south Valley priority acreage shall be burned upwind of the Eugene-Springfield non-attainment area.

## (6) Amounts of burning:

(a) To provide for an efficient and equitable distribution of burning, daily authorizations of acreages shall be issued by the Department in terms of single or multiple fire district quotas. The Department shall establish quotas for each fire district and may adjust the quotas of any district when conditions in its judgment warrant such action;

(b) Unless otherwise specifically announced by the Department, a one quota limit shall be considered in effect for each district authorized for burning;

(c) The Department may issue more restrictive limitations on the amount, density or frequency of burning in any area or on the basis of crop type, when conditions in its judgment warrant such action.

## (7) Limitations on burning based on air quality:

(a) The Department shall establish the minimum allowable effective mixing height required for burning based upon cumulative hours of smoke intrusion in the Eugene-Springfield area as follows:

(b) Except as provided in paragraph (C) of this subsection, burning shall not be permitted whenever the effective mixing height is less than the minimum allowable height specified in **Table 1**, and by reference made a part of this Division;

(c) Notwithstanding the effective mixing height restrictions of paragraph (b) of this subsection, the Department may authorize burning of up to 1,000 acres total per day for the Willamette Valley, consistent with smoke management considerations and this Division.

## (8) Limitations on burning based on rainfall:

(a) Open field burning and propane flaming shall be prohibited in any area for one drying day (up to a maximum of four consecutive drying days) for each 0.10 inch increment of rainfall received per day at the nearest reliable measuring station;

(b) The Department may waive the restrictions of subsection (a) of this section when dry fields are available as a result of special field preparation or condition, irregular rainfall patterns, or unusually high evaporative weather condition.

## (9) Other discretionary provisions and restrictions:

(a) The Department may require special field preparations before burning, such as, but not limited to, mechanical fluffing of residues, when conditions in its judgment warrant such action;

(b) The Department may designate specified periods following permit issuance within which time active field ignition must be initiated and/or all flames must be actively extinguished before said permit is automatically rendered invalid;

(c) The Department may designate additional areas as priority areas when conditions in its judgment warrant such action.

[ED. NOTE: Tables referenced in this rule are available from the agency.]

Stat. Auth.: ORS 561.190

Stats. Implemented: ORS 468A.585

Hist.: DOA 2-1998, f. & cert. ef. 3-3-98; DOA 17-2003, f. & cert. ef. 5-15-03

## 603-077-0155

### Stack Burning

The open burning of piled or stacked residue from perennial or annual grass seed or cereal grain crops used for seed production is allowed subject to the following conditions:

(1) No person shall cause or allow to be initiated or maintained any stack burning on any day or at any time if the Department has notified Oregon Emergency Management that such burning is prohibited because of meteorological or air quality conditions.

(2) No person shall cause or allow stack burning of any grass seed or cereal grain residue unless said residue is dry and free of all other combustible and non-combustible material.

(3) Each responsible person shall make every reasonable effort to promote efficient burning, minimize smoke emissions, and extinguish any stack burning which is in violation of any rule of the Commission.

(4) No stack burning shall be conducted within any State Fire Marshal buffer zone "non-combustible ground surface" area (e.g., within 1/4 mile of Interstate I-5, or 1/8 mile of any designated roadway), as specified in OAR 837-110-0080.

(5) The acreage must be permitted pursuant to OAR 603-077-0112.

(6) Unless otherwise specifically agreed by the parties, after the straw is removed from the fields of the grower, the responsibility for the further disposition of the straw, including burning or disposal, and payment of the appropriate fees, shall be upon the person who bales, removes, controls, or is in possession of the straw.

Stat. Auth.: ORS 561.190

Stats. Implemented: ORS 468A.585

Hist.: DOA 2-1998, f. & cert. ef. 3-3-98; DOA 17-2003, f. & cert. ef. 5-15-03

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**Adm. Order No.:** DOA 18-2003

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**Rules Amended:** 603-077-0101, 603-077-0105, 603-077-0110, 603-077-0112, 603-077-0125, 603-077-0131, 603-077-0133, 603-077-0137, 603-077-0165, 603-077-0175, 603-077-0180, 603-077-0195

**Subject:** These rules govern the operation and enforcement of the Willamette Valley field burning program. The rules are necessary for the Department of Agriculture to operate the field burning program.

**Rules Coordinator:** Sherry Kudna—(503) 986-4619

## 603-077-0101

### Introduction

(1) This Division applies to the open field burning, propane flaming, and stack and pile burning of all perennial and annual grass seed and cereal grain crops, and associated residue within the Willamette Valley. It also includes rules pertaining only to fees for open field burning of perennial and annual grass seed crops in the counties outside the Willamette Valley. The open burning of all other agricultural waste material (referred to as "fourth priority agricultural burning") is governed by OAR chapter 340, division 264, Rules for Open Burning.

### (2) Organization of rules:

(a) OAR 603-077-0103 is the policy statement of the Oregon Department of Agriculture setting forth the goals of this Division;

(b) OAR 603-077-0105 contains definitions of terms which have specialized meanings within the context of this Division;

(c) OAR 603-077-0110 lists general provisions and requirements pertaining to all open field burning, propane flaming, and stack and pile burning with particular emphasis on the duties and responsibilities of the grower registrant;

(d) OAR 603-077-0112 lists procedures and requirements for registration of acreage, issuance of permits, collection of fees, and keeping of records, with particular emphasis on the duties and responsibilities of the local permit issuing agencies;

(e) OAR 603-077-0113 establishes acreage limits and methods of determining acreage allocations;

(f) OAR 603-077-0115 establishes criteria for authorization of open field burning, propane flaming, and stack and pile burning pursuant to the administration of a daily smoke management control program;

(g) OAR 603-077-0125 contains order of priority for open field burning according to crop type;

(h) OAR 603-077-0131 establishes special provisions pertaining to field burning by public agencies for official purposes, such as "training fires";

(i) OAR 603-077-0133 establishes special provisions pertaining to "preparatory burning";

(j) OAR 603-077-0135 establishes special provisions pertaining to open field burning for experimental purposes;

(k) OAR 603-077-0137 establishes special provisions pertaining to burning fees outside the Willamette Valley;

(k) OAR 603-077-0140 establishes special provisions and procedures pertaining to emergency cessation of burning;

(l) OAR 603-077-0145 establishes provisions pertaining to propane flaming;

(m) OAR 603-077-0155 establishes provisions pertaining to "stack burning."

(n) OAR 603-077-0165 thru 603-077-0195 establish provisions pertaining to enforcement procedures and civil penalties.

Stat. Auth.: ORS 561.190

Stats. Implemented: ORS 468A.585

Hist.: DOA 2-1998, f. & cert. ef. 3-3-98; DOA 18-2003, f. & cert. ef. 5-15-03

## 603-077-0105

### Definitions

As used in this Division:

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(1) "Actively Extinguish" means the direct application of water or other fire retardant to an open field fire.

(2) "Approved Alternative Method(s)" means any method approved by the Department to be a satisfactory alternative field sanitation method to open field burning.

(3) "Approved Alternative Facilities" means any land, structure, building, installation, excavation, machinery, equipment, or device approved by the Department for use in conjunction with an approved alternative method.

(4) "Permit" or "Burn Permit" or "Burning Permit" means a permit issued by the Department pursuant to ORS 468A.575.

(5) "Candidate Fields" means all grass seed or cereal grain fields being considered for open field burning or propane flaming.

(6) "Commission" means the Environmental Quality Commission.

(7) "Crop" means cultivated agricultural plants such as grain.

(8) "Cumulative Hours of Smoke Intrusion in the Eugene-Springfield Area" means the average of the totals of cumulative hours of smoke intrusion recorded for the Eugene site and the Springfield site. Provided the Department determines that field burning was a significant contributor to the smoke intrusion:

(a) The Department shall record one hour of intrusion for each hour the nephelometer hourly reading exceeds a background level by  $1.8 \times 10^{-4}$  b-scat units or more but less than the applicable value in subsection (b) or (c) of this section;

(b) Between June 16 and September 14 of each year, two hours of smoke intrusion shall be recorded for each hour the nephelometer hourly reading exceeds a background level by  $5.0 \times 10^{-4}$  b-scat units;

(c) Between September 15 and June 15 of each year, two hours of intrusion shall be recorded for each hour the nephelometer hourly reading exceeds a background level by  $4.0 \times 10^{-4}$  b-scat units;

(d) The background level shall be the average of the three hourly readings immediately prior to the intrusion.

(9) "Department" means the Oregon Department of Agriculture.

(10) "Director" means the Director of the Department or delegated employee representative.

(11) "District Allocation" means the total amount of acreage sub-allocated annually to the fire district, based on the district's pro rata share of the maximum annual acreage limitation, representing the maximum amount for which burning permits may be issued within the district, subject to daily authorization. District allocation is defined by the following identity:

$$\text{District Allocation} = \frac{\text{Maximum annual acreage limit}}{\text{Total acreage registered in the Valley} \times \text{Total acreage registered in the District}}$$

(12) "Drying Day" means a 24-hour period during which the relative humidity reached a minimum less than 50 percent and no rainfall was recorded at the nearest reliable measuring site.

(13) "Effective Mixing Height" means either the actual height of plume rise as determined by ODA field staff or the calculated or estimated mixing height as determined by the Department.

(14) "Field-by-Field Burning" means burning on a limited or restricted basis in which the amount, rate, and area authorized for burning is closely controlled and monitored. Included under this definition are "training fires" and experimental open field burning.

(15) "Field Reference Code" means a unique four-part code which identifies a particular registered field for mapping purposes. The first part of the code shall indicate the grower registration (form) number, the second part the line number of the field as listed on the registration form, the third part the crop type, and the fourth part the size (acreage) of the field (e.g., a 35 acre perennial (bluegrass) field registered on Line 2 of registration form number 1953 would be 1953-2-P-BL-35).

(16) "Fire District" or "District" or "Fire Protection District" means a fire permit issuing agency.

(17) "Fire Permit" means a permit issued by a local fire permit issuing agency pursuant to ORS 477.515, 476.380, or 478.960.

(18) "Fires-Out Time" means the time announced by the Department when all flames and major smoke sources associated with open field burning should be out and prohibition conditions are scheduled to be imposed.

(19) "Fire Safety Buffer Zone" shall have the same meaning as defined in the State Fire Marshal rules.

(20) "Fluffing" means an approved mechanical method of stirring or tending crop residues for enhanced aeration and drying of the full fuel load, thereby improving the field's combustion characteristics.

(21) "Grower" means a person that cultivates perennial or annual grass seed or cereal grain.

(22) "Grower Allocation" means the amount of acreage sub-allocated annually to the grower registrant, based on the grower registrant's pro rata share of the maximum annual acreage limitation, representing the maximum amount for which burning permits may be issued, subject to daily authorization. Grower allocation is defined by the following identity:

$$\text{Grower Allocation} = \frac{\text{Maximum annual acreage limit}}{\text{Total acreage registered in the Valley}} \times \text{Total acreage registered by the grower registrant}$$

(23) "Grower Registrant" means any person who registers acreage with the Department for purposes of open field burning, propane flaming, or receives a permit to stack or pile burn.

(24) "Marginal Conditions" means atmospheric conditions such that smoke and particulate matter escape into the upper atmosphere with some difficulty but not such that limited additional smoke and particulate matter would constitute a danger to the public health and safety.

(25) "Marginal Day" means a day on which marginal conditions exist.

(26) "Nephelometer" means an instrument for measuring ambient smoke concentrations.

(27) "Northerly Winds" means winds coming from directions from 270° to 90° in the north part of the compass, averaged through the effective mixing height.

(28) "Open Field Burning" means burning of any perennial or annual grass seed or cereal grain crop, or associated residue, in such manner that combustion air and combustion products are not effectively controlled.

(29) "Open Field Burning Permit" means a permit issued by the Department pursuant to ORS 468A.575.

(30) "Permit Agent" means the person under contract or otherwise authorized by the department to administer registration of acreage, issue burn permits, collect fees, and keep records for open field burning, propane flaming, or stack burning within their permit jurisdictions pursuant to ORS 468A.550 et seq.

(31) "Permit Issuing Agency" means the county court or board of county commissioners, or fire chief or a rural fire protection district or other person authorized to issue fire permits pursuant to ORS 477.515, 476.380, or 478.960.

(32) "Person" means, but is not limited to, individuals, corporations, associations, firms, partnerships, joint stock companies, public and municipal corporations, political subdivisions, states and their agencies, and the Federal Government and its agencies.

(33) "Preparatory Burning" means controlled burning of portions of selected problem fields for the specific purpose of reducing the fire hazard potential or other conditions which would otherwise inhibit rapid ignition burning when the field is subsequently open burned.

(34) "Priority Acreage" means acreage located within a priority area.

(35) "Priority Areas" means the following areas of the Willamette Valley:

(a) Areas in or within three miles of the city limits of incorporated cities having populations of 10,000 or greater;

(b) Areas within one mile of airports servicing regularly scheduled airline flights;

(c) Areas in Lane County south of the line formed by U.S. Highway 126 and Oregon Highway 126;

(d) Areas in or within three miles of the city limits of the City of Lebanon;

(e) Areas on the west and east side of and within 1/4 mile of these highways: 99, 99E, and 99W. Areas on the south and north side of and within 1/4 mile of U.S. Highway 20 between Albany and Lebanon, Oregon Highway 34 between Lebanon and Corvallis, Oregon Highway 228 from its junction south of Brownsville to its rail crossing at the community of Tulsa.

(36) "Problem Field" means a field that cannot be burned under the usual conditions because of a fire hazard or nearby school, hospital, airport, or other sensitive area.

(37) "Prohibition Conditions" means conditions under which open field burning is not allowed except for individual burns specifically authorized by the Department pursuant to OAR 603-077-0115(2).

(38) "Propane Flaming" means a mobile flamer device which meets the following design specifications and utilizes an auxiliary fuel such that combustion is nearly complete and emissions are significantly reduced:

(a) Flamer nozzles shall not be more than 15 inches apart;

(b) A heat deflecting hood is required and shall extend a minimum of three feet beyond the last row of nozzles.

(39) "Propane Flaming Permit" means a permit issued by the Department pursuant to ORS 468A.575 and consisting of a validation number and specifying the conditions and acreage specifically registered and allocated for propane flaming.

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(40) "Quota" means an amount of acreage established by the Department for each fire district for use in authorizing daily burning limits in a manner to provide, as reasonably as practicable, an equitable opportunity for burning in each area.

(41) "Rapid Ignition Techniques" means a method of burning in which all sides of the field are ignited as rapidly as practicable to maximize plume rise. When using this method, little or no preparatory backfire burning shall be done.

(42) "Released Allocation" means that part of a grower's allocation, by registration form, that is unused and voluntarily released to the Department for first come-first serve dispersal to other grower registrants.

(43) "Residue" means straw, stubble, screenings and associated crop material generated in the production of grass seed and cereal grain crops.

(44) "Responsible Person" means each person who is in ownership, control, or custody of the real property on which open field burning occurs, including any tenant thereof, or who is in ownership, control or custody of the material which is burned, or the grower registrant. Each person who causes or allows open field burning, propane flaming, or stack or pile burning to be maintained shall also be considered a responsible person.

(45) "Screenings" means organic waste materials resulting from the seed cleaning process of grass seed and cereal grain.

(46) "Small-Seeded Seed Crops Requiring Flame Sanitation" means small-seeded grass, legume, and vegetable crops, or other types approved by the Department, which are planted in early autumn, are grown specifically for seed production, and which require flame sanitation for proper cultivation. For purposes of this Division, clover and sugar beets are specifically included. Cereal grains, hairy vetch, or field peas are specifically not included.

(47) "Smoke Management" means a system for the daily or hourly control of open field burning, propane flaming, or stack or pile burning through authorization of the times, locations, amounts and other restrictions on burning, so as to provide for suitable atmospheric dispersion of smoke particulate and to minimize impact on the public.

(48) "Southerly Winds" means winds coming from directions from 90° to 270° in the south part of the compass, averaged through the effective mixing height.

(49) "Stack Burning" means the open burning of bound, baled, collected, gathered, accumulated, piled or stacked straw residue from perennial or annual grass seed or cereal grain crops.

(50) "Stack Burning Permit" means a permit issued by the Department pursuant to ORS 468A.575 that identifies the responsible person, date of permit issuance, and specifies the acreage and location authorized for stack burning.

(51) "Test Fires" means individual field burns specifically authorized by the Department for the purpose of determining or monitoring atmospheric dispersion conditions.

(52) "Training Fires" means individual field burns set by or for a public agency for the official purpose of training personnel in fire-fighting techniques.

(53) "Unusually High Evaporative Weather Conditions" means a combination of meteorological conditions following periods of rain that result in sufficiently high rates of evaporation, as determined by the Department, where fuel (residue) moisture content would be expected to approach about 12 percent or less.

(54) "Validation Number" is used interchangeably with "Burn Permit" and means:

(a) For open field burning a unique five-part number issued by the Department or its delegate identifying a specific field and acreage allowed to be open field burned and the date and time the permit was issued (e.g., a validation number issued August 26 at 2:30 p.m. for a 70-acre burn for a field registered on Line 2 of registration form number 1953 would be 1953-2-0826-1430-070);

(b) For propane flaming and stack burning a unique five part alphanumeric, issued by the Department or its delegate, identifying a specific field and acreage allowed to be propane flamed or stack burned, the date and time the permit was issued, and the burn type (e.g., a validation number issued on July 15 for a 100 acre field to be propane flamed registered on Line 4 of registration form 9999 would be 9999-4-0715-P-100).

(55) "Ventilation Index (VI)" means a calculated value used as a criterion of atmospheric ventilation capabilities. The Ventilation Index as used in this Division is defined by the following identity:

$$VI = (\text{Effective mixing height (feet)}) / 1,000 \times (\text{Average wind speed through the effective mixing height (knots)})$$

(56) "Wildfire" means an uncontrolled fire that is not intentionally started, caused by man, machine, nature, or any other cause, usually but not necessarily, traveling and spreading rapidly.

(57) "Willamette Valley" means the areas of Benton, Clackamas, Lane, Linn, Marion, Multnomah, Polk, Washington, and Yamhill Counties lying between the crest of the Coast Range and the crest of the Cascade Mountains, and includes the following:

(a) "South Valley," the areas of jurisdiction of all fire permit issuing agents or agencies in the Willamette Valley portions of the counties of Benton, Lane, or Linn;

(b) "North Valley," the areas of jurisdiction of all other fire permit issuing agents or agencies in the Willamette Valley including portions of Linn and Benton counties.

Stat. Auth.: ORS 561.190

Stats. Implemented: ORS 468A.585

Hist.: DOA 2-1998, f. & cert. ef. 3-3-98; DOA 18-2003, f. & cert. ef. 5-15-03

## 603-077-0110

### General Requirements

(1) No person shall cause or allow open field burning or propane flaming on any acreage unless said acreage has first been registered and mapped pursuant to OAR 603-077-0112(1), the registration fee has been paid, and the registration (permit application) has been approved by the Department.

(2) No person shall cause or allow open field burning, propane flaming, or stack burning without first obtaining and being able to readily demonstrate a valid burning permit and fire permit from the appropriate permit issuing agent pursuant to OAR 603-077-0112(2). On the specific day of and prior to open field burning, propane flaming, or stack burning of any grass seed or cereal grain crop or associated residue the grower registrant shall obtain, in person or by telephone, a valid burning permit and fire permit from the appropriate permit issuing agent pursuant to OAR 603-077-0112.

(3) The Department may prohibit any person from registering acreage for open field burning or propane flaming and may deny burn permits for open field burning, propane flaming, and stack burning until all delinquent registration fees, late fees, burn permit fees, and adjudicated penalties from previous seasons are paid. The Department may also institute appropriate legal action to collect the delinquent fees.

(4) No person shall open field burn cereal grain acreage unless that person first issues to the Department a signed statement, and then acts to ensure, that said acreage will be planted in the following growing season to a small-seeded seed crop requiring flame sanitation for proper cultivation, as defined in OAR 603-077-0105(42).

(5) No person shall cause or allow open field burning, propane flaming, or stack burning which is contrary to the Department's announced burning schedule specifying the times, locations and amounts of burning permitted, or to any other provision announced or set forth by the Department or this Division.

(6) Each responsible person open field burning or propane flaming shall have an operating radio receiver and shall directly monitor the Department's burn schedule announcements at all times while open field burning or propane flaming.

(7) Each responsible person open field burning or propane flaming shall actively extinguish all flames and major smoke sources when prohibition conditions are imposed by the Department or when instructed to do so by an agent or employee of the Department.

(8) No person shall cause or allow open field burning or stack burning within 1/4 mile of either side of any Interstate freeway within the Willamette Valley or within 1/8 mile of either side of the designated roadways listed in OAR 837-110-0080(2)(c). In addition, no person shall cause or allow open field burning in any of the remaining area within a fire safety buffer zone unless a noncombustible ground surface has been provided between the field to be burned and the nearest edge of the roadway right-of-way as required by OAR 837-110-0080.

(9) Each responsible person open field burning, propane flaming, or stack burning within a priority area or fire safety buffer zone around a designated city, airport or highway shall refrain from burning and promptly extinguish any burning if it is likely that the resulting smoke would noticeably affect the designated city, airport or highway.

(10) Each responsible person open field burning shall make every reasonable effort to expedite and promote efficient burning and prevent excessive emissions of smoke by:

(a) Meeting all of the State Fire Marshal requirements specified in OAR 837-110-0040 through 837-110-0080;

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(b) Ensuring field residues are evenly distributed, dry, and in good burning condition;

(c) Employing rapid ignition techniques on all acreage where there are no imminent fire hazards or public safety concerns.

(11) In the event of a "wildfire" and a grower is unable to comply with all of the requirements of this Division because of a breakdown of equipment, an accident caused by human error or negligence, or any other cause, the grower shall:

(a) Immediately take action to stop, contain, and correct the problem.

(b) As soon as practicable notify the designated permit agent. If the permit agent is unavailable, the grower must contact the department.

(A) Notification must be by phone, fax, email, or in person.

(B) If a grower is unable to contact the designated permit agent or the department, then a detailed message must be left with the department and the permit agent explaining the problem, the solution, the field information, and grower information.

(12) Open field burning, propane flaming, or stack burning in compliance with this Division does not exempt any person from any civil or criminal liability for consequences or damages resulting from such burning, nor does it exempt any person from complying with any other applicable law, ordinance, regulation, rule, permit, order or decree of the Department, Commission or any other government entity having jurisdiction.

(13) Any revisions to the maximum acreage to be burned, allocation or permit issuing procedures, or any other substantive changes to this Division affecting open field burning, propane flaming, or stack or pile burning for any year shall be made prior to June 1 of that year. In making such changes, the Department shall consult with Oregon State University.

(14) 1st, 2nd, 3rd, and 4th priority open field burning shall be regulated in a manner consistent with the requirements of the Oregon Visibility Protection Plan for Class I Areas (Section 5.2 of the State of Oregon Clean Air Act Implementation Plan adopted under OAR 340-200-0040).

Stat. Auth.: ORS 561.190

Stats. Implemented: ORS 468A.585

Hist.: DOA 2-1998, f. & cert. ef. 3-3-98; DOA 18-2003, f. & cert. ef. 5-15-03

## 603-077-0112

### Registration, Permits, Fees, Records

In administering a field burning smoke management program, the Department may contract with counties or fire districts or any other responsible individual to administer registration of acreage, issuance of permits, collection of fees, and keeping of records for open field burning, propane flaming, or stack burning within their permit jurisdictions. The Department shall pay said authority for these services in accordance with the payment schedule provided for in ORS 468A.615. Three-quarters of said payment shall be made prior to July 1 of each year and the remainder shall be paid within ten days after completion of the end of season reconciliation:

(1) Registration of acreage:

(a) On or before April 1 of each year, each grower intending to open burn or propane flame under this Division shall register the total acreage to be open burned or propane flamed. Said acreage shall be registered with the Department or its authorized permit agent on the registration forms provided. Candidate fields for open field burning or propane flaming shall be listed on the registration form and shall also be delineated on specially provided registration map materials and identified using a unique field reference code. Each candidate field listing shall state if the field is located in a priority area and/or is a problem field. Registration, listing of fields, and mapping shall be completed according to the established procedures of the Department. At the time of registration, a non-refundable registration fee of \$2 shall be paid for each acre registered for open field burning and \$1 shall be paid for each acre registered for propane flaming. A complete registration (permit application) shall consist of a fully executed registration form, map and fee. Acreage registered by April 1 may be issued a burn permit if:

(A) Allocation is available; and

(B) The initial registration fee account has a sufficient balance.

(b) Registration of open field burning and propane flaming acreage after April 1 of each year shall require the prior approval of the Department and an additional \$1 per acre late registration fee. The late registration fee shall not be charged if the late registration is not due to the fault of the registrant or one under the registrant's control;

(c) Copies of all registration forms and fees shall be forwarded to the Department promptly by the permit agent. Registration map materials shall be made available to the Department at all times for inspection and reproduction;

(d) The Department shall act on any registration application within 60 days of receipt of a completed application. The Department may deny or

revoke any registration application which is incomplete, false or contrary to state law or this Division;

(e) The grower registrant shall insure the information presented on the registration form and map is complete and accurate.

(2) Permits:

(a) Permits for open field burning, propane flaming, or stack burning shall be issued by the Department, or its authorized permit agent, to the grower registrant in accordance with the established procedures of the Department, and the times, locations, amounts and other restrictions set forth by the Department or this Division;

(b) A fire permit from the local fire permit issuing agency is also required for all open field burning pursuant to ORS 477.515, 476.380, 478.960;

(c) A valid open field burning permit shall consist of:

(A) An open field burning registration form issued by the Department which specifies the permit conditions in effect at all times while burning and which identifies the acreage specifically registered and annually allocated for burning;

(B) A validation number issued by the designated permit agent on the day of the burn identifying the specific acreage allowed for burning and the date and time the permit was issued.

(d) A valid propane flaming permit shall consist of:

(A) A propane flaming permit issued by the Department which specifies the permit conditions in effect at all times while flaming and which identifies the acreage specifically registered and annually allocated for propane flaming;

(B) A validation number issued by the designated permit agent identifying the specific acreage allowed for propane flaming and the date and time the permit was issued.

(e) A valid stack burning permit shall consist of the name of the responsible person and date the permit was issued, and shall specify the acreage and location authorized;

(f) Each responsible person open field burning, propane flaming, or stack burning shall pay a per acre burn fee within ten days of the date the permit was issued. The fee shall be:

(A) \$8 per acre sanitized by open field burning;

(B) \$2 per acre sanitized by propane flaming;

(C) \$10 per acre burned in stacks;

(D) For grass seed and cereal grain residue from previous seasons, broken bales, or fields where a portion of straw was removed using usual or standard baling methods, the acreage actually burned shall be estimated and the same per acre fee as imposed in paragraph (C) of this subsection shall be charged. The estimated acreage shall be rounded to the nearest whole acre.

(g) Burning permits shall at all times be limited by and subject to the burn schedule and other requirements or conditions announced or set forth by the Department;

(h) No person shall issue burning permits for open field burning, propane flaming, or stack burning of:

(A) More acreage than the amount sub-allocated annually to the District by the Department pursuant to OAR 603-077-0112(2);

(B)(i) Priority or fire safety buffer zone acreage located on the upwind side of any city, airport, Interstate freeway or highway within the same priority area or buffer zone.

(ii) It is the responsibility of each designated permit agent to establish and implement a system for distributing open field burning, propane flaming, or stack burning permits to individual grower registrants when burning is authorized, provided that such system is fair, orderly and consistent with state law, this Division and any other provisions set forth by the Department.

(3) Fees:

(a) Permit agents shall collect, properly document, and promptly forward all required registration fees, late registration fees, and burn fees to the Department;

(b) All fees shall be deposited in the State Treasury to the credit of the Department of Agriculture Service Fund.

(4) Records:

(a) Permit agents shall at all times keep proper and accurate records of all transactions pertaining to registrations, permits, fees, allocations, and other matters specified by the Department. Such records shall be kept by the permit agent for a period of at least five years and made available for inspection by the appropriate authorities.

(b) Permit agents shall submit to the Department on specially provided forms weekly reports of all acreage burned in their permit jurisdictions. These reports shall cover the weekly period of Monday through Sunday,



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and shall be mailed and post-marked no later than the first working day of the following week.

Stat. Auth.: ORS 561.190  
Stats. Implemented: ORS 468A.585  
Hist.: DOA 2-1998, f. & cert. ef. 3-3-98; DOA 18-2003, f. & cert. ef. 5-15-03

## 603-077-0125

### Priority for Open Field Burning According to Crop Type

In making determination of whether or not to prohibit or limit any open field burning pursuant to this division the Department shall give first priority to the burning of perennial grass seed crops used for grass seed production, second priority for annual grass seed crop used for grass seed production third priority to grain crop burning and fourth priority to all other burning.

Stat. Auth.: ORS 561.190  
Stats. Implemented: ORS 468A.585  
Hist.: DOA 2-1998, f. & cert. ef. 3-3-98; DOA 18-2003, f. & cert. ef. 5-15-03

## 603-077-0131

### Burning by Public Agencies (Training Fires)

Open field burning on grass seed or cereal grain acreage by or for any public agency for official purposes, including the training of fire-fighting personnel must be pre-scheduled with the Department and is subject to the following conditions:

(1) Such burning shall be consistent with smoke management considerations whenever practical.

(2) Such burning must be deemed necessary by the official local authority having jurisdiction and must be conducted in a manner consistent with its purpose.

(3) Such burning must be limited to the minimum number of acres but in no case exceed 50 acres per fire or occasion.

(4) Such burning must be limited to the minimum number of fires but in no case exceed 2 fires per fire district annually.

(5) The responsible person shall comply with the provisions of OAR 603-077-0110 through 603-077-0113.

Stat. Auth.: ORS 561.190  
Stats. Implemented: ORS 468A.585  
Hist.: DOA 2-1998, f. & cert. ef. 3-3-98; DOA 18-2003, f. & cert. ef. 5-15-03

## 603-077-0133

### Preparatory Burning

The Department encourages the preparatory burning of portions of selected problem fields to reduce or eliminate potential fire hazards and safety problems and to expedite the subsequent burning of the field. Such burning shall be consistent with smoke management considerations and subject to the following conditions:

(1) Each responsible person shall limit the acres burned to the minimum necessary to eliminate potential fire hazards or safety problems but in no case exceed five acres for each burn unless specifically authorized by the Department.

(2) Each responsible person conducting preparatory burning shall employ backfiring burning techniques.

(3) Each responsible person conducting preparatory burning shall comply with the provisions of OAR 603-077-0110 through 603-077-0113 and 837-110-010 through 837-110-090.

Stat. Auth.: ORS 561.190  
Stats. Implemented: ORS 468A.585  
Hist.: DOA 2-1998, f. & cert. ef. 3-3-98; DOA 18-2003, f. & cert. ef. 5-15-03

## 603-077-0137

### Burning Fees Outside Willamette Valley

Notwithstanding OAR 603-077-0135(3), each person sanitizing perennial or annual grass seed crops by open field burning, in counties outside the Willamette Valley, shall pay the Department \$4.00 for each acre burned.

Stat. Auth.: ORS 561.190  
Stats. Implemented: ORS 468A.585  
Hist.: DOA 2-1998, f. & cert. ef. 3-3-98; DOA 18-2003, f. & cert. ef. 5-15-03

## 603-077-0165

### Definitions for Enforcement Procedures and Civil Penalties

Unless otherwise required by context, as used in OAR 603-077-0170 - 603-077-0195:

(1) "Class One Equivalent" or "Equivalent," which is used only for the purposes of determining the value of the "P" factor in the civil penalty formula, means two Class Two violations, one Class Two and two Class Three violations, or three Class Three violations.

(2) "Compliance" means meeting the requirements of the Department's statutes, rules, permits or orders.

(3) "Director" means the Director of the Department or the Director's authorized deputies or officers.

(4) "Department" means the Department of Agriculture.

(5) "Documented Violation" means any violation which the Department or other government agency records after observation, investigation or data collection.

(6) "Flagrant" means any documented violation where the Respondent had actual knowledge of the law and had consciously set out to commit the violation.

(7) "Formal Enforcement Action" means an action signed by the Director or authorized representatives or deputies which is issued to a Respondent for a documented violation. Formal enforcement actions may require the Respondent to take action within a specified time frame, and/or state the consequences for the violation or continued noncompliance.

(8) "Intentional" means conduct by a person with a conscious objective to cause the result of the conduct.

(9) "Magnitude of the Violation" means the extent and effects of a violator's deviation from the Department's statutes, rules, standards, permits or orders. In determining magnitude the Department shall consider all available applicable information, including such factors as: duration, intensity, and the extent of the effects of the violation. Deviations shall be categorized as major, moderate or minor as set forth in OAR 603-077-0180.

(10) "Negligence" or "Negligent" means failure to take reasonable care to avoid a foreseeable risk of committing an act or omission constituting a violation.

(11) "Order" means:

(a) Any action satisfying the definition given in ORS Chapter 183; or  
(b) Any other action so designated in ORS Chapters 468 or 468A.

(12) "Person" includes, but is not limited to, individuals, corporations, associations, firms, partnerships, joint stock companies, public and municipal corporations, political subdivisions, states and their agencies, and the Federal Government and its agencies.

(13) "Prior Significant Action" means any violation established either with or without admission of a violation by payment of a civil penalty, or by a final order of the Department.

(14) "Reckless" or "Recklessly" means conduct by a person who is aware of and consciously disregards a substantial and unjustifiable risk that the result will occur or that the circumstance exists. The risk must be of such a nature and degree that disregard thereof constitutes a gross deviation from the standard of care a reasonable person would observe in that situation.

(15) "Respondent" means the person to whom a formal enforcement action is issued.

(16) "Risk of Harm" means the individual or cumulative possibility of harm to public health or the environment caused by a violation or violations. Risk of harm shall be categorized as major, moderate or minor.

(17) "Systematic" means any documented violation which occurs on a regular basis.

(18) "Violation" means a transgression of any statute, rule, order, license, permit, or any part thereof and includes both acts and omissions. Violations shall be categorized as Class One (or I), Class Two (or II) or Class Three (or III), with Class One designating the most serious class of violation.

Stat. Auth.: ORS 561.190  
Stats. Implemented: ORS 468A.585  
Hist.: DOA 2-1998, f. & cert. ef. 3-3-98; DOA 18-2003, f. & cert. ef. 5-15-03

## 603-077-0175

### Enforcement Actions

(1) Notice of Noncompliance (NON):

(a) Informs a person of a violation, and the consequences of the violation or continued noncompliance. The notice may state the actions required to resolve the violation and may specify a time by which compliance is to be achieved and that the need for formal enforcement action will be evaluated;

(b) Shall be issued by the Director or authorized representative;

(c) May be issued for all classes of documented violations;

(d) Shall be a contested case order for purposes of judicial review.

(2) Notice of Civil Penalty Assessment (CPA):

(a) Is issued pursuant to ORS 468A.992, and OAR 603-077-0177 and 603-077-0180;

(b) Shall be issued by the Director or authorized representative.

(3) Order:

(a) Is issued pursuant to ORS Chapters 183, 468, 468A;

(b) May be in the form of a Department Order, Stipulation and Final Order (SFO) or a Mutual Agreement and Order;

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(A) Department Orders shall be issued by the Director or authorized representative;

(B) All other Orders:

(i) May be negotiated;

(ii) Shall be signed by the Director or authorized representative and the authorized representative of each other party.

(c) May be issued for any Class of violation.

(4) The enforcement actions described in sections (1) through (3) of this rule in no way limit the Department from seeking legal or equitable remedies as provided by ORS Chapters 468, 468A, and 561.

Stat. Auth.: ORS 561.190

Stats. Implemented: ORS 468A.585

Hist.: DOA 2-1998, f. & cert. ef. 3-3-98; DOA 18-2003, f. & cert. ef. 5-15-03

## 603-077-0180

### Civil Penalty Determination Procedure

(1) When determining the amount of civil penalty to be assessed for any violation, the Director or authorized representative shall apply the following procedures:

(a) Determine the class and the magnitude of each violation:

(A) The class of a violation is determined by consulting OAR 603-077-0195;

(B) The magnitude of the violation shall be moderate unless:

(i) If the Department finds that the violation had a significant adverse impact on the environment, or posed a significant threat to public health, a determination of major magnitude shall be made. In making a determination of major magnitude, the Department shall consider all available applicable information including such factors as: The degree of deviation from applicable statutes, rules, standards, permits or orders, and the extent of the effects of the violation. In making this finding, the Department may consider any single factor to be conclusive for the purpose of making a major magnitude determination;

(ii) If the Department finds that the violation had no potential for or actual adverse impact on the environment, nor posed any threat to public health, or other environmental receptors, a determination of minor magnitude shall be made. In making a determination of minor magnitude, the Department shall consider all available applicable information including such factors as: The degree of deviation from the applicable statutes, rules, standards, permits or orders, and the extent of the effects of the violation. In making this finding, the Department may consider any single factor to be conclusive for the purpose of making a minor magnitude determination.

(b) Choose the appropriate base penalty (BP) established by the matrices of OAR 603-077-0177 after determining the class and magnitude of each violation;

(c) Starting with the base penalty, determine the amount of penalty through application of the formula:  $BP + EB$  where:

(A) "P" is whether the Respondent has any prior significant actions relating to statutes, rules, orders and permits pertaining to environmental quality or pollution control. The values for "P" and the finding which supports each are as follows:

(i) 0 if no prior significant actions or there is insufficient information on which to base a finding;

(ii) 1 if the prior significant action is one Class Two or two Class Threes;

(iii) 2 if the prior significant action(s) is one Class One or equivalent;

(iv) 3 if the prior significant actions are two Class One or equivalents;

(v) 4 if the prior significant actions are three Class Ones or equivalents;

(vi) 5 if the prior significant actions are four Class Ones or equivalents;

(vii) 6 if the prior significant actions are five Class Ones or equivalents;

(viii) 7 if the prior significant actions are six Class Ones or equivalents;

(ix) 8 if the prior significant actions are seven Class Ones or equivalents;

(x) 9 if the prior significant actions are eight Class Ones or equivalents;

(xi) 10 if the prior significant actions are nine Class Ones or equivalents;

(xii) In determining the appropriate value for prior significant actions as listed above, the Department shall reduce the appropriate factor by:

(I) A value of 2 if the date of issuance of all the prior significant actions are greater than three years old but less than five years old;

(II) A value of 4 if the date of issuance of all the prior significant actions are greater than five years old;

(III) In making the above reductions, no finding shall be less than zero.

(xiii) Any prior significant action which is greater than ten years old shall not be included in the above determination.

(B) "H" is past history of the Respondent in taking all feasible steps or procedures necessary or appropriate to correct any violation cited in any prior significant actions. In no case shall the combination of the "P" factor and the "H" factor be a value less than zero. In such cases where the sum of the "P" and "H" values is a negative numeral the finding and determination for the combination of these two factors shall be zero. The values for "H" and the finding which supports each are as follows:

(i) -2 if Respondent took all feasible steps to correct each violation contained in any prior significant action;

(ii) 0 if there is no prior history or if there is insufficient information on which to base a finding;

(iii) 2 if Respondent took some but not all feasible steps to correct each violation contained in any prior significant action.

(iv) 4 if Respondent took no steps to correct each violation contained in any prior significant action.

(C) "O" is whether the violation was repeated or continuous. The values for "O" and the finding which supports each are as follows:

(i) 0 if the violation existed for one day or less and did not recur on the same day;

(ii) 2 if the violation existed for more than one day or if the violation recurred on the same day.

(D) "R" is whether the violation resulted from an unavoidable accident, or a negligent, intentional or flagrant act of the Respondent. The values for "R" and the finding which supports each are as follows:

(i) 0 if an unavoidable accident, or if there is insufficient information to make a finding;

(ii) 2 if negligent;

(iii) 6 if intentional; or

(iv) 10 if flagrant.

(E) "C" is the Respondent's cooperativeness and efforts to correct the violation. The values for "C" and the finding which supports each are as follows:

(i) -2 if Respondent was cooperative and took reasonable efforts to correct the violation or minimize the effects of the violation;

(ii) 0 if there is insufficient information to make a finding, or if the violation or the effects of the violation could not be corrected;

(iii) 2 if Respondent was uncooperative and did not take reasonable efforts to correct the violation or minimize the effects of the violation.

(F) "EB" is the approximated dollar sum of the economic benefit that the Respondent gained through noncompliance. The Department may increase the penalty by the approximated dollar sum of the economic benefit, provided that the sum penalty does not exceed the maximum allowed for the violation by rule or statute. After determining the base penalty and applying the civil formula penalty above to determine the gravity and magnitude based portion of the civil penalty, "EB" is to be determined as follows:

(i) Add to the formula the approximate dollar sum of the economic benefit gained through noncompliance, as calculated by determining both avoided costs and the benefits obtained through any delayed costs, where applicable;

(ii) The Department need not calculate nor address the economic benefit component of the civil penalty when the benefit obtained is de minimis.

(2) In addition to the factors listed in section (1) of this rule, the Director may consider any other relevant rule of the Department and shall state the effect the consideration had on the penalty. On review, the Department shall consider the factors contained in section (1) of this rule and any other relevant rule of the Department.

(3) The Department may reduce any penalty based on the Respondent's inability to pay the full penalty amount. If the Respondent seeks to reduce the penalty, the Respondent has the responsibility of providing to the Department documentary evidence concerning Respondent's inability to pay the full penalty amount:

(a) When the Respondent is currently unable to pay the full amount, the first option should be to place the Respondent on a payment schedule with interest on the unpaid balance for any delayed payments. The Department may reduce the penalty only after determining that the Respondent is unable to meet a long term payment schedule;

(b) In appropriate circumstances, the Department may impose a penalty that may result in a Respondent going out of business. Such circumstances may include situations where the violation is intentional or fla-

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grant or situations where the Respondent's financial condition poses a serious concern regarding the ability or incentive to remain in compliance.

Stat. Auth.: ORS 561.190  
Stats. Implemented: ORS 468A.585  
Hist.: DOA 2-1998, f. & cert. ef. 3-3-98; DOA 18-2003, f. & cert. ef. 5-15-03

## 603-077-0195

### Field Burning Classification of Violations

Violations pertaining to field burning shall be classified as follows:

(1) Class One:

(a) Violation of any order of the Department listed under OAR 603-077-0175(4);

(b) Systematic failure to keep records required by a permit, rule or order;

(c) Open field burning in a manner that causes a hazard to public safety;

(d) Causing or allowing open field burning without first obtaining a valid open field burning permit;

(e) Causing or allowing open field burning or stack burning where prohibited by OAR 603-077-0110(7) or 603-077-0155(4);

(f) Causing or allowing any propane flaming which results in visibility impairment on any Interstate Highway or Roadway specified in OAR 837-011-0080(1) and (2);

(g) Failing to immediately and actively extinguish all flames and smoke sources when any propane flaming results in visibility impairment on any Interstate Highway or Roadway specified in OAR 837-011-0080(1) and (2);

(h) Causing or allowing propane flaming of grass seed or cereal grain crops, stubble, or residue without first obtaining a valid propane flaming burning permit;

(i) Stack burning grass seed or cereal grain crop residue without first obtaining a valid stack burning permit;

(j) Open field burning, propane flaming, stack burning when State Fire Marshal restrictions are in effect;

(k) Causing or allowing propane flaming which results in sustained open flame in a fire safety buffer zone along any Interstate Highway or Roadway specified in OAR 837-011-0080(1) or (2);

(l) Failure to provide access to premise or records when required by law, rule, permit, or order.

(m) Any violation that causes a major harm or poses a major risk of harm to public health or the environment.

(2) Class Two:

(a) Failure to actively extinguish all flames and major smoke sources from open field or stack burning when prohibition conditions are imposed by the Department or when instructed to do so by an agent or employee of the Department;

(b) Causing or allowing a propane flaming operation to be conducted in a manner which causes or allows an open flame to be sustained;

(3) Class Three: Any violation related to open field burning, propane flaming, or stack burning which is not otherwise classified in these rules.

Stat. Auth.: ORS 561.190  
Stats. Implemented: ORS 468A.585  
Hist.: DOA 2-1998, f. & cert. ef. 3-3-98; DOA 18-2003, f. & cert. ef. 5-15-03

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**Department of Agriculture,  
Oregon Processed Vegetable Commission  
Chapter 647**

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

**Filed with Sec. of State:** 5-8-2003

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**Rules Amended:** 647-010-0010

**Subject:** Changes assessments rates to provide funds for research.

**Rules Coordinator:** John McCulley—(503) 370-7019

## 647-010-0010

### Assessments

(1) Any first purchaser shall deduct and withhold an assessment of the following amounts from each of the above named vegetable crops:

(a) Beans — \$.897 per ton based on the net weight of the beans delivered.

(b) Sweet Corn — \$.424 per ton based on the gross weight of the sweet corn delivered.

(c) Table Beets — \$.000 per ton based on the net weight of the table beets delivered.

(d) Carrots — \$.047 per ton based on the net weight of the carrots delivered.

(e) Broccoli — \$1.935 per ton based on the net weight of the broccoli delivered.

(f) Cauliflower — \$1.229 per ton based on the net weight of the cauliflower delivered.

(2) From the price paid to the producer thereof, after June 1, 2003 for all of the above named vegetables for processing and grown in Oregon.

Stat. Auth.: ORS 576.325 - ORS 576.575  
Stats. Implemented: ORS 576.325 - ORS 576.575  
Hist.: PVC 2-1985, f. 7-17-85, ef. 7-22-85; PVC 1-1986, f. 5-30-86, ef. 6-1-86; PVC 2-1987, f. & ef. 6-16-87; PVC 1-1988, f. 4-22-88, cert. ef. 6-1-88; PVC 1-1989, f. 5-4-89, cert. ef. 6-1-89; PVC 1-1990, f. 4-24-90, cert. ef. 6-1-90; PVC 1-1991, f. 5-7-91, cert. ef. 6-1-91; PVC 1-1992, f. 4-15-92, cert. ef. 6-1-92; PVC 1-1993, f. 4-28-93, cert. ef. 6-21-93; PVC 1-1994, f. 4-22-94, cert. ef. 6-21-94; PVC 2-1995, f. 5-24-95, cert. ef. 6-1-95; PVC 1-1996, f. 5-14-96, cert. ef. 6-1-96; PVC 1-1997, f. 5-6-97, cert. ef. 6-1-97; OPVC 1-1998, f. 5-28-98, cert. ef. 6-1-98; OPVC 2-1999 f. 4-26-99, cert. ef. 6-1-99; OPVC 1-2000, f. 5-2-00, cert. ef. 6-1-00; OPVC 2-2001, f. 5-15-01, cert. ef. 6-1-01; OPVC 1-2002, f. 4-26-02, cert. ef. 6-1-02; OPVC 1-2003, f. 5-8-03, cert. ef. 6-1-03

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**Department of Agriculture,  
Oregon Raspberry and Blackberry Commission  
Chapter 611**

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

**Filed with Sec. of State:** 5-12-2003

**Certified to be Effective:** 5-12-03

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

**Rules Amended:** 611-010-0010

**Subject:** The proposed amendment to 611-010-0010 defines and exempts organic Caneberry Producers from paying assessments with proof of organic certification or exemption. Additionally, it requires the filing of a production report with the Oregon Raspberry and Blackberry Commission.

**Rules Coordinator:** Rachel Denué—(541) 758-4043

## 611-010-0010

### Assessments

(1) Any first purchaser shall deduct and withhold an assessment of 1 percent of the gross value of the raw product of the berries delivered to a processor before any deductions from the price paid to the producer thereof, after July 6, 1987, for all caneberries grown in Oregon. (See definition of "First Purchaser".)

(2) All casual sales of caneberries shall be exempt from the assessment. (See definition of "Casual Sale".)

(3) An organic producer will be exempt from assessment if the producer presents the following information to the commission by December 15th of each year:

(a) Either:

(A) A current certificate from a certifying agent under the Organic Foods Production Act, 7 U.S.C. § 6501-6522 and its implementing regulations; or

(B) A statement of exemption from certification under the Organic Foods Production Act, 7 U.S.C. § 6501-6522 and its implementing regulations; and

(b) A production report signed by the producer containing the producer's name, mailing address, species of berries, and pounds and price for each species.

Stat. Auth.: ORS 576  
Stats. Implemented: ORS 576.325 & ORS 576.335  
Hist.: OCC 2-1981, f. 7-22-81, ef. 7-23-81; OCC 2-1987, f. & ef. 7-6-87; OCC 3-1987(Temp), f. & ef. 7-30-87; OCC 4-1987, f. & ef. 12-1-87; ORCB 1-2001, f. & cert. ef. 2-20-01; ORBC 1-2002, f. & cert. ef. 5-17-02; ORBC 1-2003, f. & cert. ef. 5-12-03

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

**Adm. Order No.:** DCCWD 3-2003

**Filed with Sec. of State:** 5-14-2003

**Certified to be Effective:** 5-14-03

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

**Rules Amended:** 589-002-0100

**Subject:** This amendment adjusts the factors included in the formula for distributing Community College Support funds. It defines for the 2003-2005 biennium, the reimbursable full time enrollments (FTE)

# ADMINISTRATIVE RULES

limit that will be used to calculate the funding for each community college.

**Rules Coordinator:** Laura J. Roberts—(503) 378-3600, ext. 238

## 589-002-0100

### Distribution of Community College Support Fund

(1) For purposes of this rule, the following definitions apply:

(a) "Community College Support Fund" is defined as those funds distributed by the state to the community colleges for the purpose of funding general educational programs.

(b) "Property tax revenues" is defined as the amount determined by the Department of Revenue to be imposed on local property following the application of limits imposed by sections 11(b)(1) through 11(b)(3), Article XI, of the Oregon Constitution, and those limits imposed by legislation implementing Ballot Measure 50. This amount becomes the basis for operation of the funding formula without regard to uncollectible taxes, or taxes collected from previous years. Taxes levied or imposed by a community college district to provide a public library system established prior to January 1, 1995 shall be excluded from the definition of property taxes in this rule.

(2) The Community College Support Fund shall be distributed in equal payments as follows:

(a) For the first year of the biennium, August 15, October 15, January 15, and April 15;

(b) For the second year of the biennium, August 15, October 15, and January 15;

(c) The final payment of each biennium is deferred until July 15 of the following biennium as directed by Senate Bill 1022 of the Third Special Session of the 71st Oregon Legislative Assembly.

(d) Should any of the dates set forth above occur on a weekend, payment shall be made on the next business day.

(e) All payments made before actual property taxes imposed by each district are certified by the Oregon Department of Revenue shall be based on the Department of Community Colleges and Workforce Development's best estimate of quarterly entitlement using enrollment and property tax revenue projections. Payments shall be recalculated each year as actual property tax revenues become available from the Oregon Department of Revenue and any adjustments will be made in the final payment(s) of the fiscal year.

(3) Colleges shall be required to submit enrollment reports in the format specified by the Commissioner, including numbers of clock hours realized for all coursework, in a term-end enrollment report by the Friday of the sixth week following the close of each term. If reports are outstanding at the time of the quarterly payments, payment to the college(s) not reporting may be delayed at the discretion of the Commissioner.

(4) Reimbursement from the Community College Support Fund shall be made for professional technical, lower division collegiate, developmental education and other courses approved by the State Board in accordance with OAR 589-006-0100 through 589-006-0400. State reimbursement is not available for hobby and recreation courses as defined in OAR 589-006-0400.

(5) Residents of the state of Oregon and the states of Idaho, Washington, Nevada, and California shall be counted as part of each community college's reimbursable enrollment base but only for those students who take part in coursework offered within Oregon's boundaries.

(6) Distribution of funds to community colleges from the Community College Support Fund shall be accomplished through a formula, based on the following factors:

(a) Full-time equivalent students. The formula distributes funds based on a certain amount for each full-time equivalent (FTE) student. The amount per FTE is determined by dividing the total number of reimbursable FTE into the amount of revenues available after subtracting the base payments, contracted out-of-district payments, and any other payments directed by the State Board of Education or the Legislature. For each year of the 2003-05 biennium, the number of FTE to be used in the funding formula for each college shall be:

(A) Blue Mountain — 2,336.54 (with an upward adjustment for actual FTE served in Baker County in 2002-03);

(B) Central Oregon — 3,971.70;

(C) Chemeketa — 11,471.17;

(D) Clackamas — 7,610.88;

(E) Clatsop — 1,574.77;

(F) Columbia Gorge — 874.40;

(G) Klamath — 1,398.43;

(H) Lane — 12,694.05;

(I) Linn-Benton — 6,585.59;

(J) Mt. Hood — 9,476.40;

(K) Oregon Coast — 497.16;

(L) Portland — 23,913.80;

(M) Rogue — 4,976.75;

(N) Southwestern Oregon — 2,914.20;

(O) Tillamook Bay — 474.38;

(P) Treasure Valley — 1,724.74;

(Q) Umpqua — 3,468.38;

(b) For purposes of the funding formula, 510 clock hours equals one FTE for all coursework. The Department of Community Colleges and Workforce Development shall make the calculation based on submission of FTE reports by the colleges and in accordance with established FTE principles;

(c) Fifty percent of local property tax revenues are included in the formula as part of the statewide resource base. The remaining fifty percent of local property tax revenues remain outside the formula and accrue to the local community college for its use. Property tax revenues raised through voter approval of any local option or capital construction levy shall not be included as a resource to be distributed through the funding formula.

(7) State funding for community college operations is appropriated by the legislature on a biennial basis to the Community College Support Fund. For each biennium the amount of state funds available for distribution through the funding formula shall be calculated based on the following:

(a) Funds to support contracted out-of-district (COD) programs and corrections programs shall be subtracted from the amount allocated to the Community College Support Fund before the formula is calculated. The amount available for these programs shall be equal to the 2001-03 funding amount, except as adjusted to reflect the same percentage increase or decrease realized in the overall Community College Support Fund appropriation. Each college having a COD contract shall receive a biennial appropriation equal to the same percentage share of funding it received in 2001-03, except as adjusted to reflect the same percentage increase or decrease realized in the overall Community College Support Fund appropriation; funding for individual corrections programs will be determined in consultation with the Department of Corrections.

(b) For 2003-05, \$602,565 shall be subtracted from the amount appropriated to the Community College Support Fund before the formula is calculated. These funds shall be used to support targeted investments in distributed learning activities.

(c) For 2003-05, \$1,170,000 shall be subtracted from the amount appropriated to the Community College Support Fund before the formula is calculated. These funds shall be used to support service in the portion of Hood River County annexed to Columbia Gorge Community College District effective 6/30/01.

(d) Funds remaining in the Community College Support Fund shall be divided equally between the two years of the biennium.

(8) The funds available for formula distribution are determined by adding the state funds calculated in (7)(f) of this rule to local funds as determined in (6)(d) of this rule and shall be distributed in the following manner:

(a) Each college shall receive a base payment of \$610 for each FTE up to and including 1,100 for fiscal year 2003-04 and \$631 for each FTE up to and including 1,100 for fiscal year 2004-05. The base payment for each college will be adjusted according to the size of the college. College size for purposes of this adjustment will be determined each year by the FTE set forth in section (6)(a)(A) through (Q) of this rule. The base payment adjustments shall be:

(A) 0 - 750 FTE 1.3513;

(B) 751 - 1,250 FTE 1.2784;

(C) 1,251 - 1,750 FTE 1.2062;

(D) 1,751 - 2,250 FTE 1.1347;

(E) 2,251 - 2,750 FTE 1.0641;

(F) 2,751 - 3,250 FTE 1.0108;

(G) 3,251 - 3,750 FTE 1.0081;

(H) 3,751 - 4,250 FTE 1.0054;

(I) 4,251 - 4,999 FTE 1.0027;

(J) 5,000 or more FTE 1.000.

(b) All remaining funds shall be distributed on a per FTE basis. The amount of funding for each FTE shall be determined by dividing the formula resources available by the total number of FTE included in the formula.

(c) The sum of (8)(a) and (8)(b) shall be the "full formula implementation" funding available to each community college.

# ADMINISTRATIVE RULES

(d) A second calculation shall be made based on each college's proportional share of the prior year's formula resources. This calculation shall apply that share to the formula resources available in the current year. This amount shall be the "proportional share" available to each community college.

(e) The full formula implementation amount shall be compared to the proportional share for each college; the difference between the two numbers will be the "gap".

(f) Each college's gap is then adjusted by the following percentages: twenty percent in 1999-2000; twenty-five percent in 2000-2001; thirty-three one-third percent in 2001-2002; fifty percent in 2002-2003; and seventy-five percent in 2003-2004.

(g) The number resulting from the calculation in (8)(f) is applied to each college's proportional share; the result becomes each college's actual "formula distribution amount". Each college's state resources are then determined by subtracting out fifty percent of imposed taxes.

(h) Full implementation of the formula shall occur in 2004-05. For that year and each year that follows, distribution shall be based upon the result of (8)(a) and (8)(b) of this rule.

(9) State general fund and local property taxes for territories annexed or formed effective June 1, 1996, or later shall not be included in the funding formula for the first three years of service. Additionally, the FTE generated in newly annexed territories shall not impact the funding formula during the first three years of service. Beginning in the fourth year, funding will be distributed through the formula as outlined in this rule with the following adjustments: For 2003-04 and 2004-05, the number listed in (6)(a)(A) for Blue Mountain Community College shall be increased by the actual number of FTE served by the college in Baker County in 2002-03.

Stat. Auth.: ORS 326.051 & ORS 341.626

Stats. Implemented: ORS 341.015, ORS 341.022, ORS 341.317, ORS, 341.440, ORS 341.525, ORS 341.528, ORS 341.626 & ORS 341.665

Hist.: 1EB 9-1979, f. & ef. 6-11-79; EB 12-1991, f. & cert. ef. 7-19-91; Renumbered from 581-043-0260; ODE 27-2000, f. & cert. ef. 10-30-00; DCCWD 1-2001, f. & cert. ef. 3-21-01, Renumbered from 581-041-0200; DCCWD 2-2001, f. & cert. ef. 5-7-01; DCCWD 3-2002, f. & cert. ef. 6-5-02; DCCWD 7-2002(Temp), f. & cert. ef. 12-16-02 thru 6-5-03; DCCWD 3-2003, f. & cert. ef. 5-14-03

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**Adm. Order No.:** DCCWD 4-2003

**Filed with Sec. of State:** 5-14-2003

**Certified to be Effective:** 5-14-03

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

**Rules Adopted:** 589-020-0270

**Subject:** The purpose of this rule is to establish the requirements and procedures that take effect if a Local Area fails to meet the local performance measures negotiated with the Department pursuant to the federal Workforce Investment Act (WIA).

**Rules Coordinator:** Laura J. Roberts—(503) 378-3600, ext. 238

## 589-020-0270

### Performance Measures Improvement

(1) Purpose: The purpose of this rule is to establish the requirements and procedures that take effect if a Local Area fails to meet the local performance measures negotiated with the Department pursuant to the federal Workforce Investment Act (WIA), PL 105-220, its amendments and regulations thereto.

(2) Definitions: As used in OAR 589-020-0270, unless the context requires otherwise:

(a) Failure to Meet: Actual performance for any of the 17 core performance indicators that falls below 80% of the negotiated level of performance. Technical assistance is required to be provided under WIA Section 134(a)(2)(B)(iv) to Local Workforce Investment Areas (LWAs) that fail to meet local performance measures.

(b) Negotiated Levels of Performance: The numeric performance target agreed to by the Department and the LWA for each of the 17 core performance indicators.

(c) Performance Measures: the 17 performance indicators required by the Workforce Investment Act of 1998, section 136; Final Rules, 20 CFR part 666, published at 65 federal Register 49419 (August 11, 2000).

(d) Program Area: A cluster of measures used in the evaluation of performance for incentive or improvement purposes. There are four program areas: Adults, Dislocated Workers, Youth (both older and younger youth), and customer satisfaction (even though it is not technically a "program").

(e) Unawarded Incentive Grant Funds: Those funds remaining after all incentive awards have been made.

(3) The LWA must achieve at least 80% of the negotiated performance level on each performance measure within a given program area to qualify as having met performance.

(4) Technical assistance shall be provided by the Department or upon request by the Department, the U.S. Department of Labor, Employment and Training Administration, if an LWA fails to meet negotiated levels of performance relating to a program area for any program year.

(a) Technical assistance may include assistance in the development of a performance improvement plan, or the development of a modified local plan.

(b) The following criteria must be considered in providing technical assistance:

(A) The action taken must be remedial in nature rather than punitive; and

(B) action taken must be appropriate to remedy the problem causing the poor performance.

(5) When the Department determines the local area has failed to meet any negotiated performance, the Department notifies the local area. Upon such notification, the procedures described below shall be followed:

(a) The local area analyzes the problem relative to the failed indicator(s);

(b) The local area develops and submits a program improvement plan to the Department within 30 calendar days of notification from the Department designed to address performance not achieved. The plan shall include proposed actions and costs. The local area may request the assistance of the Department in developing the program improvement plan.

(c) Within 30 calendar days following receipt of the plan, the Department reviews and may approve the program improvement plan based on the following criteria:

(A) The plan adequately addresses the indicator(s) not achieved; and

(B) The costs of the planned action are reasonable.

(d) If the program improvement plan is not approved, the Department notifies the local area of the decision and provides assistance to address the issues resulting in the plan disapproval.

(6) Upon approval of the program improvement plan by the Department, Unawarded Incentive Grant funds shall be made available in accordance with OAR 589-020-0260 for technical assistance/program improvement to those local areas whose performance for any of the 17 core performance indicators falls below 80% of the negotiated performance level.

(7) If failure to meet performance as defined in (2)(a), (3) and (4) of this OAR continues for a second consecutive year, the Department shall take corrective action which may include development of a reorganization plan through which the Department may:

(a) Require the appointment and certification of a new local board (consistent with the criteria established under WIA Section 117(b);

(b) Prohibit the use of eligible providers and one-stop partners identified as achieving a poor level of performance; or

(c) Take such other actions as the Department determines are appropriate to improve the performance of the local area including those identified in (4) through (6) of this OAR. Other actions may include the selection of an alternative entity to administer the program(s) for the local area. The alternative entity may be a newly formed workforce investment board or any agency jointly selected by the Department and the chief elected official(s) of the LWA.

(8) A local area that is subject to a reorganization plan under (7) of this OAR may, not later than 30 days after receiving notice of the reorganization plan, appeal to the Department to rescind or revise such plan. In such case, the Department shall make a final decision not later than 30 days after the receipt of the appeal.

(a) The decision of the Department shall become effective at the time the Department issues the decision pursuant to (8) of this OAR. Such decision shall remain effective unless the Secretary of the U.S. Department of Labor rescinds or revises such plan pursuant to (8)(b) of this OAR.

(b) The local area may, not later than 30 days after receiving a decision from the Department pursuant to (8) of this OAR, appeal such decision to the Secretary of the U.S. Department of Labor. In such case, the Secretary shall make a final decision not later than 30 days after the receipt of the appeal.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 326.370

Stats. Implemented: ORS 326.370

Hist.: DCCWD 6-2002, f. & cert. ef. 12-4-02 thru 6-2-03; DCCWD 4-2003, f. & cert. ef. 5-14-03

# ADMINISTRATIVE RULES

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

**Adm. Order No.:** BCD 8-2003(Temp)

**Filed with Sec. of State:** 5-5-2003

**Certified to be Effective:** 5-5-03 thru 10-31-03

**Notice Publication Date:**

**Rules Amended:** 918-306-0700, 918-306-0705, 918-306-0710, 918-306-0715, 918-306-0720, 918-306-0730, 918-306-0740, 918-306-0760, 918-306-0770, 918-306-0780

**Rules Suspended:** 918-306-0750

**Subject:** Amends requirements for semiconductor electrical industrial manufacturing equipment approval.

**Rules Coordinator:** Louann P. Rahmig—(503) 373-7438

### 918-306-0700

#### Application, Scope and Purpose

(1) The purpose of OAR 918-306-0700 to 918-306-0790 is to enable Oregon semiconductor manufacturing firms and semiconductor equipment manufacturers to establish methods to verify that their semiconductor industrial electrical manufacturing equipment meets safety standards adopted by the board and is thereby exempt from the requirements of ORS 479.610 and 479.760 and the rules adopted thereunder. These rules do not alter or change any other code, permit or inspection requirements under the Oregon Electrical Safety Law or any other state building code.

(2) The authority having jurisdiction has no responsibility to perform inspections outside of supply side grounding, bonding, overcurrent protection and proper wiring methods to the line side of the equipment disconnect. The authority having jurisdiction shall treat the equipment of a semiconductor manufacturer or equipment manufacturer with an approved equipment safety plan in the same manner any certified or evaluated equipment is treated. Where questions on acceptability arise, they shall be directed to the State Chief Electrical Inspector. These rules do not prevent an inspector from ordering the disconnection of any electrical installation or product that constitutes an immediate hazard to life or property, such as exposed live parts during normal operation.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 479.540

Stats. Implemented: ORS 479.540

Hist.: BCD 11-2001, f. 9-28-01, cert. ef. 10-1-01; BCD 8-2003(Temp), f. & cert. ef. 5-5-03 thru 10-31-03

### 918-306-0705

#### Definitions

For the purposes of OAR 918-306-0700 to 918-306-0790, unless the context requires otherwise, the following definitions apply:

(1) "Approved", when referring to semiconductor industrial electrical manufacturing equipment covered by these rules, means the equipment is exempt from the requirements of ORS 479.610 and 479.760 through equipment evaluation processes approved by the board.

(2) "Equipment Safety Plan" means the plan submitted by a semiconductor equipment manufacturer or semiconductor manufacturing firm and approved by the board, that provides a process by which equipment used in the manufacture, process, design or development of semiconductor electronic devices meets the safety standards for semiconductor industrial electrical equipment adopted by the board.

(3) "Safety standards" means the standards for semiconductor industrial electrical manufacturing equipment adopted by the board.

(4) "Semiconductor industrial electrical manufacturing equipment", hereinafter referred to as "equipment", means specialized industrial electrical equipment used by a semiconductor manufacturing firm to manufacture semiconductor electronic devices, and includes the equipment components and sub-assemblies

(5) "Semiconductor manufacturing firm", hereinafter referred to as "firm", means a firm that manufactures semiconductor electronic components.

(6) "Registered or Registration" as pertaining to these rules is the process and/or approval of a semiconductor manufacturing firm's "program" by the board.

Stat. Auth.: ORS 479.540

Stats. Implemented: ORS 479.540

Hist.: BCD 11-2001, f. 9-28-01, cert. ef. 10-1-01; BCD 8-2003(Temp), f. & cert. ef. 5-5-03 thru 10-31-03

### 918-306-0710

#### Semiconductor Manufacturing Firm Registration

(1) All firms seeking exemption under these rules from the requirements of ORS 479.610 and 479.760 for semiconductor manufacturing industrial electrical equipment, shall submit to the division an equipment safety plan.

(2) Firms that do not have an approved equipment safety plan shall have the affected equipment certified as required by ORS 479.610 and 479.760 and the rules adopted thereunder.

(3) Semiconductor manufacturing firms that have a currently approved semiconductor industrial electrical manufacturing equipment program as of the effective date of these rules shall be deemed to have an approved equipment safety plan for the purposes of the exemptions granted under OAR 918-306-0700 to 918-306-0790. Semiconductor manufacturing firms that do not have a currently approved semiconductor industrial electrical manufacturing equipment program as of the effective date of these rules must meet the requirements of these rules.

Stat. Auth.: ORS 479.540

Stats. Implemented: ORS 479.540

Hist.: BCD 11-2001, f. 9-28-01, cert. ef. 10-1-01; BCD 8-2003(Temp), f. & cert. ef. 5-5-03 thru 10-31-03

### 918-306-0715

#### Application Requirements for Semiconductor Manufacturing Firm Registration

(1) Each application shall be submitted on division-supplied forms with a \$100 application fee. The applicant shall also pay a \$400 fee for the review and approval of the equipment safety plan.

(2) Each application shall include the following:

(a) Applicant's name, address, telephone number, fax number and, if available, e-mail address;

(b) Names and titles of applicant's principals, officers, directors or other responsible agents;

(c) Names and titles of appropriate managers and supervisors of the equipment safety plan; and

(d) An equipment safety plan manual describing the manufacturer's equipment safety plan as defined in these rules.

(3) Following receipt of an application, the division shall either accept or deny the application and the equipment safety plan manual and forward to the board for approval. Equipment safety plan manuals that have been denied may be revised and resubmitted to the division with a \$100 resubmission fee.

Stat. Auth.: ORS 479.540

Stats. Implemented: ORS 479.540

Hist.: BCD 11-2001, f. 9-28-01, cert. ef. 10-1-01; BCD 8-2003(Temp), f. & cert. ef. 5-5-03 thru 10-31-03

### 918-306-0720

#### Requirements for Semiconductor Electrical Industrial Manufacturing Equipment Program Manuals

The proposed equipment safety plan manual submitted with an application pursuant to OAR 918-306-0715 shall outline the firm's semiconductor industrial manufacturing equipment verification process to be followed at all of the firm's facilities in Oregon. If the plan is different at different facilities, the equipment safety plan manual shall describe the plan specific to each facility. The manual and appropriate records regarding the administration of the plan shall be available for review by the division upon request at the place of record as indicated within the plan manual. The equipment safety plan manual shall be submitted in duplicate and contain:

(1) The scope of work performed by the firm at the facilities included in the plan;

(2) A general description of the organizational structure of the firm with regard to the equipment safety plan showing appropriate contact personnel including a listing of the appropriate process control personnel by position and level of authority and their telephone number, fax number and, if available, e-mail address;

(3) A listing of the firm's contact numbers with regard to the equipment safety plan including address, telephone number, fax number and, if available, e-mail address for each facility at which the equipment safety plan manual will be used;

(4) A description of the evaluation procedures to be used by the firm to ensure the equipment meets the safety standards and otherwise satisfies the requirements of these rules; and

(5) Identities, qualifications and authority of firm personnel who will have responsibility for administering the equipment safety plan.

Stat. Auth.: ORS 479.540

Stats. Implemented: ORS 479.540

# ADMINISTRATIVE RULES

Hist.: BCD 11-2001, f. 9-28-01, cert. ef. 10-1-01; BCD 8-2003(Temp), f. & cert. ef. 5-5-03 thru 10-31-03

## 918-306-0730

### Requirements to Update Semiconductor Electrical Industrial Manufacturing Equipment Program Manual

Each registered firm shall submit to the division supplements(s) to its equipment safety plan manual prior to any change in process or items described in these rules along with a \$100 review fee. All changes in process shall be approved by the division prior to being implemented.

Stat. Auth.: ORS 479.540

Stats. Implemented: ORS 479.540

Hist.: BCD 11-2001, f. 9-28-01, cert. ef. 10-1-01; BCD 8-2003(Temp), f. & cert. ef. 5-5-03 thru 10-31-03

## 918-306-0740

### Responsibilities of the Approved Semiconductor Manufacturing Firm

Registered firms shall ensure the process outlined in their approved equipment safety plan manual is followed at all times when purchasing, installing or altering semiconductor industrial electrical manufacturing equipment. This includes, but is not limited to:

(1) Ensuring all participating equipment is either;

- (a) Part of an approved equipment safety plan;
- (b) Clearly labeled by an Oregon-approved testing laboratory; or
- (c) Evaluated by an Oregon-approved field evaluation firm;

(2) Maintaining adequate inspection reports and other records that clearly demonstrate the plan is followed; and

(3) Notifying the inspecting jurisdiction in writing that the firm has an approved equipment safety plan.

Stat. Auth.: ORS 479.540

Stats. Implemented: ORS 479.540

Hist.: BCD 11-2001, f. 9-28-01, cert. ef. 10-1-01; BCD 8-2003(Temp), f. & cert. ef. 5-5-03 thru 10-31-03

## 918-306-0750

### Semiconductor Electrical Industrial Manufacturing Equipment Labels

(1) All units of equipment that are approved by a firm pursuant to its registered program shall be labeled pursuant to this rule.

(2) Semiconductor electrical industrial manufacturing equipment labels shall contain a unique control number and shall be provided and affixed to the equipment by the registered firm consistent with the statewide label standards developed by the division.

(3) Semiconductor industrial electrical manufacturing equipment labels shall:

(a) Not be transferable from one unit of equipment to another or from one firm to another;

(b) Be directly affixed to the equipment or to each major subassembly of equipment where there is more than one module or subassembly, adjacent to the overall nameplate or module or subassembly nameplate; and

(c) Not be affixed to locations on equipment subject to physical damage.

(4) All units of equipment required to be labeled under this section shall be labeled prior to the equipment installation inspection. At the time of the equipment installation inspection, the authority having jurisdiction shall accept the label as verification that the equipment meets the requirements of these rules.

(5) Nothing in these rules relating to semiconductor industrial electrical manufacturing equipment labels shall be construed to alter or change the laws or rules applicable to the electrical installation requirements under ORS Chapter 479 and the rules adopted thereunder.

Stat. Auth.: ORS 479.540

Stats. Implemented: ORS 479.540

Hist.: BCD 11-2001, f. 9-28-01, cert. ef. 10-1-01; Suspended by BCD 8-2003(Temp), f. & cert. ef. 5-5-03 thru 10-31-03

## 918-306-0760

### Registered Semiconductor Manufacturing Firm Monitoring

(1) Semiconductor manufacturing firms shall be reviewed by the division annually to verify the equipment safety plan meets the requirements of these rules. Monitoring shall include a review of the records and procedures of the approved plan. Monitoring may also include reviewing participating equipment at any reasonable time, provided prior notice is given to the firm.

(2) Division monitoring may occur at the firm's place of business, at the location where the firm's records regarding the plan are maintained, at the facility where approved equipment under the plan is located, or at another appropriate building or site.

(3) The division shall annually review and monitor the records and performance of each registered firm to assure conformance with these rules. The division may conduct partial or complete reviews at more frequent intervals if the division determines they are necessary. Reports of all reviews conducted shall be provided to the board.

(4) A registered firm shall make available to the division, upon request, all requested documents in their possession including, but not limited to:

(a) Copy of the approved equipment safety plan;

(b) Incident records and reports pertaining to the equipment approved under these rules; and

(c) Documentation demonstrating an approved equipment safety plan.

(5) Records relating to the manufacturing equipment labeled under a firm's program shall be maintained for a minimum of five years after the operation and life of the equipment by the firm.

Stat. Auth.: ORS 479.540

Stats. Implemented: ORS 479.540

Hist.: BCD 11-2001, f. 9-28-01, cert. ef. 10-1-01; BCD 8-2003(Temp), f. & cert. ef. 5-5-03 thru 10-31-03

## 918-306-0770

### Investigation and Enforcement Fee

For the purposes of administering and enforcing these rules, the division may charge a fee of \$86 per hour when monitoring, reviewing, investigating or conducting analyses necessary to ensure compliance with the approved equipment safety plan or any provision of these rules.

Stat. Auth.: ORS 479.540

Stats. Implemented: ORS 479.540

Hist.: BCD 11-2001, f. 9-28-01, cert. ef. 10-1-01; BCD 8-2003(Temp), f. & cert. ef. 5-5-03 thru 10-31-03

## 918-306-0780

### Enforcement

In addition to the civil penalties that may be assessed under OAR 918-307-0000, the division may suspend, revoke or require remedial action of an approved equipment safety plan for any violation of these rules.

Stat. Auth.: ORS 479.540

Stats. Implemented: ORS 479.540

Hist.: BCD 11-2001, f. 9-28-01, cert. ef. 10-1-01; BCD 8-2003(Temp), f. & cert. ef. 5-5-03 thru 10-31-03

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

**Adm. Order No.:** OSHA 3-2003

**Filed with Sec. of State:** 4-21-2003

**Certified to be Effective:** 4-21-03

**Notice Publication Date:** 11-1-02

**Rules Amended:** 437-002-0080, 437-002-0100, 437-002-0107

**Subject:** Rules for spray finishing operations were first adopted in Oregon in 1975, and in 1984 these rules were adopted as Division 119. In 1992, Oregon OSHA adopted a numbering system that mirrored the Federal OSHA numbering system and in many cases, adopted the federal OSHA rules as well. Part of this restructuring resulted in the spray finishing operations rule divided into two separate rules, OAR 437-002-1910.107, "Spray Finishing with Flammable and Combustible Liquids," and OAR 437-002-1910.94, "Ventilation," which covered spray finishing operations that do not involve flammable or combustible liquids. We also kept some Oregon specific rules that were not part of the Federal OSHA rules, and these were designated as OAR 437-002-0107.

Oregon OSHA's goal is to have standards that are written in a manner that clearly conveys their intent. To that end, we have identified certain rules about which there is repeated confusion, and this rule was one of those identified.

Language for this revision re-incorporates the spray finishing requirements from OAR 437-002-1910.94.

Since the spray finishing rules are based on the fire hazards presented by spray finishing operations, Oregon OSHA recognizes that the Oregon State Fire Marshal's Office has more specific knowledge about fire hazards, and we have historically deferred to that office, or designee, in cases where a practice they allow conflicts with our rules for spray finishing. In this rewrite, language was added to allow

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for alternatives to certain requirements when the local fire authority allows an alternative in writing.

Language was added to clarify requirements for paint mixing rooms. These requirements were taken from OAR 437-002-1910.106, "Flammable and Combustible Liquids," Article 80 of the Uniform Fire Code, and NFPA 33-2000.

Oregon OSHA believes that this revised standard will make it easier and more likely for employers that engage in spray finishing operations to understand their obligations to make their businesses safe and healthful for their employees.

Please visit our web site for proposed and final rules: [www.orosha.org](http://www.orosha.org)

**Rules Coordinator:** Sue C. Joye—(503) 947-7449

## 437-002-0080

### Adoption by Reference

In addition to and not in lieu of any other safety and health codes contained in OAR Chapter 437, the Department adopts by reference the following federal rules as printed in the **Code of Federal Regulations, 29 CFR 1910**, revised as of 7/1/02, and any subsequent amendments published in the **Federal Register** as listed below:

(1) **29 CFR 1910.94** Ventilation, published 6/27/74, Federal Register, vol. 39, p. 23502; amended 5/28/75, **FR** vol. 40, p. 24522; 6/9/75, **FR** vol. 40, p. 24522; 10/24/78, **FR** vol. 43, p. 49746; 2/10/84, **FR** vol. 49, p. 5322; 8/6/90, **FR** vol. 55, no. 151, p. 32015; 6/30/93, **FR** vol. 58, no. 124, p. 35308; 3/7/96, **FR** vol. 61, no. 46, p. 9236; 1/8/98, **FR** vol. 63, no. 5, p. 1269; 3/23/99, **FR** vol. 64, no. 55, p. 13909; amended with AO 3-2003, removed (c), and Oregon note added, f. and ef. 4/21/03.

(2) **29 CFR 1910.95** Occupational Noise Exposure, published 6/27/74, Federal Register, vol. 39, p. 23502; amended 1/16/81, **FR** vol. 46, p. 4161; 12/29/81, **FR** vol. 46, p. 62845; 3/8/83, **FR** vol. 48, p. 9776; 6/28/83, **FR** vol. 48, p. 29687; 6/7/89, **FR** vol. 54, p. 24333; 3/7/96, **FR** vol. 61, no. 46, p. 9236.

**NOTE:** 29 CFR 1910.96 Ionizing radiation, has been redesignated to 29 CFR 1910.1096.

(3) **29 CFR 1910.97** Nonionizing radiation, published 6/27/74, Federal Register, vol. 39, p. 23502; 3/7/96, **FR** vol. 61, no. 46, p. 9236.

(4) **29 CFR 1910.98** Effective dates, published 6/27/74, Federal Register, vol. 39, p. 23502.

(5) **29 CFR 1910.99** Sources of standards, published 6/27/74, Federal Register, vol. 39, p. 23502; amended 5/28/75, **FR** vol. 40, p. 23073; 6/11/82, **FR** vol. 47, p. 25323; 3/7/96, **FR** vol. 61, no. 46, p. 9236.

(6) **29 CFR 1910.100** Standards organization, published 6/27/74, Federal Register, vol. 39, p. 23502; amended 4/18/75, **FR** vol. 40, p. 18426; 6/30/93, **FR** vol. 58, no. 124, p. 35309; 3/7/96, **FR** vol. 61, no. 46, p. 9236.

**NOTE:** These standards are on file with the Occupational Safety and Health Division, Oregon Department of Consumer and Business Services, and the **United States Government Printing Office**.

Stat. Auth.: ORS 654.025(2) & ORS 656.726(3)

Stats. Implemented: ORS 654.001 - ORS 654.295

Hist.: OSHA 2-1992, f. 2-6-92, cert. ef. 5-1-92; OSHA 4-1993, f. 4-1-93, cert. ef. 5-1-93; OSHA 4-1997, f. & cert. ef. 4-2-97; OSHA 3-1998, f. & cert. ef. 7-7-98; OSHA 8-1999, f. & cert. ef. 8-6-99; OSHA 3-2003, f. & cert. ef. 4-21-03

## 437-002-0100

### Adoption by Reference

In addition to and not in lieu of any other safety and health codes contained in OAR Chapter 437, the Department adopts by reference the following federal rules as printed in the **Code of Federal Regulations, 29 CFR 1910**, revised as of 7/1/02, and any subsequent amendments published in the **Federal Register** as listed below:

(1) **29 CFR 1910.101** Compressed gases (General requirements), published 6/27/74, Federal Register, vol. 39, p. 23502; 3/7/96, **FR** vol. 61, no. 46, p. 9236.

(2) **29 CFR 1910.102** Acetylene, published 6/27/74, Federal Register, vol. 39, p. 23502; 3/7/96, **FR** vol. 61, no. 46, p. 9236.

(3) **29 CFR 1910.103** Hydrogen, published 6/27/74, Federal Register, vol. 39, p. 23502; amended 10/24/78, **FR** vol. 43, p. 49746; 4/12/88, **FR** vol. 53, p. 12121; 8/6/90, **FR** vol. 55, no. 151, p. 32015; 6/30/93, **FR** vol. 58, no. 124, p. 35309; 3/7/96, **FR** vol. 61, no. 46, p. 9236.

(4) **29 CFR 1910.104** Oxygen, published 6/27/74, Federal Register, vol. 39, p. 23502; amended 10/24/78, **FR** vol. 43, p. 49746; 3/7/96, **FR** vol. 61, no. 46, p. 9237.

(5) **29 CFR 1910.105** Nitrous oxide, published 6/27/74, Federal Register, vol. 39, p. 23502; 3/7/96, **FR** vol. 61, no. 46, p. 9237.

(6) **29 CFR 1910.106** Flammable and combustible liquids, published 6/27/74, Federal Register, vol. 39, p. 23502; amended 1/27/75, **FR** vol. 40,

p. 3982; 6/2/75, **FR** vol. 40, p. 23743; 10/24/78, **FR** vol. 43, p. 49746; 11/7/78, **FR** vol. 43, p. 51759; 9/7/82, **FR** vol. 47, p. 39164; 9/12/86, **FR** vol. 51, p. 34560; 4/12/88, **FR** vol. 53, p. 12121; 8/6/90, **FR** vol. 55, no. 151, p. 32015; 3/7/96, **FR** vol. 61, no. 46, p. 9237.

(7) **29 CFR 1910.107** Spray finishing using flammable and combustible materials, published 6/27/74, Federal Register, vol. 39, p. 23502; amended 9/12/80, **FR** vol. 45, p. 60704; 2/10/84, **FR** vol. 49, p. 5322; 4/12/88, **FR** vol. 53, p. 12121; 3/7/96, **FR** vol. 61, no. 46, p. 9237; amended with AO 3-2003, removed 1910.107, and Oregon note added, f. and ef. 4/21/03..

(8) **29 CFR 1910.108** Reserved. Published 3/23/99, Federal Register, vol. 64, no. 55, p. 13909.

(9) **29 CFR 1910.109** Explosives and blasting agents, published 6/27/74, Federal Register, vol. 39, p. 23502; amended 10/24/78, **FR** vol. 43, p. 49747; 9/12/80, **FR** vol. 45, p. 60704; 4/12/88, **FR** vol. 53, p. 12122; 2/24/92, **FR** vol. 57, no. 36, p. 6403; 3/29/93, **FR** vol. 58, no. 58, p. 16496; 6/30/93, **FR** vol. 58, no. 124, p. 35309; 3/7/96, **FR** vol. 61, no. 46, p. 9237; 6/18/98, **FR** vol. 63, no. 117, p. 33466.

(10) **29 CFR 1910.110** Storage and handling of liquefied petroleum gases, published 6/27/74, Federal Register, vol. 39, p. 23502; amended 10/24/78, **FR** vol. 43, p. 49747; 2/10/84, **FR** vol. 49, p. 5322; 4/12/88, **FR** vol. 53, p. 12122; 6/20/90, **FR** vol. 55, p. 25094; 8/6/90, **FR** vol. 55, no. 151, p. 32015; 3/19/93, **FR** vol. 58, no. 52, p. 15089; 6/30/93, **FR** vol. 58, no. 124, p. 35309; 3/7/96, **FR** vol. 61, no. 46, p. 9237; 6/18/98, **FR** vol. 63, no. 117, p. 33466.

(11) **29 CFR 1910.111** Storage and handling of anhydrous ammonia, published 6/27/74, Federal Register, vol. 39, p. 23502; amended 10/24/78, **FR** vol. 43, p. 49748; 2/10/84, **FR** vol. 49, p. 5322; 4/12/88, **FR** vol. 53, p. 12122; 3/7/96, **FR** vol. 61, no. 46, p. 9238; 1/8/98, **FR** vol. 63, no. 5, p. 1269; 6/18/98, **FR** vol. 63, no. 117, p. 33466; amended with AO 12-2001, Oregon note added, f. and ef. 10/26/01.

(12) Reserved for **29 CFR 1910.112** (Reserved)

(13) Reserved for **29 CFR 1910.113** (Reserved)

(14) **29 CFR 1910.114** Removed. Published 3/7/96, Federal Register, vol. 61, no. 46, p. 9238.

(15) **29 CFR 1910.115** Removed. Published 3/7/96, Federal Register, vol. 61, no. 46, p. 9238.

(16) **29 CFR 1910.116** Removed. Published 3/7/96, Federal Register, vol. 61, no. 46, p. 9238.

(17) **29 CFR 1910.119** Process safety management of highly hazardous chemicals, published 2/24/92, Federal Register, vol. 57, no. 36, pp. 6403-6417; amended 3/4/92, **FR** vol. 57, no. 43, p. 7847; 6/1/92, **FR** vol. 57, no. 105, pp. 23060-1.

**NOTE:** Excepted rules adopted by reference by OR-OSHA by Admin.

Order 6-1994 on 9/30/94.) Amended 3/7/96, **FR** vol. 61, no. 46, p. 9238; amended with AO 12-2001, Oregon note added, f. and ef. 10/26/01.

(18) **29 CFR 1910.120** Hazardous waste operations and emergency response, Interim Final Rules published 12/19/86, Federal Register, vol. 51, no. 244, pp. 45663-45675; and amended 5/5/87, **FR** vol. 52, no. 85, pp. 16241-16243. Final Rules were published 3/6/89, **FR** vol. 54, no. 42, pp. 9294-9335; amended 4/13/90, **FR** vol. 55, no. 72, pp. 14072-14075; 4/18/91, **FR** vol. 56, no. 75, pp. 15832-15833; amended 8/22/94, **FR** vol. 59, no. 161, pp. 43270-43275; 3/7/96, **FR** vol. 61, no. 46, p. 9238; amended with AO 12-2001, Oregon note added, f. and ef. 10/26/01.

(19) **29 CFR 1910.121** Reserved. Published 3/23/99, Federal Register, vol. 64, no. 55, p. 13909.

(20) **29 CFR 1910.122** Table of contents, published 3/23/99, Federal Register, vol. 64, no. 55, p. 13909.

(21) **29 CFR 1910.123** Dipping and coating operations: Coverage and definitions, published 3/23/99, Federal Register, vol. 64, no. 55, p. 13909.

(22) **29 CFR 1910.124** General requirements for dipping and coating operations, published 3/23/99, Federal Register, vol. 64, no. 55, p. 13909; amended with AO 4-2002, repeal (g)(2), and Oregon note added, f. and ef. 5/30/02.

(23) **29 CFR 1910.125** Additional requirements for dipping and coating operations that use flammable or combustible liquids, published 3/23/99, Federal Register, vol. 64, no. 55, p. 13910.

(24) **29 CFR 1910.126** Additional requirements for special dipping and coating applications, published 3/23/99, Federal Register, vol. 64, no. 55, p. 13911.

**NOTE:** These standards are on file with the Oregon Occupational Safety and Health Division, Oregon Department of Consumer and Business Services, and the **United States Government Printing Office**.

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

Stats. Implemented: ORS 654.001 - ORS 654.295

Hist.: APD 19-1988, f. & ef. 11-17-88; APD 12-1989, f. & ef. 7-14-89; OSHA 22-1990, f. 9-28-90, cert. ef. 10-1-90; OSHA 3-1992, f. & cert. ef. 2-6-92; OSHA 3-1993, f. & cert. ef. 2-23-93; OSHA 6-1994, f. & cert. ef. 9-30-94; OSHA 3-1995, f. & cert. ef. 2-22-95; OSHA 4-



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1997, f. & cert. ef. 4-2-97; OSHA 3-1998, f. & cert. ef. 7-7-98; OSHA 2-1999, f. & cert. ef. 4-30-99; OSHA 8-1999, f. & cert. ef. 8-6-99; OSHA 12-2001, f. & cert. ef. 10-26-01; OSHA 4-2002, f. & cert. ef. 5-30-02; OSHA 3-2003, f. & cert. ef. 4-21-03

## 437-002-0107

### Spray Finishing

(1) Scope. This section applies to finishing materials when applied as a spray by any means in a continuous or intermittent process. This section also covers the application of powders by powder spray guns, electrostatic powder spray guns, fluidized beds, or electrostatic fluidized beds. This section also applies to any sprayed material that produces combustible deposits or residue. This section does not apply to outdoor spray application of buildings, tanks, or other similar structures, nor to small portable spraying apparatus not used repeatedly in the same location.

#### (2) Definitions

(a) Aerated solid powders — Any powdered material used as a coating material fluidized within a container by passing air uniformly from below. It is common practice to fluidize such materials to form a fluidized powder bed and then dip the part to be coated into the bed in a manner similar to that used in liquid dipping. Such beds are also used as sources for powder spray operations.

(b) Approved — Approved and listed by a nationally recognized testing laboratory. Refer to §1910.7 for definition of nationally recognized testing laboratory.

(c) Electrostatic fluidized bed — A chamber holding powder coating material that is aerated from below to form an air-supported, expanded cloud of the powder. The powder is electrically charged with a charge opposite to that of the object or material being coated.

(d) Fluidized bed — A chamber holding powder coating material that is aerated from below to form an air-supported, expanded cloud of the powder. The object or material being coated is preheated, then immersed into the cloud.

(e) Infrequent and of short duration — Spray finishing that is:

(A) Less than nine square feet surface area per job, and

(B) Uses less than one gallon of material in one day, and

(C) Intermittent spraying where enough time elapses between spraying episodes to dilute the concentration of vapors essentially to zero before spraying is resumed

(f) Listed — See “approved.”

(g) Non-combustible materials — Materials that have a fire resistance rating of at least one hour.

(h) Overspray — Any sprayed material that is not deposited on the intended object.

(i) Spray area — Any area in which potentially dangerous quantities of flammable vapors or mists, or combustible residues, dusts, or deposits are present due to the operation of spraying processes.

(j) Spray booth — A power-ventilated structure provided to enclose or accommodate a spraying operation to confine and limit the escape of spray, vapor, and residue, and to safely conduct or direct them to an exhaust system.

(k) Spray room — A room designed to accommodate a spraying operation. For the purposes of this rule, the term “spray booth” includes spray rooms except where specifically noted.

#### (3) Rules for All Spray Finishing Operations.

(a) Conduct spray finishing in a spray booth provided with local exhaust ventilation except:

(A) When spraying is infrequent and of short duration; or

(B) When spraying is a single “air brush”; or

(C) The object to be sprayed is of such weight or proportion as to render it impracticable to move it into a spray booth; or

(D) When only noncombustible or Class IIIB combustible liquids are used for spraying. This exception for Class IIIB combustible liquids only applies when the liquid is not heated for use to within 30% F (16.7% C) of the flashpoint; or

(E) When spray painting is conducted out-of-doors. For the purposes of this rule, out-of-doors means an area away from the main building and completely open at all times on at least two sides.

(b) Spray finishing outside of a booth, as permitted by OAR 437-002-0107(3)(a)(A), (C), and (D) above, must be done only in a spray area that meets the following requirements:

(A) All light switches, fans, receptacles, overhead lights and all other sources of ignition within 20 horizontal feet and 10 vertical feet of the overspray area must be inoperative or consist of Class I, Group D, explosion-proof types as specified in the National Electrical Code, NFPA 33-2000 and ANSI C2-2002.

(B) All building construction including floors, walls, ceilings, beams, etc., within 20 horizontal feet and 10 vertical feet of the overspray area must consist of or be protected by non-combustible materials.

(C) Protect all areas within 20 feet of the overspray area with automatic sprinklers. Where automatic sprinklers are not available, use other automatic extinguishing equipment. Alternatives may be used only when authorized in writing by the local fire authority.

(D) Aisles leading to exits from the spray finishing area must remain clear at all times.

(E) Provide the spray finishing area with at least 6 air changes per hour of airflow.

(F) Follow the requirements of paragraphs (3)(c) through (3)(e).

(c) Do not allow employees not engaged in spray finishing operations within 20 feet of the spraying and overspray area.

(d) Employees engaged in spray finishing operations must be provided with and wear respiratory protection unless exhaust ventilation is provided and reduces employee exposure to any material in the finish or its solvent to below the limits established in OAR 437-002-0382, Oregon Rules for Air Contaminants. Follow all of the requirements of OAR 437-002-1910.134, Respiratory Protection.

(e) Combustible Materials.

(A) Do not store combustible material or allow combustible material to accumulate in the spraying and overspray area unless specifically authorized in writing by the local fire authority.

(B) Give the spraying and overspray area daily housekeeping and maintenance while in use and keep it free of any accumulations between uses. Use only non-sparking tools for cleaning purposes.

(C) Combustible materials, such as paper, may be used to cover floors and walls in the spray and overspray area, but must be removed at the end of each workshift. The employer may use longer intervals only when the local fire authority has provided written approval to do so.

(f) Spray booths.

(A) Construction:

(i) Construct spray booths of substantially supported steel, concrete, or masonry.

(ii) When the booth is only used for intermittent or low volume spraying, other substantial non-combustible material may be used.

(iii) Design spray booths to sweep air currents toward the exhaust outlet.

(iv) Construct spray booths with materials that have a fire resistance rating of at least one hour. All adjacent construction must have a fire resistance rating of at least one hour or as otherwise required by the Oregon Building Codes Division.

(B) The interior surfaces of spray booths must be smooth and continuous without edges, designed to prevent residue pocketing, and designed to ease cleaning and washing.

(C) When the floor surface of a spray booth and operators’ working area is combustible, it must be covered with a non-combustible material designed to prevent pocketing of residues and ease cleaning and washing.

(D) A spray booth should be equipped with:

(i) A water washing system designed to minimize dusts or residues entering exhaust ducts and to permit the recovery of overspray finishing material; or

(ii) Distribution or baffle plates to promote an even flow of air through the booth or cause the deposit of overspray before it enters the exhaust duct; or

(iii) Overspray dry filters to minimize dusts or residues entering exhaust ducts.

(E) Where dry powders are sprayed, arrange the powder collection systems in the exhaust to capture oversprayed material.

(F) When distribution or baffle plates are used, they must be of non-combustible material and readily removable or accessible on both sides for cleaning. Such plates will not be located in exhaust ducts.

(G) When using conventional dry type spray booths with overspray dry filters or filter rolls:

(i) Inspect filter rolls to ensure proper replacement of filter media.

(ii) Immediately remove all discarded filter pads and filter rolls to a safe area away from the spray finishing operation. Alternatively, place them in a water-filled metal container and dispose of them at the close of the day’s operation unless they remain completely submerged.

(iii) Do not use filters or filter rolls when spraying a material known to be highly susceptible to spontaneous heating and ignition.

(iv) Clean filters or filter rolls must be non-combustible or authorized by the local fire authority.

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(v) Do not use filters and filter rolls alternately for different types of coating materials, where the combination of materials may be conducive to spontaneous ignition.

(H) Spray booths with an open frontal area larger than 9 square feet must have a metal deflector or curtain at least 4-1/2 inches deep installed at the upper outer edge of the booth over the opening.

(I) Where conveyors are used to carry work into or out of spray booths, the openings must be as small as practical.

(J) Separate each spray booth from all other non-spray finishing operations by at least 3 feet, a wall, or a partition. This requirement does not apply to spray rooms.

(K) All portions of the spray booth must be readily accessible for cleaning.

(L)(i) The exterior of the spray booth must have a clear space of at least 3 feet on all sides. Do not store any materials within this clear space. All construction within 3 feet of all sides of the spray booth must be non-combustible. This requirement does not apply to spray rooms.

(ii) Exception: This requirement does not prohibit locating a spray booth closer than 3 feet to an exterior wall or roof assembly, provided that the wall or roof is constructed of a non-combustible material and the booth can be cleaned and maintained.

(M) When spraying areas are illuminated through glass panels or other transparent materials, use only fixed lighting units as a source of illumination.

(i) Seal panels to effectively isolate the spraying area from the area in which the lighting unit is located.

(ii) Use only non-combustible material constructed or protected so that breakage will be unlikely. Arrange panels so that normal accumulations of residue on the exposed surface of the panel will not be raised to a dangerous temperature by radiation or conduction from the source of illumination.

(N) Protect all spaces within the spray booth with automatic sprinklers acceptable to the local fire authority.

(i) Sprinkler heads must provide water distribution throughout the entire booth.

(ii) When filters are used, automatic sprinklers must be on both the downstream and upstream sides of the filters.

(iii) Keep sprinkler heads as free of overspray deposits as possible. Clean them daily if necessary. When sprinkler heads are covered to protect them from overspray, the material and method used must be authorized by the local fire authority.

(iv) When automatic sprinklers are infeasible or not practical, other means of fire protection must be provided and authorized in writing by the local fire authority.

(g) Electrical and other sources of ignition.

(A) Do not allow open flame or spark producing equipment within 20 feet of the spray area, unless separated by a partition.

(B) Do not place space-heating appliances, steampipes, or hot surfaces in a spraying area where deposits of combustible residues may readily accumulate.

(C) Ensure all electrical wiring and equipment conforms to the provisions of this paragraph and OAR 437, division 2, subdivision S.

(D) Do not put any electrical equipment in the spray or overspray area unless it is specifically approved for those locations. All wiring must be in rigid conduit or in boxes or fittings that do not contain taps, splices, or terminal connections.

(E) Electrical wiring and equipment not subject to deposits of combustible residues but located in a spraying area must be explosion-proof, approved for Class I, Group D locations, and conform to the provisions of OAR 437, division 2, subdivision S, for Class I, Division 1, Hazardous Locations. Electrical wiring, motors, and other equipment outside of but within 20 feet of any spraying area, and not separated by partitions, must not produce sparks under normal operating conditions and must conform to the provisions of OAR 437, division 2, subdivision S for Class I, Division 2 Hazardous Locations.

(F) Electric lamps outside of any spraying area but within 20 feet, and not separated by a partition, will be totally enclosed to prevent the falling of hot particles and will be protected from physical damage by appropriate guards or by location.

(G) Do not use portable electric lamps in any spraying area during spraying operations. If portable electric lamps are used during cleaning or repairing operations, use only the type approved for hazardous Class I locations.

(H) Electrically ground all metal parts of spray booths and exhaust ducts. Electrically ground piping systems that convey flammable or combustible liquids or aerated solids.

(h) Ventilation.

(A) Provide all spraying areas with mechanical ventilation adequate to remove flammable vapors, mists, or powders to a safe location and confine and control combustible residues so that life is not endangered. Keep mechanical ventilation in operation at all times while spraying operations are being conducted and for a sufficient time afterwards to exhaust vapors from drying material and residue.

(B) Interlock the spraying equipment with the ventilation system so that spraying operations cannot be conducted unless the ventilation system is operating.

(C) Air velocity throughout the spray booth must be sufficient to keep airborne contaminants below 25% of their lower explosive limit (LEL).

(i) Open-faced booths must maintain at least an average of 100 feet per minute (fpm) of airflow across the open face of the booth.

(ii) Enclosed booths must maintain at least an average of 100 fpm of airflow of cross-sectional area at the operators' position

(iii) Any deviation from the above must be authorized in writing by the local fire authority.

(iv) Install a visible gauge, audible alarm, or pressure activated device on each spray booth to indicate or ensure that the required air velocity is maintained.

(D) Provide each spray booth with an independent exhaust duct system that discharges to the exterior of the building. A common exhaust system may be used for multiple spray booths only when identical materials are sprayed and the combined frontal area of those booths is no more than 18 square feet.

(E) When more than one fan serves one booth, interconnect all fans so that one fan cannot operate without all fans being operated.

(F) The fan-rotating element must be non-ferrous or non-sparking or the casing must consist of or be lined with such material.

(i) Maintain ample clearance between the fan-rotating element and the fan casing to avoid a fire by friction. Prevent contact between moving parts and the duct or fan housing by making allowance for ordinary expansion and loading.

(ii) Mount fan blades on a shaft sufficiently heavy to maintain perfect alignment even when the blades of the fan are heavily loaded.

(iii) All bearings must be of the self-lubricating type, or lubricated from the outside duct.

(G) Place electric motors driving exhaust fans outside booths or ducts. See also paragraph (3)(g) of this section.

(H) When belts and pulleys are inside the duct or booth, they must be thoroughly enclosed.

(I) Construct exhaust ducts of substantially supported steel. Exhaust ducts without dampers are preferred; however, if dampers are installed, they must be fully opened when the ventilating system is in operation.

(i) Protect exhaust ducts against mechanical damage and maintain a clearance of at least 18 inches from unprotected combustible construction or other combustible material.

(ii) If combustible construction is provided with the following protection applied to all surfaces within 18 inches of the exhaust duct, clearances may be reduced to the distances indicated:

(aa) 28-gage sheet metal on 1/4-inch insulating millboard — 12 inches.

(bb) 28-gage sheet metal on 1/8-inch insulating millboard spaced out 1 inch on non-combustible spacers — 9 inches.

(cc) 22-gage sheet metal on 1-inch rockwool batts reinforced with wire mesh or the equivalent — 3 inches.

(J) The terminal discharge point must be at least 6 feet from any combustible exterior wall or roof. The discharge point must not discharge in the direction of any combustible construction or unprotected opening in any non-combustible exterior wall within 30 feet.

(K) Keep air exhaust from spray operations away from makeup air or other ventilation intakes. Do not recirculate air exhausted from spray operations.

(L) Supply clean fresh air, free of contamination from adjacent industrial exhaust systems, chimneys, stacks, or vents, to a spray booth in quantities equal to the volume of air exhausted through the spray booth.

(M) Provide exhaust ducts with an ample number of access doors when necessary to facilitate cleaning.

(N) Provide air intake openings to rooms containing spray finishing operations adequate for the efficient operation of exhaust fans and placed to minimize the creation of dead air pockets.

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(O) Dry freshly sprayed articles only in spaces provided with adequate ventilation to prevent the formation of explosive vapors. Drying spaces without adequate ventilation will be considered a spraying area. See also paragraph (6) of this section.

### (4) Rules for Spray Finishing with Flammable and Combustible Liquids

(a) These rules apply to spray finishing with Class I flammable liquids, Class II combustible liquids, and Class IIIA combustible liquids. These rules only apply to Class IIIB combustible liquids when they are heated for use to within 30% F (16.7% C) of their flashpoint.

(b) Flammable and combustible liquids — storage and handling.

(A) Store flammable or combustible liquids in compliance with the requirements of OAR 437-002-1910.106.

(B) Keep only the minimum quantity of flammable or combustible liquids required for operations in the vicinity of spraying operations and do not exceed a supply for one day or one shift. Bulk storage of portable containers of flammable or combustible liquids must be in a separate, constructed building detached from other important buildings or cut off in a standard manner.

(C) Use only the original closed containers, approved portable tanks, approved safety cans, or a properly arranged system of piping for bringing flammable or combustible liquids into the spray area. Do not use open or glass containers.

(D) Use approved pumps to withdraw flammable and combustible liquids from containers with a capacity of 61 gallons or more except as provided in paragraph (4)(b)(F) of this section.

(E) Withdraw and fill containers with flammable or combustible liquids only in a suitable mixing room or in a spraying area when the ventilating system is in operation. Take adequate precautions to protect against spilling liquids and sources of ignition.

(F) Containers must conform to the following requirements:

(i) Use only closed containers to supply spray nozzles. Use metal covers to close containers that are not closed.

(ii) Use metal supports or wire cables to support containers that are not resting on floors.

(iii) When spray nozzles are supplied by gravity flow, do not use containers that exceed 10 gallons capacity.

(iv) Do not use air pressure in the original shipping containers to supply spray nozzles.

(G) Containers under air pressure supplying spray nozzles must also conform to the following requirements

(i) Use only limited capacity containers that only hold enough material for one day's operation.

(ii) Use only containers that are designed and approved for such use.

(iii) Provide containers with a visible pressure gauge.

(iv) Containers must be provided with a relief valve set to operate in conformance with the requirements of the Oregon Building Codes Division OAR 918-225, "Boilers and Pressure Vessels."

(H) Pipes and hoses.

(i) All containers or piping with an attached hose or flexible connection must have a shutoff valve at the connection. Keep such valves shut when not spraying.

(ii) When a pump is used to deliver the liquid used in a spray application process, use only piping, tubing, hoses, and accessories that are designed to withstand the maximum working pressure of the pump. Alternatively, provide automatic means to limit the discharge pressure of the pump to a level within the design working pressure of the piping, tubing, hoses, and accessories.

(iii) Inspect all pressure hose and couplings at regular intervals appropriate to this service. Test the hose and couplings with the hose extended using the "inservice maximum operating pressures." Repair or discard any hose showing material deteriorations, signs of leakage, or weakness in its' carcass or at the couplings.

(iv) Piping systems conveying flammable or combustible liquids must be of steel or other material having comparable properties of resistance to heat and physical damage. Properly bond and ground piping systems.

(I) Use approved and listed electrically powered spray liquid heaters. Do not put heaters in spray booths or any other location subject to the accumulation of deposits or combustible residue.

(J) If flammable or combustible liquids are supplied to spray nozzles by positive displacement pumps, use an approved relief valve on the pump discharge line that discharges to a pump suction or a safe detached location, or use a device provided to stop the prime mover if the discharge pressure exceeds the safe operating pressure of the system.

(K) Whenever flammable or combustible liquids are transferred from one container to another, effectively bond and ground both containers to prevent discharge sparks of static electricity.

(c) Install an adequate supply of suitable portable fire extinguishers near all spraying areas.

(d) Operations and maintenance.

(A) Immediately remove and dispose residue scrapings and debris contaminated with residue from the premises. Deposit all rags or waste impregnated with finishing material in tightly-closing metal waste cans immediately after use. Properly dispose of the contents of waste cans at least once daily or at the end of each shift.

(B) Do not leave clothing worn during spray finishing on the premises overnight unless kept in metal lockers.

(C) Only use solvents for cleaning operations with flashpoints at or above the flashpoints of material normally used. Cleaning operations must be done inside a spray booth with the ventilation system on, or an area authorized in writing by the local fire authority.

(D) Do not alternately use spray booths for different types of coating materials when the materials are incompatible with each other, unless all deposits of the first used material are removed from the booth and exhaust ducts prior to spraying with the second material.

(e) Mixing.

(A) Mix materials only in a mixing room, a spray area that meets the requirements of (3)(b), or in a spray booth. When a spray area or spray booth is used for mixing, the ventilation system must be on.

(B) Construct mixing rooms of substantially supported steel, concrete, or masonry. Use only non-combustible materials to construct mixing rooms.

(C) Design mixing rooms so that any spills remain inside the room.

(D) Provide at least 150 cubic feet per minute (CFM) of airflow in each mixing room. When the flooring of the mixing room is greater than 150 square feet, provide at least 1 CFM per square foot of flooring. The ventilation system for each mixing room must be on and operational at all times.

(E) Follow all of the provisions of paragraph (3)(g).

(F) Protect all spaces within the mixing room with automatic sprinklers acceptable to the local fire authority. Where automatic sprinklers are not available, use other automatic extinguishing equipment. Alternatives may be used only when authorized in writing by the local fire authority.

(5) Rules for Electrostatic Spray Finishing

(a) Fixed electrostatic apparatus.

(A) Use only approved electrostatic apparatus and devices in connection with coating operations.

(B) Transformers, power packs, control apparatus, and all other electrical portions of the equipment, with the exception of high-voltage grids, electrodes, and electrostatic atomizing heads and their connections, must be located outside of the spraying area, or must otherwise conform to the requirements of paragraph (3) of this section.

(C) Adequately support electrodes and electrostatic atomizing heads in permanent locations and effectively insulate them from the ground. Electrodes and electrostatic atomizing heads which are permanently attached to their bases, supports, or reciprocators are considered to comply with this section. Use only non-porous and non-combustible insulators.

(D) Properly insulate and protect high-voltage leads to electrodes from mechanical injury or exposure to destructive chemicals. Effectively and permanently support electrostatic atomizing heads on suitable insulators and effectively guard against accidental contact or grounding. Provide an automatic means for grounding the electrode system when it is electrically de-energized for any reason. Keep all insulators clean and dry.

(E) Maintain a safe distance between goods being painted and electrodes or electrostatic atomizing heads or conductors of at least twice the sparking distance. Conspicuously post a sign indicating this safe distance near the assembly.

(F) Support goods being painted using this process on conveyors. Arrange the conveyors to maintain safe distances between the goods and the electrodes or electrostatic atomizing heads at all times. Any irregularly shaped or other goods subject to possible swinging or movement must be rigidly supported to prevent swinging or movement which would reduce the clearance to less than that specified in paragraph (5)(a)(E) of this section.

(G) Equip electrostatic apparatus with automatic controls that immediately disconnect the power supply to the high voltage transformer and signals the operator when:

(i) Any failure occurs in the ventilation equipment.

(ii) The conveyor carrying goods through the high voltage field stops.

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(iii) Occurrence of a ground or of an imminent ground at any point on the high voltage system.

(iv) The safe distance required by (5)(a)(E) is not maintained.

(H) Place adequate booths, fencing, railings, or guards around the equipment to assure, either by their location or character or both, that a safe isolation of the process is maintained from plant storage or personnel. Construct such railings, fencing, and guards of conducting material that is adequately grounded.

(b) Electrostatic hand spraying equipment.

(A) This paragraph applies to any equipment that uses electrostatically charged elements for the atomization and/or, precipitation of materials for coatings on articles, or for other similar purposes in which the atomizing device is hand held and manipulated during the spraying operation.

(B) Use only approved electrostatic hand spray apparatus and devices in connection with coating operations. The high voltage circuits must be designed so it does not produce a spark of sufficient intensity to ignite any vapor-air mixtures or result in appreciable shock hazard upon coming in contact with a grounded object under all normal operating conditions. The electrostatically charged exposed elements of the handgun must be capable of being energized only by a switch which also controls the coating material supply.

(C) Locate transformers, powerpacks, control apparatus, and all other electrical portions of the equipment outside of the spraying area. This requirement does not apply to the handgun itself and its connections to the power supply.

(D) Electrically connect the handle of the spraying gun to ground by a metallic connection. Ensure that the operator in normal operating position is in intimate electrical contact with the grounded handle.

(E) Adequately ground all electrically conductive objects in the spraying area. This requirement applies to paint containers, wash cans, and any other objects or devices in the area. Prominently and permanently install a warning on the equipment regarding the necessity for this grounding feature.

(F) Maintain metallic contact between objects being painted or coated and the conveyor or other grounded support. Regularly clean hooks to ensure this contact.

(G) Areas of contact must be sharp points or knife edges where possible.

(H) Conceal points of support of the object from random spray where feasible.

(I) When objects being sprayed are supported from a conveyor, the point of attachment to the conveyor must not collect spray material during normal operation.

(J) Interlock the electrical equipment with the ventilation of the spraying area so that the equipment cannot be operated unless the ventilation fans are on.

(6) Drying, Curing, or Fusion Apparatus:

(a) Drying, curing, or fusion equipment:

(A) Equipment manufactured or modified on or before June 1, 2003, must comply with the provisions of the Standard for ovens and furnaces, NFPA No. 86A-1969 where applicable.

(B) Equipment manufactured or modified after June 1, 2003, must comply with the provisions of the Standard for Ovens and Furnaces, NFPA No. 86-1999 where applicable.

(b) Do not use a spray area for drying when such drying can increase the surface temperature of the spray area.

(c) Except as specifically provided in paragraph (6)(e) of this section, do not install an open flame heating system for drying, curing, or fusion in a spray area.

(d) Drying, curing, or fusion units may be installed adjacent to spray areas only when equipped with an interlocked ventilating system arranged to:

(A) Thoroughly ventilate the drying space before the heating system can be started;

(B) Maintain a safe atmosphere at any source of ignition;

(C) Automatically shut down the heating system in the event of failure of the ventilating system.

(e) Automobile refinishing spray booths or enclosures, otherwise installed and meeting the requirements of this section, may alternately be used for drying with portable electrical infrared drying apparatus that meets the following:

(A) Keep the interior (especially floors) of spray enclosures free of overspray deposits.

(B) Keep the apparatus out of the spray and overspray area while spray finishing is in progress.

(C) Equip the spraying apparatus, the drying apparatus, and the ventilating system of the spray enclosure with suitable interlocks arranged so:

(i) The spraying apparatus cannot be operated while the drying apparatus is inside the spray enclosure.

(ii) The spray enclosure is purged of spray vapors for at least 3 minutes before the drying apparatus is energized.

(iii) The ventilating system maintains a safe atmosphere within the enclosure during the drying process, and the drying apparatus will automatically shut off in the event of failure of the ventilating system.

(D) All electrical wiring and equipment of the drying apparatus must meet the applicable sections of OAR 437, division 2, subdivision S. Only equipment of a type approved for Class I, Division 2 hazardous locations will be located within 18 inches of floor level. All metallic parts of the drying apparatus will be properly electrically bonded and grounded.

(E) Place a warning sign on the drying apparatus indicating that ventilation must be maintained during the drying period and that spraying must not be conducted in the vicinity where spray will deposit on apparatus.

(7) Powder Coating.

(a) Ventilation.

(A) Ensure that exhaust ventilation is sufficient to maintain the atmosphere below the lowest explosive limits for the materials being applied. Ensure that all non-deposited air-suspended powders are safely removed via exhaust ducts to the powder recovery cyclone or receptacle.

(B) Do not release powders to the outside atmosphere.

(b) Operation and maintenance.

(A) Keep all areas free of the accumulation of powder coating dusts, particularly horizontal surfaces as ledges, beams, pipes, hoods, booths, and floors.

(B) Clean surfaces in a manner to avoid scattering dust to other places or creating dust clouds.

(C) Conspicuously post "No Smoking" signs in large letters on contrasting color background at all powder coating areas and powder storage rooms.

(c) Electrostatic fluidized beds.

(A) Use only approved electrostatic fluidized beds and associated equipment.

(B) Ensure that the maximum surface temperature of this equipment in the coating area does not exceed 150° F.

(C) Use only high voltage circuits that will not produce a spark of sufficient intensity to ignite any powder-air mixtures.

(D) Use circuits designed to eliminate shock hazards upon coming in contact with a grounded object under normal operating conditions.

(E) Locate transformers, powerpacks, control apparatus, and all other electrical portions of the equipment outside of the powder coating area, with the exception of the charging electrodes and their connections to the power supply.

(F) Adequately ground all electrically conductive objects within the charging influence of the electrodes. The powder coating equipment must carry a prominent, permanently installed warning regarding the necessity for grounding these objects.

(G) Objects being coated will be maintained in contact with the conveyor or other support in order to ensure proper grounding. Regularly clean hangers to ensure effective contact and areas of contact will be sharp points or knife edges where possible.

(H) Interlock the electrical equipment with the ventilation system so the equipment cannot be operated unless the ventilation fans are in operation.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 654.025(2) & ORS 656.726(3)

Stats. Implemented: ORS 654.001 - ORS 654.295

Hist.: OSHA 2-1992, f. 2-6-92, cert. ef. 5-1-92; OSHA 3-2003, f. & cert. ef. 4-21-03

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**Notice Publication Date:** 4-1-03

**Rules Amended:** 437-005-0001

**Subject:** Oregon OSHA has adopted federal OSHA technical amendments by reference to 29 CFR 1915 Occupational Safety and Health for Shipyard Employment/Division 5, Maritime, as published in the July 3, 2002 Federal Register. These standards contain a number of minor typographical, grammatical and other errors. The Federal Register document, which we are adopting, corrects those errors, as well as several inaccurate cross-references. The cross-references are

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changed because the referenced section numbers have changed or been removed as a result of prior revisions to OSHA's Shipyard Employment rules. The technical amendments and corrections are not substantive in nature; they do not impose additional compliance obligations on employers or reduce the protections provided to workers by these standards.

Oregon OSHA's adoption of these amendments ensures the requirement is met for OR-OSHA standards to be at least as effective as Federal OSHA.

As a reminder: Since 1999, Oregon OSHA no longer prints Division 5, Maritime. The cost of printing and updating did not match the need in Oregon. Most employers in these industries in Oregon are under federal jurisdiction. We urge people wanting a complete volume of the federal OSHA standards to contact the United States Printing Office to obtain a copy, or to visit the U.S. Department of Labor, Occupational Safety and Health Administration web site at: [www.osha.gov](http://www.osha.gov) Oregon OSHA's web site for standards also links to federal OSHA for Division 5.

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

## 437-005-0001

### Adoption by Reference

In addition to, and not in lieu of, any other safety and health codes contained in OAR chapter 437, the Department adopts by reference the following federal rules as printed in the Code of Federal Regulations, 29 CFR 1915, revised as of 7/1/00, and any subsequent amendments published in the Federal Register as listed below:

#### (1) Subdivision A:

(a) 29 CFR 1915.1. Purpose and authority, published 4/20/82, Federal Register (FR) vol. 47, p. 16984.

(b) 29 CFR 1915.2. Scope and application, published 4/20/82, FR vol. 47, p. 16984.

(c) 29 CFR 1915.3. Responsibility, published 4/20/82, FR vol. 47, p. 16984.

(d) 29 CFR 1915.4. Definitions, published 4/20/82, FR vol. 47, p. 16984; amended 7/3/02, FR vol. 67, no. 128, p. 44541.

(e) 29 CFR 1915.5. Incorporation by reference, published 5/24/96, FR vol. 61, no. 102, p. 26359; amended 7/3/02, FR vol. 67, no. 128, p. 44541.

(f) 29 CFR 1915.6. Commercial diving operations, published 4/20/82, FR vol. 47, p. 16984.

(g) 29 CFR 1915.7. Competent person, published 4/20/82, FR vol. 47, p. 16984; amended 6/7/89, FR vol. 54, p. 24334; 7/25/94, FR vol. 59, p. 37856.

#### (2) Subdivision B:

(a) 29 CFR 1915.11. Scope, application and definitions applicable to this Subpart, published 4/20/82, FR vol. 47, p. 16984; amended 7/25/94, FR vol. 59, p. 37857.

(b) 29 CFR 1915.12. Precautions before entering confined and enclosed spaces and other dangerous atmospheres, published 4/20/82, FR vol. 47, p. 16984; amended 7/1/93, FR vol. 58, no. 125, p. 35514; amended 7/25/94, FR vol. 59, p. 37858; 3/16/95, FR vol. 60, no. 51, p. 14218.

(c) 29 CFR 1915.13. Cleaning and other cold work, published 4/20/82, FR vol. 47, p. 16984; amended 7/25/94, FR vol. 59, p. 37859.

(d) 29 CFR 1915.14. Hot work, published 4/20/82, FR vol. 47, p. 16984; amended 7/25/94, FR vol. 59, p. 37860; 3/16/95, FR vol. 60, no. 51, p. 14218; amended 7/3/02, FR vol. 67, no. 128, p. 44541.

(e) 29 CFR 1915.15. Maintenance of safe conditions, published 4/20/82, FR vol. 47, p. 16984; amended 7/25/94, FR vol. 59, p. 37860; 3/16/95, FR vol. 60, no. 51, p. 14218; amended 7/3/02, FR vol. 67, no. 128, p. 44541.

(f) 29 CFR 1915.16. Warning signs and labels, published 4/20/82, FR vol. 47, p. 16984; amended 7/25/94, FR vol. 59, p. 37861.

(g) Appendix A to Subpart B, published 7/25/94, FR vol. 59, p. 37816; amended 7/3/02, FR vol. 67, no. 128, p. 44541.

(h) Appendix B to Subpart B, published 7/25/94, FR vol. 59, p. 37816.

#### (3) Subdivision C:

(a) 29 CFR 1915.31. Scope & application of subdivision, published 4/20/82, FR vol. 47, p. 16984.

(b) 29 CFR 1915.32. Toxic cleaning solvents, published 4/20/82, FR vol. 47, p. 16984; 5/24/96, FR vol. 61, no. 102, p. 26351.

(c) 29 CFR 1915.33. Chemical paint & preservative remover, published 4/20/82, FR vol. 47, p. 16984; 5/24/96, FR vol. 61, no. 102, p. 26351.

(d) 29 CFR 1915.34. Mechanical paint removers, published 4/20/82, FR vol. 47, p. 16984; 5/24/96, FR vol. 61, no. 102, p. 26351.

(e) 29 CFR 1915.35. Painting, published 4/20/82, FR vol. 47, p. 16984; 5/24/96, FR vol. 61, no. 102, p. 26351; amended 7/3/02, FR vol. 67, no. 128, p. 44541.

(f) 29 CFR 1915.36. Flammable liquids, published 4/20/82, FR vol. 47, p. 16984.

#### (4) Subdivision D:

(a) 29 CFR 1915.51. Ventilation & protection in welding, cutting and heating, published 4/20/82, FR vol. 47, p. 16984; amended 7/3/02, FR vol. 67, no. 128, p. 44541.

(b) 29 CFR 1915.52. Fire prevention, published 4/20/82, FR vol. 47, p. 16984.

(c) 29 CFR 1915.53. Welding, cutting and heating of hollow metal containers & structure not covered by 1915.12, published 4/20/82, FR vol. 47, p. 16984; amended 7/3/02, FR vol. 67, no. 128, p. 44541.

(d) 29 CFR 1915.55. Gas welding & cutting, published 4/20/82, FR vol. 47, p. 16984.

(e) 29 CFR 1915.56. Arc welding and cutting, published 4/20/82, FR vol. 47, p. 16984.

(f) 29 CFR 1915.57. Uses of fissionable material in ship repairing and shipbuilding, published 4/20/82, FR vol. 47, p. 16984.

#### (5) Subdivision E:

(a) 29 CFR 1915.71. Scaffolds or staging, published 4/20/82, FR vol. 47, p. 16984; amended 7/3/02, FR vol. 67, no. 128, p. 44541.

(b) 29 CFR 1915.72. Ladders, published 4/20/82, FR vol. 47, p. 16984; amended 7/3/02, FR vol. 67, no. 128, p. 44541.

(c) 29 CFR 1915.73. Guarding of deck openings and edges, published 4/20/82, FR vol. 47, p. 16984; amended 7/3/02, FR vol. 67, no. 128, p. 44541.

(d) 29 CFR 1915.74. Access to vessels, published 4/20/82, FR vol. 47, p. 16984; amended 7/3/02, FR vol. 67, no. 128, p. 44541.

(e) 29 CFR 1915.75. Access to and guarding of dry docks and marine railways, published 4/20/82, FR vol. 47, p. 16984; amended 7/3/02, FR vol. 67, no. 128, p. 44541.

(f) 29 CFR 1915.76. Access to cargo spaces and confined spaces, published 4/20/82, FR vol. 47, p. 16984.

(g) 29 CFR 1915.77. Working surfaces, published 4/20/82, FR vol. 47, p. 16984; amended 7/3/02, FR vol. 67, no. 128, p. 44541.

#### (6) Subdivision F:

(a) 29 CFR 1915.91. Housekeeping, published 4/20/82, FR vol. 47, p. 16984.

(b) 29 CFR 1915.92. Illumination, published 4/20/82, FR vol. 47, p. 16984; amended 7/3/02, FR vol. 67, no. 128, p. 44541.

(c) 29 CFR 1915.93. Utilities, published 4/20/82, FR vol. 47, p. 16984.

(d) 29 CFR 1915.94. Work in confined or isolated spaces, published 4/20/82, FR vol. 47, p. 16984.

(e) 29 CFR 1915.95. Ship repairing and shipbuilding work on or in the vicinity of radar and radio, published 4/20/82, FR vol. 47, p. 16984; amended 4/30/84, FR vol. 49, p. 18295; 6/7/89, FR vol. 54, p. 24334.

(f) 29 CFR 1915.96. Work in or on lifeboats, published 4/20/82, FR vol. 47, p. 16984; amended 8/24/87, FR vol. 52, p. 31886.

(g) 29 CFR 1915.97. Health and sanitation, published 4/20/82, FR vol. 47, p. 16984; amended 8/24/87, FR vol. 52, p. 31886; amended 7/3/02, FR vol. 67, no. 128, p. 44541.

(h) 29 CFR 1915.98. First aid, published 4/20/82, FR vol. 47, p. 16984.

**NOTE:** 29 CFR 1915.99, Hazard Communication, was redesignated as 1915.1200 on 7/1/93, FR vol. 58, no. 125, p. 35514.

(i) 29 CFR 1915.100. Retention of DOT markings, placards and labels, published 7/19/94, Federal Register, vol. 59, no. 137, p. 36700.

#### (7) Subdivision G:

(a) 29 CFR 1915.111. Inspection, published 4/20/82, FR vol. 47, p. 16984.

(b) 29 CFR 1915.112. Ropes, chains and slings, published 4/20/82, FR vol. 47, p. 16984; amended 7/3/02, FR vol. 67, no. 128, p. 44541.

(c) 29 CFR 1915.113. Shackles and hooks, published 4/20/82, FR vol. 47, p. 16984; amended 9/29/86, FR vol. 51, p. 34562.

(d) 29 CFR 1915.114. Chain falls and pull-lifts, published 4/20/82, FR vol. 47, p. 16984.

(e) 29 CFR 1915.115. Hoisting and hauling equipment, published 4/20/82, FR vol. 47, p. 16984; amended 7/3/02, FR vol. 67, no. 128, p. 44541.

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- (f) 29 CFR 1915.116. Use of gear, published 4/20/ 82, FR vol. 47, p. 16984; amended 7/3/02, FR vol. 67, no. 128, p. 44541.
- (g) 29 CFR 1915.117. Qualifications of operators, published 4/20/82, FR vol. 47, p. 16984.
- (h) 29 CFR 1915.118. Tables, published 4/20/82, FR vol. 47, p. 16984; amended 7/3/02, FR vol. 67, no. 128, p. 44541.
- (8) Subdivision H:
- (a) 29 CFR 1915.131. General precautions, published 4/20/82, FR vol. 47, p. 16984; amended 7/3/02, FR vol. 67, no. 128, p. 44541.
- (b) 29 CFR 1915.132. Portable electric tools, published 4/20/82, FR vol. 47, p. 16984.
- (c) 29 CFR 1915.133. Hand tools, published 4/20/ 82, FR vol. 47, p. 16984.
- (d) 29 CFR 1915.134. Abrasive wheels, published 4/20/82, FR vol. 47, p. 16984; 5/24/96, FR vol. 61, no. 102, p. 26351; amended 7/3/02, FR vol. 67, no. 128, p. 44541.
- (e) 29 CFR 1915.135. Powder actuated fastening tools, published 4/20/82, FR vol. 47, p. 16984; 5/24/96, FR vol. 61, no. 102, p. 26351.
- (f) 29 CFR 1915.136. Internal combustion engines other than ship's equipment, published 4/20/82, FR vol. 47, p. 16984.
- (9) Subdivision I:
- (a) 29 CFR 1915.151. Scope, application and definitions, published 5/24/96, FR vol. 61, no. 102, p. 26352.
- (b) 29 CFR 1915.152. General requirements, published 5/24/96, FR vol. 61, no. 102, p. 26352; 6/13/96, FR vol. 61, p. 29957; amended 7/3/02, FR vol. 67, no. 128, p. 44541.
- (c) 29 CFR 1915.153. Eye and face protection, published 5/24/96, FR vol. 61, no. 102, p. 26353.
- (d) 29 CFR 1915.154. Respiratory protection, published 5/24/96, FR vol. 61, no. 102, p. 26354.
- (e) 29 CFR 1915.155. Head protection, published 5/24/96, FR vol. 61, no. 102, p. 26354.
- (f) 29 CFR 1915.156. Foot protection, published 5/24/96, FR vol. 61, no. 102, p. 26354.
- (g) 29 CFR 1915.157. Hand and body protection, published 5/24/96, FR vol. 61, no. 102, p. 26354.
- (h) 29 CFR 1915.158. Lifesaving equipment, published 5/24/96, FR vol. 61, no. 102, p. 26354; amended 7/3/02, FR vol. 67, no. 128, p. 44541.
- (i) 29 CFR 1915.159. Personal fall arrest systems (PFAS), published 5/24/96, FR vol. 61, no. 102, p. 26355; amended 7/3/02, FR vol. 67, no. 128, p. 44541.
- (j) 29 CFR 1915.160. Positioning device systems, published 5/24/96, FR vol. 61, no. 102, p. 26356; amended 7/3/02, FR vol. 67, no. 128, p. 44541.
- (k) Appendix A to Subpart I, published 5/24/96, FR vol. 61, no. 102, p. 26356; amended 7/3/02, FR vol. 67, no. 128, p. 44541.
- (l) Appendix B to Subpart I, published 5/24/96, FR vol. 61, no. 102, p. 26358; amended 7/3/02, FR vol. 67, no. 128, p. 44541.
- (10) Subdivision J:
- (a) 29 CFR 1915.161. Scope and application of subdivision, published 4/20/ 82, FR vol. 47, p. 16984.
- (b) 29 CFR 1915.162. Ship's boilers, published 4/ 20/82, FR vol. 47, p. 16984.
- (c) 29 CFR 1915.163. Ship's piping systems, published 4/20/82, FR vol. 47, p. 16984; amended 7/3/02, FR vol. 67, no. 128, p. 44541.
- (d) 29 CFR 1915.164. Ship's propulsion machinery, published 4/20/82, FR vol. 47, p. 16984.
- (e) 29 CFR 1915.165. Ship's decking machinery, published 4/20/82, FR vol. 47, p. 16984; amended 7/3/02, FR vol. 67, no. 128, p. 44541.
- (11) Subdivision K:
- (a) 29 CFR 1915.171. Scope and application of subdivision, published 4/20/ 82, FR vol. 47, p. 16984.
- (b) 29 CFR 1915.172. Portable air receiver and other unfired pressure vessels, published 4/20/82, FR vol. 47, p. 16984; amended 9/29/86, FR vol. 51, p. 34562; amended 7/3/02, FR vol. 67, no. 128, p. 44541.
- (c) 29 CFR 1915.173. Drums and containers, published 4/20/82, FR vol. 47, p. 16984.
- (12) Subdivision L:
- (a) 29 CFR 1915.181. Electrical circuits and distribution boards, published 4/20/82, FR vol. 47, p. 16984; amended 7/3/02, FR vol. 67, no. 128, p. 44541.
- (13) Subdivisions M-Y (Reserved).
- (14) Subdivision Z:
- (a) 29 CFR 1915.1000. Air Contaminants, published 7/1/93, FR vol. 58, no. 125, p. 35514; 11/4/96, FR vol. 61, p. 56856; 1/10/97, FR vol. 62, p. 1619; amended 7/3/02, FR vol. 67, no. 128, p. 44541.
- (b) 29 CFR 1915.1001. Asbestos, published 7/1/93, FR vol. 58, no. 125, p. 35514; 8/10/94, FR vol. 59, no. 153, p. 41080; 6/29/95, FR vol. 60, no. 125, pp. 33974-34002; 7/13/95, FR vol. 60, p. 36043; 9/29/95, FR vol. 60, p. 50411; 8/23/96, FR vol. 61, p. 43454; 6/29/98, FR vol. 63, no. 124, p. 35137; amended 7/3/02, FR vol. 67, no. 128, p. 44541.
- (c) Appendix A to 1915.1001, published 7/1/93, FR vol. 58, p. 35553; amended 8/10/94, FR vol. 59, p. 40964; amended 6/29/95, FR vol. 60, p. 33972.
- (d) Appendix B to 1915.1001, published 7/1/93, FR vol. 58, p. 35553; amended 8/10/94, FR vol. 59, p. 40964; amended 6/29/95, FR vol. 60, p. 33972.
- (e) Appendix C to 1915.1001, published 7/1/93, FR vol. 58, p. 35553; amended 8/10/94, FR vol. 59, p. 40964; amended 7/3/02, FR vol. 67, no. 128, p. 44541.
- (f) Appendix D to 1915.1001, published 7/1/93, FR vol. 58, p. 35553; amended 8/10/94, FR vol. 59, p. 40964.
- (g) Appendix E to 1915.1001, published 7/1/93, FR vol. 58, p. 35553; amended 8/10/94, FR vol. 59, p. 40964; amended 6/29/95, FR vol. 60, p. 33972.
- (h) Appendix F to 1915.1001, published 7/1/93, FR vol. 58, p. 35553; amended 8/10/94, FR vol. 59, p. 40964; amended 6/29/95, FR vol. 60, p. 33972.
- (i) Appendix G to 1915.1001, published 7/1/93, FR vol. 58, p. 35553; amended 8/10/94, FR vol. 59, p. 40964.
- (j) Appendix H to 1915.1001, published 7/1/93, FR vol. 58, p. 35553; amended 8/10/94, FR vol. 59, p. 40964; amended 6/29/95, FR vol. 60, p. 33972.
- (k) Appendix I to 1915.1001, published 7/1/93, FR vol. 58, p. 35553; amended 8/10/94, FR vol. 59, p. 40964.
- (l) Appendix J to 1915.1001, published 8/10/94, FR vol. 59, p. 40964.
- (m) Appendix K to 1915.1001, published 8/10/94, FR vol. 59, p. 40964; amended 6/29/95, FR vol. 60, p. 33972.
- (n) Appendix L to 1915.1001, published 7/1/93, vol. 58, p. 35553; amended 8/10/94, FR vol. 59, p. 40964; amended 2/21/95, FR vol. 60, p. 9624; amended 6/28/95, FR vol. 60, p. 33343; amended 6/29/95, FR vol. 60, p. 33972; amended 7/13/95, FR vol. 60, p. 36043; amended 9/29/95, FR vol. 60, p. 50411; amended 2/13/96, FR vol. 61, p. 5507; amended 8/23/96, FR vol. 61, p. 43454.
- (c) 29 CFR 1915.1002. Coal tar pitch volatiles; interpretation of term, published 7/1/93, FR vol. 58, no. 125, p. 35514; 6/20/96, FR vol. 61, p. 31427.
- (d) 29 CFR 1915.1003. 13 Carcinogens (4-Nitrobiphenyl, etc.), published 7/ 1/93, FR vol. 58, no. 125, p. 35514; 3/7/96, FR vol. 61, no. 46, p. 9245; 6/20/96, FR vol. 61, p. 31427.
- (e) 29 CFR 1915.1004. alpha-Naphthylamine, published 7/1/93, FR vol. 58, no. 125, p. 35514; 3/7/96, FR vol. 61, no. 46, p. 9245; 6/20/96, FR vol. 61, p. 31427.
- (f) 29 CFR 1915.1005. (Reserved).
- (g) 29 CFR 1915.1006. Methyl chloromethyl ether, published 7/1/93, FR vol. 58, no. 125, p. 35514; 3/7/96, FR vol. 61, no. 46, p. 9245; 6/20/96, FR vol. 61, p. 31427.
- (h) 29 CFR 1915.1007. 3,3'-Dichlorobenzidene (and its salts), published 7/1/93, FR vol. 58, no. 125, p. 35514; 3/7/96, FR vol. 61, no. 46, p. 9245; 6/20/96, FR vol. 61, p. 31427.
- (i) 29 CFR 1915.1008. bis-Chloromethyl ether, published 7/1/93, FR vol. 58, no. 125, p. 35514; 3/7/96, FR vol. 61, no. 46, p. 9245; 6/20/96, FR vol. 61, p. 31427.
- (j) 29 CFR 1915.1009. beta-Naphthylamine, published 7/1/93, FR vol. 58, no. 125, p. 35514; 3/7/96, FR vol. 61, no. 46, p. 9245; 6/20/96, FR vol. 61, p. 31427.
- (k) 29 CFR 1915.1010. Benzidine, published 7/1/93, FR vol. 58, no. 125, p. 35514; 3/7/96, FR vol. 61, no. 46, p. 9245; 6/20/96, FR vol. 61, p. 31427.
- (l) 29 CFR 1915.1011. 4-Aminodiphenyl, published 7/1/93, FR vol. 58, no. 125, p. 35514; 3/7/96, FR vol. 61, no. 46, p. 9245; 6/20/96, FR vol. 61, p. 31427.
- (m) 29 CFR 1915.1012. Ethyleneimine, published 7/ 1/93, FR vol. 58, no. 125, p. 35514; 3/7/96, FR vol. 61, no. 46, p. 9245; 6/20/96, FR vol. 61, p. 31427.
- (n) 29 CFR 1915.1013. beta-Propiolactone, published 7/1/93, FR vol. 58, no. 125, p. 35514; 3/7/96, FR vol. 61, no. 46, p. 9245; 6/20/96, FR vol. 61, p. 31427.

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(o) 29 CFR 1915.1014. 2-Acetylaminofluorene, published 7/1/93, FR vol. 58, no. 125, p. 35514; 3/7/96, FR vol. 61, no. 46, p. 9245; 6/20/96, FR vol. 61, p. 31427.

(p) 29 CFR 1915.1015. 4-Dimethylaminoazobenzene, published 7/1/93, FR vol. 58, no. 125, p. 35514; 3/7/96, FR vol. 61, no. 46, p. 9245; 6/20/96, FR vol. 61, p. 31427.

(q) 29 CFR 1915.1016. N-Nitrosodimethylamine, published 7/1/93, FR vol. 58, no. 125, p. 35514; 3/7/96, FR vol. 61, no. 46, p. 9245; 6/20/96, FR vol. 61, p. 31427.

(r) 29 CFR 1915.1017. Vinyl chloride, published 7/1/93, FR vol. 58, no. 125, p. 35514; 6/20/96, FR vol. 61, p. 31427.

(s) 29 CFR 1915.1018. Inorganic arsenic, published 7/1/93, FR vol. 58, no. 125, p. 35514; 6/20/96, FR vol. 61, p. 31427.

(t) 29 CFR 1915.1020. Access to employee exposure and medical records, published 7/1/93, FR vol. 58, no. 125, p. 35514; 6/20/96, FR vol. 61, p. 31427.

(u) 29 CFR 1915.1025. Lead, published 7/1/93, FR vol. 58, no. 125, p. 35514; 6/20/96, FR vol. 61, p. 31427.

(v) 29 CFR 1915.1027. Cadmium, published 9/14/92, FR vol. 57, no. 178, pp. 42388-42452; amended 4/23/93, FR vol. 58, no. 177, p. 21778; 1/3/94, FR vol. 59, no. 1, pp. 146-215; 6/20/96, FR vol. 61, p. 31427.

(w) 29 CFR 1915.1028. Benzene, published 7/1/93, FR vol. 58, no. 125, p. 35514; 6/20/96, FR vol. 61, p. 31427.

(x) 29 CFR 1915.1030. Bloodborne pathogens, published 7/1/93, FR vol. 58, no. 125, p. 35514; 6/20/96, FR vol. 61, p. 31427.

(y) 29 CFR 1915.1044. 1,2-dibromo-3-chloropropane, published 7/1/93, FR vol. 58, no. 125, p. 35514; 6/20/96, FR vol. 61, p. 31427.

(z) 29 CFR 1915.1045. Acrylonitrile, published 7/1/93, FR vol. 58, no. 125, p. 35514; 6/20/96, FR vol. 61, p. 31427.

(aa) 29 CFR 1915.1047. Ethylene oxide, published 7/1/93, FR vol. 58, no. 125, p. 35514; 6/20/96, FR vol. 61, p. 31427.

(bb) 29 CFR 1915.1048. Formaldehyde, published 7/1/93, FR vol. 58, no. 125, p. 35514; 6/20/96, FR vol. 61, p. 31427.

(cc) 29 CFR 1915.1050. Methylenedianiline, published 7/1/93, FR vol. 58, no. 125, p. 35514; 6/20/96, FR vol. 61, p. 31427.

(dd) 29 CFR 1915.1052. Methylene Chloride, published 1/10/97, Federal Register, vol. 62, no. 7, p. 1619.

(ee) 29 CFR 1915.1120. Access to employee exposure and medical records has been redesignated to §1915.1020.

**NOTE:** 29 CFR 1915.99, Hazard Communication was redesignated as 1915.1200 on 7/1/93, FR vol. 58, no. 125, p. 35514.

(ff) 29 CFR 1915.1200. Hazard communication, published 9/24/87, FR vol. 52, p. 31886; amended 4/27/88, FR vol. 53, p. 15035; 2/15/89, FR vol. 54, p. 6888; 6/7/89, FR vol. 54, p. 24334; 7/1/93, FR vol. 58, no. 125, p. 35514; 2/9/94, FR vol. 59, no. 27, pp. 6126-6184; 4/13/94, FR vol. 59, no. 71, pp. 17478-17479; 12/22/94, FR vol. 59, no. 245, p. 65947; 6/20/96, FR vol. 61, p. 31427.

(gg) 29 CFR 1915.1450. Occupational exposure to hazardous chemicals in laboratories, published 7/1/93, FR vol. 58, no. 125, p. 35514; 6/20/96, FR vol. 61, p. 31427.

[Publications: Publications 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 10-1992, f. & cert. ef. 9-24-92, cert. ef. 11-1-92; OSHA 1-1993, f. & cert. ef. 1-22-93; OSHA 19-1993, f. & cert. ef. 12-29-93; OSHA 4-1994, f. & cert. ef. 8-4-94; OSHA 1-1995, f. & cert. ef. 1-19-95; OSHA 2-1995, f. & cert. ef. 1-25-95; OSHA 4-1995, f. & cert. ef. 3-29-95; OSHA 5-1995, f. & cert. ef. 4-6-95; OSHA 8-1995, f. & cert. ef. 8-25-95; OSHA 5-1996, f. & cert. ef. 11-29-96; OSHA 6-1996, f. & cert. ef. 11-29-96; OSHA 3-1997, f. & cert. ef. 3-28-97; OSHA 4-1997, f. & cert. ef. 4-2-97; OSHA 6-1997, f. & cert. ef. 5-2-97; OSHA 7-1998, f. & cert. ef. 12-18-98; OSHA 6-1999, f. & cert. ef. 5-26-99; OSHA 4-2001, f. & cert. ef. 2-5-01; OSHA 4-2003, f. & cert. ef. 5-6-03

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## Department of Corrections Chapter 291

**Adm. Order No.:** DOC 8-2003(Temp)

**Filed with Sec. of State:** 4-17-2003

**Certified to be Effective:** 4-17-03 thru 10-13-03

**Notice Publication Date:**

**Rules Adopted:** 291-063-0016, 291-063-0034, 291-063-0036, 291-063-0060

**Rules Amended:** 291-063-0005, 291-063-0010, 291-063-0030, 291-063-0040

**Rules Suspended:** 291-063-0015, 291-063-0020, 291-063-0035

**Rules Transferred:** 291-063-0025 to 291-063-0050

**Subject:** The department is amending these rules to bring the inmate eligibility requirements for granting of short-term transitional leave

and emergency leave into compliance with the statutory requirements. Other modifications were made to enhance the short term transitional leave program.

**Rules Coordinator:** David R. Schumacher—(503) 945-0933

### 291-063-0005

#### Authority, Purpose, and Policy

(1) Authority: The authority for this rule is granted to the Director of the Department of Corrections in accordance with ORS 179.040, 421.166, 421.168, 423.020, 423.030, and 423.075

(2) Purpose: To provide uniform procedures, standards, and guidelines for granting or denying short-term transitional leaves, emergency leaves or supervised trips and to establish supervision standards for such leaves.

(3) Policy: It is the policy of the Department of Corrections, pursuant to ORS 421.166 and 421.168, to allow inmates short-term transitional leaves, emergency leaves or supervised trips from correctional facilities when circumstances indicate a leave or supervised trip would be in accordance with generally accepted correctional and rehabilitation practices.

Stat. Auth.: ORS 179.040, ORS 421.166, ORS 421.168, ORS 423.020, ORS 423.030 & ORS 423.075

Stats. Implemented: ORS 179.040, ORS 421.166, ORS 421.168, ORS 423.020, ORS 423.030 & ORS 423.075

Hist.: CD 1-1990, f. & cert. ef. 1-29-90; CD 21-1990(Temp), f. & cert. ef. 11-1-90; CD 11-1991, f. & cert. ef. 4-24-91; DOC 8-2003(Temp), f. & cert. ef. 4-17-03 thru 10-13-03

### 291-063-0010

#### Definitions

(1) Department of Corrections Facility: Any institution, facility or staff office, including the grounds, operated by the Department of Corrections.

(2) Emergency Leave: A leave of ten days duration or less within the state for the specific purposes listed in 291-063-0050(2)(a) where the inmate is expected to return to the releasing facility.

(3) Employee: Any person employed full-time, part-time or under temporary appointment by the Department of Corrections.

(4) Enter Parole/Probation Record (EPR): A record on the Law Enforcement Data System (LEDS) which identifies an inmate who is in the community on parole, probation, post-prison supervision, short-term transitional leave, or emergency leave exceeding five days.

(5) Immediate Family Member: Husband, wife, father, mother, sister, brother, daughter/son, and grandparents including step-relationships of such.

(6) Inmate: Any person under the supervision of the Department of Corrections who is not on parole, post-prison supervision, or probation status.

(7) Releasing Authority: Functional unit managers of correctional facilities, as designated by the Director.

(8) Short-Term Transitional Leave: A leave for a period not to exceed 30 days preceding an established projected release date and/or parole release date which allows an inmate opportunity to secure appropriate transitional support when necessary for successful reintegration into the community.

(9) Supervised Trip: Any nonroutine trip outside a Department of Corrections facility within the State of Oregon which is supervised by an employee of the Department of Corrections or a person authorized to supervise or maintain custody of persons outside of correctional facilities.

Stat. Auth.: ORS 179.040, ORS 421.166, ORS 421.168, ORS 423.020, ORS 423.030 & ORS 423.075

Stats. Implemented: ORS 179.040, ORS 421.166, ORS 421.168, ORS 423.020, ORS 423.030 & ORS 423.075

Hist.: CD 1-1990, f. & cert. ef. 1-29-90; CD 21-1990(Temp), f. & cert. ef. 11-1-90; CD 11-1991, f. & cert. ef. 4-24-91; DOC 8-2003(Temp), f. & cert. ef. 4-17-03 thru 10-13-03

### 291-063-0015

#### Procedures

(1) Statute Requirements:

(a) No inmate shall be eligible for short-term transitional leave prior to having been incarcerated for six months including applicable county jail time served credits;

(b) Post-prison supervision violators are not eligible for short-term transitional leave;

(c) Under the provisions of ORS 144.260, all sentences that occurred after December 3, 1986, require that a notification be distributed to the sentencing judge, district attorney, and sheriff thirty days prior to unescorted release from physical custody. Upon request, victims will be notified in the same manner;

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(d) No person sentenced under the provision of ORS 137.635 shall be eligible for short-term transitional leave or emergency leave;

(e) No person sentenced under the provision of ORS 161.610 after September 20, 1985, shall be allowed any form of leave until that person has served the minimum term imposed by the court less statutory good time and meritorious time served;

(f) No person sentenced under the provisions of ORS 163.105 shall be allowed any form of leave until that person has served the minimum term imposed by the court;

(g) No person sentenced under the provisions of ORS 163.115 after September 20, 1985, shall be allowed any form of leave until that person has served the minimum term imposed by the court unless the minimum term has been set aside by a unanimous vote of the Board of Parole and Post-Prison Supervision.

(2) Criteria: In order for an inmate to be approved for any form of leave, he/she must meet the following criteria:

- (a) Have minimum custody;
- (b) Judged by staff not to be a threat to the community;
- (c) Minimal potential for adverse community reactions;
- (d) Acceptable past performance on prior releases (if any);
- (e) Be in suitable physical and mental condition; and
- (f) Institutional conduct warrants leave consideration.

Stat. Auth.: ORS 179.040, ORS 421.166, ORS 421.168, ORS 423.020, ORS 423.030 & ORS 423.075

Stats. Implemented: ORS 179.040, ORS 421.166, ORS 421.168, ORS 423.020, ORS 423.030 & ORS 423.075

Hist.: CD 1-1990, f. & cert. ef. 1-29-90; CD 21-1990(Temp), f. & cert. ef. 11-1-90; CD 11-1991, f. & cert. ef. 4-24-91; Suspended by DOC 8-2003(Temp), f. & cert. ef. 4-17-03 thru 10-13-03

## 291-063-0016

### Procedures

(1) Eligibility Requirements:

(a) An inmate must be incarcerated for six months, including applicable county jail time credits, before being eligible for short-term transitional leave.

(b) Any person serving a sentence for a crime committed prior to November 1, 1989, shall not be eligible for short-term transitional leave.

(c) Post-prison supervision and parole violators are not eligible for short-term transitional leave pursuant to ORS 144.108(3)(b).

(d) Under the provisions of ORS 144.260, any inmate sentenced on or after December 4, 1986, require that a notification be distributed to the sentencing judge, district attorney, and sheriff 30 days prior to unescorted release from physical custody. Upon request, victims will be notified in the same manner.

(e) Any person sentenced under the provision of ORS 137.635 shall not be eligible for short-term transitional leave.

(f) Any person sentenced under the provision of ORS 161.610 shall not be eligible for short-term transitional leave until the person has served the minimum incarceration term imposed by the court less earned time under ORS 421.121.

(g) Any person sentenced under the provisions of ORS 163.105 for aggravated murder committed on or after November 1, 1989, shall not be eligible for short-term transitional leave until completion of the minimum incarceration term imposed by the court and the Board of Parole and Post-Prison Supervision issues a Board Action form converting the sentence to "life with possibility of release or work release" and sets a release date.

(h) Any person sentenced under the provisions of ORS 163.115 for murder:

(A) Committed on or after November 1, 1989, and prior to April 1, 1995, shall not be eligible for short-term transitional leave until the person has served the minimum incarceration term imposed by the court less earned time under ORS 421.121;

(B) Committed on or after April 1, 1995 and prior to June 30, 1995, shall not be eligible for short-term transitional leave until the person has served the minimum incarceration term imposed by the court; or

(C) Committed on or after June 30, 1995, shall not be eligible for short-term transitional leave until the person has served the minimum incarceration term imposed by the court and the Board of Parole and Post-Prison Supervision finds by unanimous vote that the person is likely to be rehabilitated and issues a Board Action form setting a release date.

(i) Any person sentenced under the provisions of ORS 137.700 or 137.707 for a crime:

(A) Committed prior to December 5, 1996, shall not be allowed short-term transitional leave until completion of the mandatory minimum incarceration term; or

(B) Committed on or after December 5, 1996, shall not be allowed short-term transitional leave until completion of the mandatory minimum incarceration term and only upon order of the sentencing court as directed in the judgment pursuant to ORS 137.750.

(j) If otherwise eligible under Oregon law, any person sentenced for a crime committed on or after December 5, 1996, shall be eligible for short-term transitional leave only upon order of the sentencing court as directed in the judgment pursuant to ORS 137.750.

(2) Criteria: In order for an inmate to be approved for any form of leave, he/she must meet the following criteria:

(a) Be classified as minimum custody in accordance with the Department of Corrections rule on Classification (Inmate) (OAR 291-104);

(b) Assessed by staff to have a limited risk to re-offend, or otherwise not be a threat to the community;

(c) Minimal potential for adverse community reactions;

(d) Acceptable performance in the completion of correctional programming to address assessed needs and reduce the risk of future criminal behavior;

(e) Be in suitable physical and mental condition; and

(g) Institution conduct and program compliance warrants leave consideration.

(3) The supervising community corrections office must review and approve any transitional leave release plan.

(4) The district attorney's office in the sentencing jurisdiction shall be consulted regarding any transitional leave release plan, and objections to a proposed early release shall be taken into consideration.

Stat. Auth.: ORS 179.040, ORS 421.166, ORS 421.168, ORS 423.020, ORS 423.030 & ORS 423.075

Stats. Implemented: ORS 179.040, ORS 421.166, ORS 421.168, ORS 423.020, ORS 423.030 & ORS 423.075

Hist.: DOC 8-2003(Temp), f. & cert. ef. 4-17-03 thru 10-13-03

## 291-063-0020

### Oregon Forensic Psychiatric Center Inmates — Short-Term Transitional Leaves, Emergency Leaves, and Supervised Trips

An inmate voluntarily transferred to the Oregon Forensic Psychiatric Center may be granted short-term transitional leave, emergency leave, and supervised trips in accordance with this rule.

Stat. Auth.: ORS 179.040, ORS 421.166, ORS 421.168, ORS 423.020, ORS 423.030 & ORS 423.075

Stats. Implemented: ORS 179.040, ORS 421.166, ORS 421.168, ORS 423.020, ORS 423.030 & ORS 423.075

Hist.: CD 1-1990, f. & cert. ef. 1-29-90; CD 21-1990(Temp), f. & cert. ef. 11-1-90; CD 11-1991, f. & cert. ef. 4-24-91; Suspended by DOC 8-2003(Temp), f. & cert. ef. 4-17-03 thru 10-13-03

## 291-063-0030

### Approval of Short-Term Transitional Leaves

(1) Short-term transitional leaves may be granted from any Department of Corrections facility with proper approval of the releasing authority.

(2) Application:

(a) The inmate may initiate the short-term transitional leave process by filling out the appropriate Short-Term Transitional Leave Plan and submitting it to the assigned correctional counselor or designated staff member.

(b) Short-term transitional leave may be granted for the purpose of obtaining employment, education, treatment, housing, or other transitional opportunity in the community to which the inmate will be released, and that a leave of up to 30 days is an essential part of the inmate's successful reintegration into the community. The need for short-term transitional leave shall be documented in the release plans submitted to the Board of Parole and Post-Prison Supervision.

(c) Correctional counselors or designated staff members will verify the information given and submit the leave recommendation and other relevant information to the releasing authority.

(3) Approval:

(a) The releasing authority or designee may grant a short-term transitional leave up to 30 days prior to the inmate's release to post-prison supervision to allow an inmate to participate in an approved release plan.

(b) Transitional leaves allowing travel outside the boundaries of the State of Oregon must be authorized in advance through Interstate Compact transfer procedures. Prior to the inmate leaving the state, the assigned counselor or designated staff member will notify the local authorities of the inmate's proposed presence in the area including address and dates.

(c) No short-term transitional leave will be granted to allow the inmate to reside with a Department of Corrections employee, contractor, or



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volunteer unless the inmate is an immediate family member of the employee, contractor, or volunteer.

(d) The releasing authority or designee will stipulate the special conditions necessary to enhance community safety.

(e) Inmates without resources may apply for subsidy monies in accordance with the Department of Corrections rule on Release Subsidies (OAR 291-157).

(4) Release Conditions:

(a) Obey all laws: state, local, and federal.

(b) Conform to reasonable expectations of acceptable community behavior.

(c) Abstain from the use of alcohol, any illegal drug, or other dangerous substance and submit to drug urinalysis or breathalyzer testing as directed.

(d) Submit to search of person, automobile or residence by Department of Corrections, law enforcement, or community corrections agents.

(e) Return immediately to any designated Department of Corrections facility when so directed by the releasing authority or designee.

(f) Conform to the stipulations of a written transitional release plan and/or post-prison supervision release plan.

(g) Conform to any additional special conditions imposed by the releasing authority or designee.

(h) All expenses shall be borne by the inmate unless otherwise specifically authorized. Inmates placed on short-term transitional leave are responsible for costs of their own medical care.

(5) Community Corrections Supervision:

(a) When an inmate has been approved for a transitional leave, the inmate report (release plan and related file material) will be made available to the proposed community corrections office providing supervision at least five working days prior to the release of the inmate.

(b) Assigned community corrections staff may, when deemed necessary, request the releasing authority modify an approved release plan or leave stipulation with written notice to the inmate and documentation to the file. Within ten days after the releasing authority's approval to modify, the inmate may appeal to the Assistant Director of Institutions the changes to his/her release plan or stipulation.

Stat. Auth.: ORS 179.040, ORS 421.166, ORS 421.168, ORS 423.020, ORS 423.030 & ORS 423.075

Stats. Implemented: ORS 179.040, ORS 421.166, ORS 421.168, ORS 423.020, ORS 423.030 & ORS 423.075

Hist.: CD 1-1990, f. & cert. ef. 1-29-90; CD 21-1990(Temp), f. & cert. ef. 11-1-90; CD 11-1991, f. & cert. ef. 4-24-91; DOC 8-2003(Temp), f. & cert. ef. 4-17-03 thru 10-13-03

## 291-063-0034

### Violations of Short-Term Transitional Leaves

(1) If an inmate on short-term transitional leave is found to be in violation of the terms and conditions of his/her transitional leave established by the releasing authority, he/she may be arrested and returned to the physical custody of the Department of Corrections.

(2) Within 72 hours of an inmate's return to custody to the releasing authority, the supervising officer will submit a report documenting the inmate's alleged failure to follow the terms and conditions of his/her transitional leave.

(3) An in-custody hearing will be conducted to determine whether the inmate violated the terms and conditions of his/her transitional leave in accordance with the following procedures listed below.

Stat. Auth.: ORS 179.040, ORS 421.166, ORS 421.168, ORS 423.020, ORS 423.030 & ORS 423.075

Stats. Implemented: ORS 179.040, ORS 421.166, ORS 421.168, ORS 423.020, ORS 423.030 & ORS 423.075

Hist.: DOC 8-2003(Temp), f. & cert. ef. 4-17-03 thru 10-13-03

## 291-063-0035

### Violations of Short-Term Transitional Leaves

Violations: Any violation of a short-term transitional leave condition may result in revocation of the leave and return of the inmate to a Department of Corrections intake facility. The violation process will be conducted as follows:

(1) The individual will be allowed a hearing conducted by a hearings officer not involved in the case. A hearing will be provided when an inmate is alleged to have violated condition(s) of transitional leave that would be considered serious enough to warrant revocation.

(2) Notice: The inmate shall be provided with written notice in a reasonable time of not less than twenty-four hours prior to a hearing unless waived. The hearing notice will include:

(a) Notice of Rights;

(b) Written statement of alleged violation provided the material is not declared confidential; and

(c) Any documents or evidence which forms the basis of the alleged violation.

(3) Waiver of Hearing:

(a) In all cases, the inmate may waive the right to a hearing by being provided a Notice of Rights and signing a request to waive;

(b) The inmate may then offer any written or verbal statement pertaining to the violation;

(c) The hearings officer will submit to the releasing authority or designee the following:

(A) Notice of Rights form with signed waiver;

(B) Inmate written or verbal statements;

(C) Hearings Report Summary; and

(D) Any supporting information.

(4) Postponements:

(a) A hearing may be postponed by the hearings officer for good cause and for a reasonable period of time (maximum thirty days);

(b) "Good Cause" includes, but is not limited to:

(A) Preparation of defense;

(B) Illness or unavailability of the inmate or other persons;

(C) Gathering additional evidence; or

(D) Avoiding interference with ongoing police investigations or pending prosecution.

(5) Representation:

(a) In all cases the inmate is entitled to:

(A) Speak in his/her own behalf;

(B) Be present at all evidentiary stages of the hearings process, except when the hearings officer finds that to have the inmate present would constitute an immediate threat to facility security or the inmate's behavior during the hearing warrants exclusion. The reason(s) for the finding shall be a part of the record.

(b) Assistance by a staff member or other person approved by the hearings officer, at no cost to the state, will be ordered in cases where it is found that assistance is necessary based upon language barriers and/or competence and capacity of the inmate to understand the allegation(s) or surrounding facts.

(6) Witnesses:

(a) The inmate has the right to call witnesses to testify before the hearings officer. If witnesses are to be called, the inmate will develop a list of witnesses and questions to be posed to each witness. An inmate may not directly pose questions to any witness;

(b) The hearings officer may exclude persons upon finding that their testimony would not assist in the resolution of the allegation(s) or that their presence would be unduly hazardous to facility security;

(c) If persons are excluded, the reason(s) shall be made a part of the record;

(d) Persons requested as witnesses shall have the right to refuse to appear and/or testify;

(e) The hearings officer may, on his/her own motion, call witnesses to testify.

(7) Evidence:

(a) The inmate shall have the right to present documents/physical evidence during the hearing;

(b) The hearings officer may exclude documents/physical evidence upon making a finding that such evidence would be unduly hazardous to facility security or will not assist in the resolution of the allegation(s). The reason for the exclusion shall be made part of the record;

(c) The hearings officer may classify documents/physical evidence as confidential upon making a finding that revealing such would constitute a threat to the safety and security of the facility or witnesses. The reason for classifying documents/physical evidence as confidential shall be made part of the record.

(8) Hearings Written Record: The hearings record shall include:

(a) Hearings Report Summary;

(b) Revocation or other written report;

(c) Supporting material;

(d) Notice of Rights;

(e) Short-Term Transitional Leave Authorization; and

(f) Recorded proceedings tape or written transcripts.

(9) Hearings Process:

(a) The hearing will be held in person or by teleconference;

(b) The hearing will be scheduled by the hearings officer within fourteen calendar days of confinement in a State of Oregon Department of Corrections Facility or issuance of a citation to appear for a hearing;

# ADMINISTRATIVE RULES

(c) The supervising officer will present the case at the hearing and arrange for the presence of witnesses for the State and/or evidence;

(d) The inmate will make his/her own arrangements for presenting witnesses and/or evidence at the hearing;

(e) The hearings officer will make a tape recording of the hearing then retain this tape or transcript and hearing record for one year.

(10) Recommendations/Disposition by Hearings Officer:

(a) Finds no violation and recommends continuation without change;

(b) Finds basis for a violation and makes a recommendation to continue with or without modification in conditions;

(c) Finds basis for violation and recommends reincarceration;

(d) Authorizes immediate release of the inmate to the community or return of the inmate to the institution pending disposition by the releasing authority or designee;

(e) The Hearings Report Summary will, in all cases, be forwarded to the releasing authority or designee within five calendar days following the completion of the hearings recommendation with copies to the inmate and supervising staff;

(f) The releasing authority or designee will review and take action on the recommendation of the hearings report within five calendar days following receipt. The "Order" may affirm, modify, or reverse the recommendation with copies to the inmate, supervising staff, and hearings officer.

(11) Detention:

(a) In determining whether to allow an inmate to remain in the community pending a hearing, the supervising staff may consider: the seriousness of the allegation and the risk to the community; the likelihood of the inmate absconding or failing to appear at the hearing; and the availability of resources in the community, such as residence and/or employment. Rule on Revocation Guidelines (OAR 291-114) will be used by supervising Community Services staff when an inmate's misconduct is alleged;

(b) If the hearings officer authorizes reconfinement after the hearing or waiver, the inmate will be transferred, along with the Hearings Report Summary, within five calendar days to a Department of Corrections intake facility pending the final decision of the releasing authority or designee.

(12) Issuing Warrants:

(a) Supervising field staff will notify the releasing authority or designee whenever an inmate makes him/herself unavailable for supervision or is to be detained pending a hearing;

(b) The releasing authority or designee will ensure a warrant is issued if the circumstances and facts justify.

(13) Appeal Process:

(a) Inmates may appeal decisions of the releasing authority or designee in the application of this rule to the Assistant Director of Institutions of the Department of Corrections. A written appeal must be filed within fifteen calendar days of the date the inmate is notified of the written decision of the releasing authority. Filing of an appeal will not stay the imposition of a sanction;

(b) The decision of the Assistant Director of Institutions may be to modify or affirm the decision of the releasing authority;

(c) Appeals received will be answered with written reasons provided by the Assistant Director of Institutions within ten working days of receipt. Stat. Auth.: ORS 179.040, ORS 421.166, ORS 421.168, ORS 423.020, ORS 423.030 & ORS 423.075

Stats. Implemented: ORS 179.040, ORS 421.166, ORS 421.168, ORS 423.020, ORS 423.030 & ORS 423.075

Hist.: CD 1-1990, f. & cert. ef. 1-29-90; CD 21-1990(Temp), f. & cert. ef. 11-1-90; CD 11-1991, f. & cert. ef. 4-24-91; Suspended by DOC 8-2003(Temp), f. & cert. ef. 4-17-03 thru 10-13-03

## 291-063-0036

### Hearings Process for Short-Term Transitional Leave Violations

(1) The inmate will be allowed a hearing conducted by a hearings officer not involved in the case.

(2) Notice: The inmate shall be provided with written notice in a reasonable time of not less than 24 hours prior to a hearing unless waived. The hearing notice will include:

(a) Notice of Rights;

(b) Written statement of alleged violation provided the material is not declared confidential; and

(c) Any documents or evidence which forms the basis of the alleged violation.

(3) Waiver of Hearing:

(a) In all cases, the inmate may waive the right to a hearing by being provided a Notice of Rights and signing a request to waive. Sanctions may be imposed at the local level if:

(A) The supervising officer determines that the violation can appropriately be addressed, and

(B) The inmate admits the violation and accepts the sanction.

(b) The inmate may then offer any written or verbal statement pertaining to the violation.

(c) The hearings officer will submit to the releasing authority or designee the following:

(A) Notice of Rights form with signed waiver;

(B) Inmate written or verbal statements;

(C) Hearings Report Summary; and

(D) Any supporting information.

(4) Postponements:

(a) A hearing may be postponed by the hearings officer for good cause and for a reasonable period of time (maximum 15 days).

(b) "Good Cause" includes, but is not limited to:

(A) Preparation of defense;

(B) Illness or unavailability of the inmate or other persons;

(C) Gathering additional evidence; or

(D) Avoiding interference with ongoing police investigations or pending prosecution.

(5) Representation:

(a) In all cases the inmate is entitled to:

(A) Speak in his/her own behalf.

(B) Be present at all evidentiary stages of the hearings process, except when the hearings officer finds that to have the inmate present would constitute an immediate threat to facility security or the inmate's behavior during the hearing warrants exclusion. The reason(s) for the finding shall be a part of the record.

(b) Assistance by a staff member or other person approved by the hearings officer will be ordered in cases where it is found that assistance is necessary based upon language barriers and/or competence and capacity of the inmate to understand the allegation(s) or surrounding facts.

(6) Witnesses:

(a) The inmate has the right to call witnesses to testify before the hearings officer. If witnesses are to be called, the inmate will develop a list of witnesses and questions to be posed to each witness. An inmate may not directly post questions to any witness.

(b) The hearings officer may exclude persons upon finding that their testimony would not assist in the resolution of the allegation(s) or that their presence would be unduly hazardous to facility security.

(c) If persons are excluded, the reason(s) shall be made a part of the record.

(d) Persons requested as witnesses shall have the right to refuse to appear and/or testify.

(e) The hearings officer may, on his/her own motion, call witnesses to testify.

(7) Evidence:

(a) The inmate shall have the right to present documents/physical evidence during the hearing.

(b) The hearings officer may exclude documents/physical evidence upon making a finding that such evidence would be unduly hazardous to facility security or will not assist in the resolution of the allegation(s). The reason for the exclusion shall be made part of the record.

(c) The hearings officer may classify documents/physical evidence as confidential upon making a finding that revealing such would constitute a threat to the safety and security of the facility or witnesses. The reason for classifying documents/physical evidence as confidential shall be made part of the record.

(8) Hearings Written Record:

(a) The hearing record shall include:

(A) Hearings Report Summary;

(B) Revocation or other written report;

(C) Supporting material;

(D) Notice of Rights;

(E) Short-Term Transitional Leave Authorization; and

(F) Recorded proceedings tape or written transcripts.

(9) Hearings Process:

(a) The hearing will be held in person or by teleconference.

(b) The hearing will be scheduled by the hearings officer within 15 calendar days of return to the physical custody of the Department of Corrections.

(c) The supervising officer will present the case at the hearing and arrange for the presence of witnesses for the state and/or evidence.

(d) The inmate will make his/her own arrangements for presenting witnesses and/or evidence at the hearing.

(e) The hearings officer will make a tape recording of the hearing, then retain this tape or transcript and hearing record for two years.

# ADMINISTRATIVE RULES

(10) Recommendations/Disposition by Hearings Officer:

(a) Finds no violation and recommends continuation without change;  
(b) Finds basis for a violation and makes a recommendation to continue with or without modification in conditions;

(c) Finds basis for violation and recommends revocation of leave;

(d) Authorize immediate release of the inmate to the community or return of the inmate to the facility pending disposition by the releasing authority or designee.

(e) The Hearings Report Summary will, in all cases, be forwarded to the releasing authority or designee within five calendar days following the completion of the hearings recommendation with copies to the inmate and supervising staff.

(f) The releasing authority or designee will review and take action on the recommendation of the hearings report within five calendar days following receipt. The releasing authority may affirm, modify, or reverse the recommendation with copies to the inmate, supervising staff, and hearings officer.

Stat. Auth.: ORS 179.040, ORS 421.166, ORS 421.168, ORS 423.020, ORS 423.030 & ORS 423.075

Stats. Implemented: ORS 179.040, ORS 421.166, ORS 421.168, ORS 423.020, ORS 423.030 & ORS 423.075

Hist.: DOC 8-2003(Temp), f. & cert. ef. 4-17-03 thru 10-13-03

## 291-063-0040

### Supervised Trips

(1) Supervised trips may be granted from any Department of Corrections facilities with proper approval of the releasing authority.

(2) Application:

(a) An inmate may apply for a supervised trip by directing an appropriate supervised trip application to his/her assigned counselor or designated staff member. Except for the purpose of attending a private viewing before or after a funeral or bedside visits, these applications should be submitted no more than fifteen and no less than seven working days in advance of the supervised trip date.

(b) The counselor or designated staff member will verify the information and submit the application and other relevant information to the releasing authority.

(3) Approval:

(a) The releasing authority may grant supervised trips to inmates for the following reasons:

(A) To allow the inmate to visit a seriously ill relative with whom a meaningful relationship exists;

(B) To attend a private viewing before or after the funeral of an immediate family member;

(C) To allow the inmate to obtain medical and/or dental services not provided by the facility; and

(D) For other reasons consistent with accepted correctional and/or rehabilitation practices.

(b) The releasing authority may approve supervised trips for those inmates who do not meet the eligibility criteria for emergency leaves as specified in these rules.

(A) No inmate of the Department of Corrections will be allowed a supervised trip unless the supervision is provided by a Department of Corrections employee or a person authorized to supervise or maintain custody of persons outside of correctional facilities.

(B) No supervised trips will be authorized for social reasons.

(C) Supervised trips may be authorized for civic purposes (i.e., work projects or speaking engagements relative to crime prevention or substance abuse).

(D) Approval for all proposed supervised trips for club projects must be requested of the functional unit manager in writing and staff must verify the request.

(c) Inmates approved for supervised trips will fall into two categories:

(A) When inmates judged by staff to be a threat to the community and/or themselves are granted supervised trips, appropriate protective restraints and escorts will be used.

(B) Inmates who are not considered a threat to the community or themselves must meet the following criteria:

(i) Inmate is in suitable physical and mental condition consistent with the reason for the trip;

(ii) Programming and interests are consistent with trip purposes; and

(iii) Depending upon the reason for the trip, the inmate has demonstrated a level of performance during incarceration indicating a reasonable expectation that the supervised trip will be successful.

(4) Expenses: Unless specific arrangements are approved in advance by the releasing authority, the inmate will pay for any expenses incurred for supervised trips.

(5) Violation:

(a) Failure to return from supervised trip shall be an escape. A warrant will be issued in accordance with the department's policy on Escape Notification.

(b) All rules of prohibited conduct cited in the Department of Corrections rule on Prohibited Inmate Conduct and Processing Disciplinary Actions (OAR 291-105) apply to inmates on supervised trips.

Stat. Auth.: ORS 179.040, ORS 421.166, ORS 421.168, ORS 423.020, ORS 423.030 & ORS 423.075

Stats. Implemented: ORS 179.040, ORS 421.166, ORS 421.168, ORS 423.020, ORS 423.030 & ORS 423.075

Hist.: CD 1-1990, f. & cert. ef. 1-29-90; CD 21-1990(Temp), f. & cert. ef. 11-1-90; CD 11-1991, f. & cert. ef. 4-24-91; DOC 8-2003(Temp), f. & cert. ef. 4-17-03 thru 10-13-03

## 291-063-0050

### Emergency Leaves

Emergency leaves may be granted by any Department of Corrections facility with proper approval of the releasing authority. The same eligibility requirements that apply to short-term transitional leave in OAR 291-063-0016 also apply to emergency leave.

(1) Application:

(a) The inmate may apply for a leave by filling out an appropriate application and submitting it to the assigned counselor or designated staff member.

(b) Applications must be submitted in sufficient time for staff to review and verify the information provided.

(c) Counselors or designated staff members will verify the information given and submit the necessary document and/or other relevant information for the releasing authority.

(2) Approval:

(a) Emergency Leaves: Any releasing authority may grant emergency leaves for the following reasons:

(A) To visit a terminally ill family member if the member lives within the state.

(B) To visit a gravely ill child of the inmate if the child lives within the state.

(C) To attend the funeral or view the remains of an immediate family member if in the state.

(b) The duration of the emergency leave shall be restricted to only the time necessary to accomplish the purpose of the leave.

(c) Emergency leave will not be granted in the company of a Department of Corrections employee or volunteer unless the inmate is an immediate family member of the employee or volunteer.

(d) In approving an emergency leave, the releasing authority will stipulate conditions of release necessary for approval of the emergency leave.

(e) Inmates requesting non-emergency medical treatment while on emergency leave shall return to the releasing facility for examination and treatment if necessary.

(3) Expenses: Funds to cover expenses of any leave must be available in the inmate's account before leave may be granted, unless otherwise specifically authorized by the releasing authority. Any funds received designated for this purpose will not be used to reduce any indebtedness.

(4) Community Corrections Monitoring: When an emergency leave exceeds five days, the releasing authority or his/her designee must arrange with community corrections staff for monitoring of the inmate while the inmate is in the community. Upon departure from the facility, an EPR shall be initiated by the releasing facility.

(a) Assigned community corrections staff may, when deemed necessary, request that the releasing authority modify leave stipulations or release plan with written prior notice to the inmate and documentation to the file.

(b) Within ten days of the releasing authority's approval to modify, the inmate may appeal to the Assistant Director of Institutions the changes in leave stipulations or release plan.

(5) Emergency Leave Violations: Violations of the conditions or stipulations of an emergency leave constitute the basis for disciplinary action which will be handled in accordance with the Department of Corrections rule on Prohibited Inmate Conduct and Processing Disciplinary Actions (OAR 291-105).

(a) Community corrections staff have the authority to detain any inmate on emergency leave status and lodge him/her in a local jail pending investigation and/or return to a Department of Corrections intake facility.

(b) In the event the decision is made to remove an inmate from emergency leave status and return him/her to the releasing facility, the responsibility for return will be as follows:

(A) Inmates who have been apprehended out-of-state will be returned to a Department of Corrections intake facility.

# ADMINISTRATIVE RULES

(B) Inmates who have been removed from emergency leaves will be returned to the releasing facility.

(C) If the inmate fails to report as instructed, the supervising officer will immediately investigate the circumstances and report the incident to the releasing authority or designee in accordance with the Department of Corrections policy on Unusual Incident Reporting Process.

(D) If the inmate fails to report or return to the releasing facility as instructed, a warrant will be issued in accordance with the Department of Corrections policy on Escape Notification.

Stat. Auth.: ORS 179.040, ORS 421.166, ORS 421.168, ORS 423.020, ORS 423.030 & ORS 423.075

Stats Implemented: ORS 179.040, ORS 421.166, ORS 421.168, ORS 423.020, ORS 423.030 & ORS 423.075

Hist.: CD 1-1990, f. & cert. ef. 1-29-90; CD 21-1990(Temp), f. & cert. ef. 11-1-90; CD 11-1991, f. & cert. ef. 4-24-91; DOC 8-2003(Temp), f. & cert. ef. 4-17-03 thru 10-13-03, Renumbered from 291-063-0025

## 291-063-0060

### Warrants

Issuing Warrants:

(1) Supervising officers will notify the releasing authority or designee regarding an inmate's unauthorized departure whenever an inmate makes him/herself unavailable for supervision.

(2) The releasing authority or designee will ensure a warrant is issued in accordance with the Department of Corrections policy on Escape Notification, if the circumstances and facts so justify.

Stat. Auth.: ORS 179.040, ORS 421.166, ORS 421.168, ORS 423.020, ORS 423.030 & ORS 423.075

Stats. Implemented: ORS 179.040, ORS 421.166, ORS 421.168, ORS 423.020, ORS 423.030 & ORS 423.075

Hist.: DOC 8-2003(Temp), f. & cert. ef. 4-17-03 thru 10-13-03

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## Department of Environmental Quality Chapter 340

**Adm. Order No.:** DEQ 7-2003

**Filed with Sec. of State:** 4-21-2003

**Certified to be Effective:** 4-21-03

**Notice Publication Date:** 5-1-02

**Rules Amended:** 340-012-0081

**Subject:** Updates the Enforcement Procedure and Civil Penalty rule to include violations of new rules covering Emergency response Requirements.

**Rules Coordinator:** Rachel Sakata—(503) 229-5659

## 340-012-0081

### Oil and Hazardous Material Spill and Release Classification of Violations

Violations pertaining to spills or releases of oil or hazardous materials will be classified as follows:

(1) Class One:

(a) Violation of a requirement or condition of a Commission or Department Order;

(b) Failure to provide access to premises or records when required by law, rule, permit or order;

(c) Failure by any person having ownership or control over oil or hazardous materials to immediately clean up spills or releases or threatened spills or releases;

(d) Failure to immediately notify the Oregon Emergency Response System (OERS) of the type, quantity and location of a spill of oil or hazardous material, and corrective and cleanup actions taken and proposed to be taken if the amount of oil or hazardous material released exceeds the reportable quantity, or will exceed the reportable quantity within 24 hours;

(e) Failure to immediately stop any spill that has entered or may enter waters of the state;

(f) Any spill or release of oil or hazardous materials which enters waters of the state;

(g) Failure to identify the existence, source, nature and extent of a hazardous materials spill or release, or threatened spill or release;

(h) Failure to activate alarms, warn people in the immediate area, contain the oil or hazardous material or notify appropriate local emergency personnel;

(i) Failure to immediately implement a required plan;

(j) Failure to immediately correct the cause of the spill or release;

(k) Use of chemicals to disperse, coagulate or otherwise treat a spill or release of oil or hazardous material spills without prior Department approval;

(l) Failure to obtain Department approval before conducting any major aspect of the spill response contrary to a Department approved plan for the site or spiller;

(m) Intentional dilution of wastes during a spill response;

(n) Knowingly submitting false information to the Department;

(o) Failure to take immediate preventative, repair, corrective or containment action in the event of a threatened spill or release;

(p) Improper characterization of drug lab waste during disposal or recycling; or

(q) Disposal of spilled oils and oil contaminated materials resulting from control, treatment and cleanup in a manner not approved by the Department.

(2) Class Two:

(a) Failure to submit a complete and detailed written report to the Department of a spill of oil or hazardous material for which the person is responsible describing all aspects of the spill and steps taken to prevent a recurrence if required by the Department to make a report;

(b) Failure to use the required sampling procedures and analytical testing protocols for oil and hazardous materials spills or releases;

(c) Failure of a responsible party to coordinate with the Department during the emergency response to a spill after being notified of the Department's jurisdiction;

(d) Failure to immediately report spills or releases within containment areas when reportable quantities are exceeded and exemptions are not met under OAR 340-142-0040; or

(e) Any violation related to the spill or release of oil or hazardous materials which is not otherwise classified in these rules is a Class Two violation.

(3) Class Three:

(a) Failure to provide maintenance and inspections records of the storage and transfer facilities to the Department upon request; or

(b) Failure of vessel owners or operators to make maintenance and inspection records, and oil transfer procedures available to the Department upon request.

Stat. Auth.: ORS 466.625 & ORS 468.020

Stats. Implemented: ORS 466.635 - ORS 466.680, ORS 466.992, & ORS 468.090 - ORS 468.140

Hist.: DEQ 1-2003, f. & cert. ef. 1-31-03; DEQ 7-2003, f. & cert. ef. 4-21-03

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## Department of Fish and Wildlife Chapter 635

**Adm. Order No.:** DFW 31-2003

**Filed with Sec. of State:** 4-17-2003

**Certified to be Effective:** 4-17-03

**Notice Publication Date:** 3-1-03

**Rules Adopted:** 635-043-0056

**Subject:** These rules authorize the Oregon Department of Fish and Wildlife to trap and relocate nuisance wild turkeys found within the Roseburg City Limits.

**Rules Coordinator:** Mike Lueck—(503) 872-5272, ext. 5447

## 635-043-0056

### Trapping of Wildlife

For the purpose of alleviating a public nuisance or preventing property damage, the Department may trap and relocate wild turkeys found within the Roseburg city limits.

Stat. Auth.: ORS 498.158

Stats. Implemented: ORS 498.158

Hist.: DFW 1-2003(Temp), f. & cert. ef. 1-14-03 thru 7-9-03; DFW 30-2003(Temp), f. & cert. ef. 4-15-03 thru 10-6-03; DFW 31-2003, f. & cert. ef. 4-17-03

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**Adm. Order No.:** DFW 32-2003(Temp)

**Filed with Sec. of State:** 4-23-2003

**Certified to be Effective:** 4-23-03 thru 8-1-03

**Notice Publication Date:**

**Rules Amended:** 635-042-0145

**Subject:** Delay the start of the Youngs Bay spring chinook commercial fishery until 7 p.m. April 24, 2003.

**Rules Coordinator:** Mike Lueck—(503) 872-5272, ext. 5447

## 635-042-0145

### Youngs Bay Salmon Season

(1) Salmon, sturgeon, and shad may be taken for commercial purposes in those waters of Youngs Bay from the new Highway 101 Bridge

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upstream to the upper boundary markers at the confluence of the Klaskanine and Youngs rivers; except for those waters which are closed southerly of the alternate Highway 101 Bridge (Lewis and Clark River).

(a) The open fishing periods are established in three segments categorized as the winter fishery, paragraph (A), the spring fishery, paragraph (B), and summer fishery, paragraph (C), as follows:

(A) 5 a.m. to 9 p.m. February 18, 2003, 12 noon February 22, 2003 to 6 p.m. February 23, 2003, and 5 a.m. to 9 p.m. February 25, 2003;

(B) 12 noon April 16, 2003 to 6 p.m. April 18, 2003, 7 p.m. April 24, 2003 to 6 p.m. April 25, 2003, 12 noon April 29, 2003 to 6 p.m. May 2, 2003, 12 noon May 5, 2003 to 6 p.m. May 9, 2003, 12 noon May 12, 2003 to 6 p.m. May 16, 2003, 12 noon May 19, 2003 to 6 p.m. May 23, 2003, 12 noon May 26, 2003 to 6 p.m. May 30, 2003, 12 noon June 2, 2003 to 6 p.m. June 6, 2003, 12 noon June 9, 2003 to 6 p.m. June 12, 2003.

(C) 12 noon June 18, 2003 to 6 p.m. June 20, 2003, 12 noon June 25, 2003 to 6 p.m. June 27, 2003, 12 noon July 2, 2003 to 6 p.m. July 3, 2003, 12 noon July 9, 2003 to 6 p.m. July 10, 2003, 12 noon July 16, 2003 to 6 p.m. July 17, 2003, 12 noon July 23, 2003 to 6 p.m. July 24, 2003, and 12 noon July 30 2003 to 6 p.m. July 31, 2003.

(b) Gill nets may not exceed 1,500 feet (250 fathoms) in length and weight may not exceed two pounds per any fathom. Monofilament gillnets are allowed. It is *unlawful* to use a gill net having a mesh size that is less than 7-1/4 inches during February 18 to March 9, 2003, and it is *unlawful* to use a gill net having a mesh size that is more than eight inches April 16 to June 12, 2003, and June 18 to July 31, 2003;

(c) A maximum of three white sturgeon may be possessed or sold by each participating vessel during each open period between February 18, 2003 and March 9, 2003.

(2) Salmon and sturgeon may be taken for commercial purposes in those waters of Youngs Bay from the new Highway 101 Bridge upstream to the upper boundary markers at Battle Creek Slough, except those waters which are closed southerly of the alternate Highway 101 Bridge (Lewis and Clark River), with the following restrictions:

(a) The open fishing periods are 12 noon August 1, 2000 to 6 p.m. August 2, 2000, 12 noon August 8, 2000 to 6 p.m. August 9, 2000, 12 noon August 15, 2000 to 6 p.m. August 16, 2000, 12 noon August 22, 2000 to 6 p.m. August 23, 2000, 12 noon August 29, 2000 to 6 p.m. August 30, 2000, 12 noon September 5, 2000 to 6 p.m. October 31, 2000.

(b) Gill nets may not exceed 250 fathoms in length and weight on the leadline may not exceed two pounds per any one fathom. Monofilament gill nets are allowed. It is *unlawful* to use a gill net having a mesh size that is more than eight inches.

Stat. Auth.: ORS 496.138, ORS 496.146 & ORS 506.119  
Stats. Implemented: ORS 496.162, ORS 506.129 & ORS 507.030  
Hist.: FWC 32-1979, f. & ef. 8-22-79; FWC 28-1980, f. & ef. 6-23-80; FWC 42-1980(Temp), f. & ef. 8-22-80; FWC 30-1981, f. & ef. 8-14-81; FWC 42-1981(Temp), f. & ef. 11-5-81; FWC 54-1982, f. & ef. 8-17-82; FWC 37-1983, f. & ef. 8-18-83; FWC 61-1983(Temp), f. & ef. 10-19-83; FWC 42-1984, f. & ef. 8-20-84; FWC 39-1985, f. & ef. 8-15-85; FWC 37-1986, f. & ef. 8-11-86; FWC 72-1986(Temp), f. & ef. 10-31-86; FWC 64-1987, f. & ef. 8-7-87; FWC 73-1988, f. & cert. ef. 8-19-88; FWC 55-1989(Temp), f. 8-7-89, cert. ef. 8-20-89; FWC 82-1990(Temp), f. 8-14-90, cert. ef. 8-19-90; FWC 86-1991, f. 8-7-91, cert. ef. 8-18-91; FWC 123-1991(Temp), f. & cert. ef. 10-21-91; FWC 30-1992(Temp), f. & cert. ef. 4-27-92; FWC 35-1992(Temp), f. 5-22-92, cert. ef. 5-25-92; FWC 74-1992 (Temp), f. 8-10-92, cert. ef. 8-16-92; FWC 28-1993(Temp), f. & cert. ef. 4-26-93; FWC 48-1993, f. 8-6-93, cert. ef. 8-9-93; FWC 21-1994(Temp), f. 4-22-94, cert. ef. 4-25-94; FWC 51-1994, f. 8-19-94, cert. ef. 8-22-94; FWC 64-1994(Temp), f. 9-14-94, cert. ef. 9-15-94; FWC 66-1994(Temp), f. & cert. ef. 9-20-94; FWC 27-1995, f. 3-29-95, cert. ef. 4-1-95; FWC 48-1995(Temp), f. & cert. ef. 6-5-95; FWC 66-1995, f. 8-22-95, cert. ef. 8-27-95; FWC 69-1995, f. 8-25-95, cert. ef. 8-27-95; FWC 8-1995, f. 2-28-96, cert. ef. 3-1-96; FWC 37-1996(Temp), f. 6-11-96, cert. ef. 6-12-96; FWC 41-1996, f. & cert. ef. 8-12-96; FWC 45-1996(Temp), f. 8-16-96, cert. ef. 8-19-96; FWC 54-1996(Temp), f. & cert. ef. 9-23-96; FWC 4-1997, f. & cert. ef. 1-30-97; FWC 47-1997, f. & cert. ef. 8-15-97; DFW 8-1998(Temp), f. & cert. ef. 2-5-98 thru 2-28-98; DFW 14-1998, f. & cert. ef. 3-3-98; DFW 18-1998(Temp), f. 3-9-98, cert. ef. 3-11-98 thru 3-31-98; DFW 60-1998(Temp), f. & cert. ef. 8-7-98 thru 8-21-98; DFW 67-1998, f. & cert. ef. 8-24-98; DFW 10-1999, f. & cert. ef. 2-26-99; DFW 52-1999(Temp), f. & cert. ef. 8-2-99 thru 8-6-99; DFW 55-1999, f. & cert. ef. 8-12-99; DFW 9-2000, f. & cert. ef. 2-25-00; DFW 42-2000, f. & cert. ef. 8-3-00; DFW 3-2001, f. & cert. ef. 2-6-01; DFW 66-2001(Temp), f. 8-2-01, cert. ef. 8-6-01 thru 8-14-01; DFW 76-2001(Temp), f. & cert. ef. 8-20-01 thru 10-31-01; DFW 106-2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; DFW 15-2002(Temp), f. & cert. ef. 2-20-02 thru 8-18-02; DFW 82-2002(Temp), f. 8-5-02, cert. ef. 8-7-02 thru 9-1-02; DFW 96-2002(Temp), f. & cert. ef. 8-26-02 thru 12-31-02; DFW 12-2003, f. & cert. ef. 2-14-03; DFW 17-2003(Temp), f. 2-27-03, cert. ef. 3-1-03 thru 8-1-03; DFW 32-2003(Temp), f. & cert. ef. 4-23-03 thru 8-1-03

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**Adm. Order No.:** DFW 33-2003(Temp)  
**Filed with Sec. of State:** 4-23-2003  
**Certified to be Effective:** 4-24-03 thru 10-1-03  
**Notice Publication Date:**  
**Rules Amended:** 635-041-0040, 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

## 635-041-0040

### Ceremonial Fishing and Notice Requirement

(1) It is *unlawful* for any Indian or group of Indians to conduct ceremonial fishing on the Columbia River or in Oregon Columbia River tributaries outside an Indian reservation without first providing at least two working days advanced written notification to the Director of the Department or his designee.

(2) All notices must contain the following information:

(a) Name, place, and time of ceremony for which fish will be used;

(b) Name of individuals and helpers who will be fishing and transporting fish. Only these individuals will be allowed to fish on the occasion covered by the notice;

(c) Exact location(s) of fishing and the amount of gear to be used at each location;

(d) Exact beginning and ending dates of ceremonial fishing;

(e) The type of gear to be used in ceremonial fishing;

(f) Estimated number of fish needed for ceremony;

(g) If fish are to be stored prior to a ceremony, the location of storage must be identified. If they are not to be stored, it must be so indicated;

(h) The signature of the designated tribal official certified to the Department in advance.

(3) It is *unlawful* to:

(a) Fish for ceremonial purposes with commercial fishing gear except in those areas where such fishing gear is authorized for commercial fishing;

(b) Sell or barter, offer for sale or barter, buy, or for a commercially licensed fish buyer or wholesale fish dealer to have in his possession fish taken for ceremonial purposes;

(c) Engage in ceremonial fishing unless done in compliance with all provisions contained in the advance notice to the states.

(4) Any individual engaged in ceremonial fishing must have in his possession a signed copy or duplicate copy of the written tribal notification to the Director of the Department that such fishing was to be conducted.

(5) Set nets and other commercial fishing gear shall be marked and identified at all times while fishing for ceremonial or other fishing purposes.

(6) A record of the numbers of fish taken for ceremonial purposes will be made available to the Department by the designated tribal official who authorized ceremonial fishing. The report must be sent promptly upon conclusion of each ceremonial fishing activity.

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 635-035-0040; FWC 6-1980, f. & ef. 1-28-80; FWC 1-1981, f. & ef. 1-19-81; FWC 6-1982, f. & ef. 1-28-82; FWC 4-1984, f. & ef. 1-31-84; FWC 4-1986(Temp), f. & ef. 1-28-86; FWC 79-1986(Temp), f. & ef. 12-22-86; FWC 2-1987, f. & ef. 1-23-87; FWC 10-1988, f. & cert. ef. 3-4-88; DFW 33-2003(Temp), f. 4-23-03, cert. ef. 4-24-03 thru 10-1-03

## 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.

(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

# ADMINISTRATIVE RULES

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

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**Adm. Order No.:** DFW 34-2003(Temp)

**Filed with Sec. of State:** 4-24-2003

**Certified to be Effective:** 4-24-03 thru 10-1-03

**Notice Publication Date:**

**Rules Amended:** 635-042-0145, 635-042-0160, 635-042-0170, 635-042-0180

**Subject:** Amend rules to modify ongoing spring chinook Select Area commercial fisheries.

**Rules Coordinator:** Mike Lueck—(503) 872-5272, ext. 5447

## 635-042-0145

### Youngs Bay Salmon Season

(1) Salmon, sturgeon, and shad may be taken for commercial purposes in those waters of Youngs Bay from the new Highway 101 Bridge upstream to the upper boundary markers at the confluence of the Klaskanine and Youngs rivers; except for those waters which are closed southerly of the alternate Highway 101 Bridge (Lewis and Clark River).

(a) The open fishing periods are established in three segments categorized as the winter fishery, paragraph (A), the spring fishery, paragraph (B), and summer fishery, paragraph (C), as follows:

(A) 5 a.m. to 9 p.m. February 18, 2003, 12 noon February 22, 2003 to 6 p.m. February 23, 2003, and 5 a.m. to 9 p.m. February 25, 2003;

(B) 12 noon April 16, 2003 to 6 p.m. April 18, 2003, 7 p.m. May 1, 2003 to 6 p.m. May 2, 2003, 12 noon May 5, 2003 to 6 p.m. May 9, 2003, 12 noon May 12, 2003 to 6 p.m. May 16, 2003, 12 noon May 19, 2003 to 6 p.m. May 23, 2003, 12 noon May 26, 2003 to 6 p.m. May 30, 2003, 12 noon June 2, 2003 to 6 p.m. June 6, 2003, 12 noon June 9, 2003 to 6 p.m. June 12, 2003.

(C) 12 noon June 18, 2003 to 6 p.m. June 20, 2003, 12 noon June 25, 2003 to 6 p.m. June 27, 2003, 12 noon July 2, 2003 to 6 p.m. July 3, 2003, 12 noon July 9, 2003 to 6 p.m. July 10, 2003, 12 noon July 16, 2003 to 6 p.m. July 17, 2003, 12 noon July 23, 2003 to 6 p.m. July 24, 2003, and 12 noon July 30 2003 to 6 p.m. July 31, 2003.

(b) Gill nets may not exceed 1,500 feet (250 fathoms) in length and weight may not exceed two pounds per any fathom. Monofilament gillnets are allowed. It is *unlawful* to use a gill net having a mesh size that is less than 7-1/4 inches during February 18 to March 9, 2003, and it is *unlawful* to use a gill net having a mesh size that is more than eight inches April 16 to June 12, 2003, and June 18 to July 31, 2003;

(c) A maximum of three white sturgeon may be possessed or sold by each participating vessel during each open period between February 18, 2003 and March 9, 2003.

(2) Salmon and sturgeon may be taken for commercial purposes in those waters of Youngs Bay from the new Highway 101 Bridge upstream to the upper boundary markers at Battle Creek Slough, except those waters which are closed southerly of the alternate Highway 101 Bridge (Lewis and Clark River), with the following restrictions:

(a) The open fishing periods are 12 noon August 1, 2000 to 6 p.m. August 2, 2000, 12 noon August 8, 2000 to 6 p.m. August 9, 2000, 12 noon August 15, 2000 to 6 p.m. August 16, 2000, 12 noon August 22, 2000 to 6 p.m. August 23, 2000, 12 noon August 29, 2000 to 6 p.m. August 30, 2000, 12 noon September 5, 2000 to 6 p.m. October 31, 2000.

(b) Gill nets may not exceed 250 fathoms in length and weight on the leadline may not exceed two pounds per any one fathom. Monofilament gill nets are allowed. It is *unlawful* to use a gill net having a mesh size that is more than eight inches.

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

Stats. Implemented: ORS 496.162, ORS 506.129 & ORS 507.030

Hist.: FWC 32-1979, f. & ef. 8-22-79; FWC 28-1980, f. & ef. 6-23-80; FWC 42-1980(Temp), f. & ef. 8-22-80; FWC 30-1981, f. & ef. 8-14-81; FWC 42-1981(Temp), f. & ef. 11-5-81; FWC 54-1982, f. & ef. 8-17-82; FWC 37-1983, f. & ef. 8-18-83; FWC 61-1983(Temp), f. & ef. 10-19-83; FWC 42-1984, f. & ef. 8-20-84; FWC 39-1985, f. & ef. 8-15-85; FWC 37-1986, f. & ef. 8-11-86; FWC 72-1986(Temp), f. & ef. 10-31-86; FWC 64-1987, f. & ef. 8-7-87; FWC 73-1988, f. & cert. ef. 8-19-88; FWC 55-1989(Temp), f. 8-7-89, cert. ef. 8-20-89; FWC 82-1990(Temp), f. 8-14-90, cert. ef. 8-19-90; FWC 86-1991, f. 8-7-91, cert. ef. 8-18-91; FWC 123-1991(Temp), f. & cert. ef. 10-21-91; FWC 30-1992(Temp), f. & cert. ef. 4-27-92; FWC 35-1992(Temp), f. 5-22-92, cert. ef. 5-25-92; FWC 74-1992(Temp), f. 8-10-92, cert. ef. 8-16-92; FWC 28-1993(Temp), f. & cert. ef. 4-26-93; FWC 48-1993, f. 8-6-93, cert. ef. 8-9-93; FWC 21-1994(Temp), f. 4-22-94, cert. ef. 4-25-94; FWC 51-1994, f. 8-19-94,

cert. ef. 8-22-94; FWC 64-1994(Temp), f. 9-14-94, cert. ef. 9-15-94; FWC 66-1994(Temp), f. & cert. ef. 9-20-94; FWC 27-1995, f. 3-29-95, cert. ef. 4-1-95; FWC 48-1995(Temp), f. & cert. ef. 6-5-95; FWC 66-1995, f. 8-22-95, cert. ef. 8-27-95; FWC 69-1995, f. 8-25-95, cert. ef. 8-27-95; FWC 8-1995, f. 2-28-96, cert. ef. 3-1-96; FWC 37-1996(Temp), f. 6-11-96, cert. ef. 6-12-96; FWC 41-1996, f. & cert. ef. 8-12-96; FWC 45-1996(Temp), f. 8-16-96, cert. ef. 8-19-96; FWC 54-1996(Temp), f. & cert. ef. 9-23-96; FWC 4-1997, f. & cert. ef. 1-30-97; FWC 47-1997, f. & cert. ef. 8-15-97; DFW 8-1998(Temp), f. & cert. ef. 2-5-98 thru 2-28-98; DFW 14-1998, f. & cert. ef. 3-3-98; DFW 18-1998(Temp), f. 3-9-98, cert. ef. 3-11-98 thru 3-31-98; DFW 60-1998(Temp), f. & cert. ef. 8-7-98 thru 8-21-98; DFW 67-1998, f. & cert. ef. 8-24-98; DFW 10-1999, f. & cert. ef. 2-26-99; DFW 52-1999(Temp), f. & cert. ef. 8-2-99 thru 8-6-99; DFW 55-1999, f. & cert. ef. 8-12-99; DFW 9-2000, f. & cert. ef. 2-25-00; DFW 42-2000, f. & cert. ef. 8-3-00; DFW 3-2001, f. & cert. ef. 2-6-01; DFW 66-2001(Temp), f. 8-2-01, cert. ef. 8-6-01 thru 8-14-01; DFW 76-2001(Temp), f. & cert. ef. 8-20-01 thru 10-31-01; DFW 106-2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; DFW 15-2002(Temp), f. & cert. ef. 2-20-02 thru 8-18-02; DFW 82-2002(Temp), f. 8-5-02, cert. ef. 8-7-02 thru 9-1-02; DFW 96-2002(Temp), f. & cert. ef. 8-26-02 thru 12-31-02; DFW 12-2003, f. & cert. ef. 2-14-03; DFW 17-2003(Temp), f. 2-27-03, cert. ef. 3-1-03 thru 8-1-03; DFW 32-2003(Temp), f. & cert. ef. 4-23-03 thru 8-1-03; DFW 34-2003(Temp), f. & cert. ef. 4-24-03 thru 10-1-03

## 635-042-0160

### Blind Slough and Knappa Slough Select Area Salmon Season

(1) Salmon, sturgeon, and shad may be taken for commercial purposes during open fishing periods described as the winter fishery and the early spring fishery in paragraphs (1)(a)(A) or (B) of this rule in those waters of Blind Slough. Blind Slough is those waters adjoining the Columbia River which extend from markers at the mouth of Blind Slough upstream to markers at the mouth of Gnat Creek which is located approximately 1/2 mile upstream of the county road bridge. In addition, Knappa Slough is open to fishing for salmon, sturgeon and shad during open fishing periods described as the spring fishery in paragraph (1)(a)(C) of this rule. Knappa Slough is all waters bounded by a line from the northerly most marker at the mouth of Blind Slough westerly to a marker on Karlson Island downstream to a north-south line defined by a marker on the eastern end of Minaker Island to markers on Karlson Island and the Oregon shore. The following restrictions apply:

(a) The open fishing periods are established in segments categorized as the winter fishery in Blind Slough only in paragraph (A), and the spring fishery in paragraph (B) as follows:

(A) 7 p.m. February 15, 2003 to 7 a.m. February 16, 2003, 7 p.m. February 22, 2003 to 7 a.m. February 23, 2003, 7 p.m. March 1, 2003 to 7 a.m. March 2, 2003;

(B) 7 p.m. April 17, 2003 to 7 a.m. April 18, 2003, 7 p.m. May 1, 2003 to 7 a.m. May 2, 2003, 7 p.m. May 6, 2003 to 7 a.m. May 7, 2003, 7 p.m. May 8, 2003 to 7 a.m. May 9, 2003, 7 p.m. May 13, 2003 to 7 a.m. May 14, 2003, 7 p.m. May 15, 2003 to 7 a.m. May 16, 2003, 7 p.m. May 20, 2003 to 7 a.m. May 21, 2003, 7 p.m. May 22, 2003 to 7 a.m. May 23, 2003, 7 p.m. May 27, 2003 to 7 a.m. May 28, 2003, 7 p.m. May 29, 2003 to 7 a.m. May 30, 2003, 7 p.m. June 3, 2003 to 7 a.m. June 4, 2003, 7 p.m. June 5, 2003 to 7 a.m. June 6, 2003, 7 p.m. June 10, 2003 to 7 a.m. June 11, 2003, and 7 p.m. June 12, 2003 to 7 a.m. June 13, 2003.

(b) A maximum of three white sturgeon may be possessed or sold by each participating vessel during each open period between February 15, 2003 and March 2, 2003;

(c) Gear restrictions are as follows:

(A) During the winter fishery (see paragraph (1)(a)(A) of this rule) gill nets may not exceed 100 fathoms in length with no weight limit on the lead line. It is *unlawful* to use a gill net having a mesh size that is less than 7-1/4 inches;

(B) During the spring (see paragraphs (1)(a)(B) of this rule) gill nets may not exceed 100 fathoms in length with no weight limit on the lead line. It is *unlawful* to use a gill net having a mesh size that is more than eight inches.

(2) Salmon and sturgeon may be taken for commercial purposes in those waters of Blind Slough and Knappa Slough. Blind Slough is those waters adjoining the Columbia River which extend from markers at the mouth of Blind Slough upstream to markers at the mouth of Gnat Creek which is located approximately 1/2 mile upstream of the county road bridge. Knappa Slough is all waters bounded by a line from the northerly most marker at the mouth of Blind Slough westerly to a marker on Karlson Island downstream to a boundary line defined by markers on the western end of Minaker Island to markers on Karlson Island and the Oregon shore, except a 100 foot radius defined by markers at the mouth of Big Creek remains closed. The following restrictions apply:

(a) Open fishing periods are:

(A) In the area described for Blind Slough only from 7 p.m. September 7, 2000 to 7 a.m. September 8, 2000, 7 p.m. September 8, 2000 to 7 a.m. September 9, 2000, 7 p.m. September 11 to 7 a.m. September 12, 7 p.m. September 12 to 7 a.m. September 13, 7 p.m. September 14 to 7 a.m. September 15, and 7 p.m. September 15 to 7 a.m. September 16;

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(B) In the area described for Blind Slough and Knappa Slough combined from 7 p.m. September 18, 2000 to 7 a.m. September 19, 2000, 7 p.m. September 19, 2000 to 7 a.m. September 20, 2000, 7 p.m. September 21, 2000 to 7 a.m. September 22, 2000, 7 p.m. September 22, 2000 to 7 a.m. September 23, 2000, 7 p.m. September 25, 2000 to 7 a.m. September 26, 2000, 7 p.m. September 26, 2000 to 7 a.m. September 27, 2000, 7 p.m. September 28, 2000 to 7 a.m. September 29, 2000, 7 p.m. September 29, 2000 to 7 a.m. September 30, 2000; and

(C) In the area described for Blind Slough and Knappa Slough combined from 6 p.m. October 2, 2000 to 8 a.m. October 3, 2000, 6 p.m. October 3, 2000 to 8 a.m. October 4, 2000, 6 p.m. October 5, 2000 to 8 a.m. October 6, 2000, 6 p.m. October 6, 2000 to 8 a.m. October 7, 2000, 6 p.m. October 9, 2000 to 8 a.m. October 10, 2000, 6 p.m. October 10, 2000 to 8 a.m. October 11, 2000, 6 p.m. October 12, 2000 to 8 a.m. October 13, 2000, 6 p.m. October 13, 2000 to 8 a.m. October 14, 2000, 6 p.m. October 16, 2000 to 8 a.m. October 17, 2000, 6 p.m. October 17, 2000 to 8 a.m. October 18, 2000, 6 p.m. October 19, 2000 to 8 a.m. October 20, 2000, 6 p.m. October 20, 2000 to 8 a.m. October 21, 2000, 6 p.m. October 23, 2000 to 8 a.m. October 24, 2000, 6 p.m. October 24, 2000 to 8 a.m. October 25, 2000, 6 p.m. October 26, 2000 to 8 a.m. October 27, 2000, 6 p.m. October 27, 2000 to 8 a.m. October 28, 2000, and 6 p.m. October 30, 2000 to 8 a.m. October 31, 2000.

(b) Gear restrictions described in subsection (1)(b) of this rule are in effect during these open fishing periods.

(3) Oregon licenses are required in the open waters upstream from the railroad bridge.

Stat. Auth.: ORS 496.138, ORS 496.146 & ORS 506.119  
Stats. Implemented: ORS 496.162, ORS 506.129 & ORS 507.030  
Hist.: FWC 46-1996, f. & cert. ef. 8-23-96; FWC 48-1997, f. & cert. ef. 8-25-97; DFW 15-1998, f. & cert. ef. 3-3-98; DFW 67-1998, f. & cert. ef. 8-24-98; DFW 86-1998(Temp), f. & cert. ef. 10-28-98 thru 10-30-98; DFW 10-1999, f. & cert. ef. 2-26-99; DFW 48-1999(Temp), f. & cert. ef. 6-24-99 thru 7-2-99; DFW 55-1999, f. & cert. ef. 8-12-99; DFW 9-2000, f. & cert. ef. 2-25-00; DFW 42-2000, f. & cert. ef. 8-3-00; DFW 65-2000(Temp) f. 9-22-00, cert. ef. 9-25-00 thru 12-31-00; DFW 3-2001, f. & cert. ef. 2-6-01; DFW 84-2001(Temp), f. & cert. ef. 8-29-01 thru 12-31-01; DFW 86-2001, f. & cert. ef. 9-4-01 thru 12-31-01; DFW 89-2001(Temp), f. & cert. ef. 9-14-01 thru 12-31-01; DFW 106-2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; DFW 14-2002(Temp), f. 2-13-02, cert. ef. 2-18-02 thru 8-17-02; DFW 96-2002(Temp), f. & cert. ef. 8-26-02 thru 12-31-02; DFW 12-2003, f. & cert. ef. 2-14-03; DFW 34-2003(Temp), f. & cert. ef. 4-24-03 thru 10-1-03

## 635-042-0170

### Tongue Point Basin and South Channel Select Area Salmon Season

(1) Salmon, sturgeon, and shad may be taken for commercial purposes in those waters of the Columbia River Tongue Point basin bounded by a line from the red light "2" at Tongue Point to the flashing green light "3" at the rock jetty on the northwesterly tip of Mott Island, a line from a marker at the south end of Mott Island easterly to a marker on the northwest bank on Lois Island, and a line from a marker on the southwest end of Lois Island due westerly to a marker on the opposite bank. In addition, South Channel is open to fishing in all waters bounded by a line from a marker on John Day Point through the green buoy "7" thence to a marker on the southwest end of Lois Island upstream to an upper boundary line from a marker on Settler Point northwesterly to flashing red marker "10" thence northwesterly to a marker on the sand bar defining the terminus of South Channel.

(a) Open fishing periods are 7 p.m. April 17, 2003 to 7 a.m. April 18, 2003, 7 p.m. May 1, 2003 to 7 a.m. May 2, 2003, 7 p.m. May 6, 2003 to 7 a.m. May 7, 2003, 7 p.m. May 8, 2003 to 7 a.m. May 9, 2003, 7 p.m. May 13, 2003 to 7 a.m. May 14, 2003, 7 p.m. May 15, 2003 to 7 a.m. May 16, 2003, 7 p.m. May 20, 2003 to 7 a.m. May 21, 2003, 7 p.m. May 22, 2003 to 7 a.m. May 23, 2003, 7 p.m. May 27, 2003 to 7 a.m. May 28, 2003, 7 p.m. May 29, 2003 to 7 a.m. May 30, 2003, 7 p.m. June 3, 2003 to 7 a.m. June 4, 2003, 7 p.m. June 5, 2003 to 7 a.m. June 6, 2003, 7 p.m. June 10, 2003 to 7 a.m. June 11, 2003, 7 p.m. June 12, 2003 to 7 a.m. June 13, 2003;

(b) Gear restrictions are as follows:

(A) In waters described in section (1) as Tongue Point basin, gill nets may not exceed 250 fathoms in length and weight limit on the lead line is not to exceed two pounds on any one fathom. It is *unlawful* to use a gill net having a mesh size that is more than eight inches. While fishing during the seasons described in this rule, gillnets with lead line in excess of two pounds per fathom may be stored on boats;

(B) In waters described in section (1) as South Channel, nets are restricted to 100 fathoms in length with no weight restrictions on the lead line. It is *unlawful* to use a gill net having a mesh size that is more than eight inches. While fishing during the seasons described in this rule, gillnets up to 250 fathoms in length may be stored on boats.

(2) Salmon and sturgeon only may be taken for commercial purposes in those waters of the Columbia River Tongue Point basin and South

Channel as described in section (1) of this rule. The following restrictions apply:

(a) Open fishing periods are:

(A) In the area described for Tongue Point basin only from 7 p.m. September 5, 2000 to 7 a.m. September 6, 2000, 7 p.m. September 6, 2000 to 7 a.m. September 7, 2000, 7 p.m. September 10, 2000 to 7 a.m. September 11, 2000, 7 p.m. September 11, 2000 to 7 a.m. September 12, 2000, 7 p.m. September 13, 2000 to 7 a.m. September 14, 2000, and 7 p.m. September 14, 2000 to 7 a.m. September 15, 2000;

(B) In the areas described for Tongue Point basin and South Channel combined from 7 p.m. September 17, 2000 to 7 a.m. September 18, 2000, 7 p.m. September 18, 2000 to 7 a.m. September 19, 2000, 7 p.m. September 20, 2000 to 7 a.m. September 21, 2000, 7 p.m. September 21, 2000 to 7 a.m. September 22, 2000, 7 p.m. September 24, 2000 to 7 a.m. September 25, 2000, 7 p.m. September 25, 2000 to 7 a.m. September 26, 2000, 7 p.m. September 27, 2000 to 7 a.m. September 28, 2000, and 7 p.m. September 28, 2000 to 7 a.m. September 29, 2000;

(C) In the area described for Tongue Point basin and South Channel combined from 6 p.m. October 1, 2000 to 8 a.m. October 2, 2000, 6 p.m. October 2, 2000 to 8 a.m. October 3, 2000, 6 p.m. October 4, 2000 to 8 a.m. October 5, 2000, 6 p.m. October 5, 2000 to 8 a.m. October 6, 2000, 6 p.m. October 8, 2000 to 8 a.m. October 9, 2000, 6 p.m. October 9, 2000 to 8 a.m. October 10, 2000, 6 p.m. October 11, 2000 to 8 a.m. October 12, 2000, 6 p.m. October 12, 2000 to 8 a.m. October 13, 2000, 6 p.m. October 15, 2000 to 8 a.m. October 16, 2000, 6 p.m. October 16, 2000 to 8 a.m. October 17, 2000, 6 p.m. October 18, 2000 to 8 a.m. October 19, 2000, 6 p.m. October 19, 2000 to 8 a.m. October 20, 2000, 6 p.m. October 22, 2000 to 8 a.m. October 23, 2000, 6 p.m. October 23, 2000 to 8 a.m. October 24, 2000, 6 p.m. October 25, 2000 to 8 a.m. October 26, 2000, 6 p.m. October 26, 2000 to 8 a.m. October 27, 2000, 6 p.m. October 27, 2000 to 8 a.m. October 29, 2000 to 8 a.m. October 30, 2000, 6 p.m. October 30, 2000 to 8 a.m. October 31, 2000.

(b) Gear restrictions described in subsection (1)(b) of this rule are in effect during these open fishing periods.

Stat. Auth.: ORS 496.138, ORS 496.146 & ORS 506.119  
Stats. Implemented: ORS 496.162, ORS 506.129 & ORS 507.030  
Hist.: FWC 46-1996, f. & cert. ef. 8-23-96; FWC 48-1997, f. & cert. ef. 8-25-97; FWC 61-1997(Temp), f. 9-23-97, cert. ef. 9-24-97; DFW 15-1998, f. & cert. ef. 3-3-98; DFW 41-1998(Temp), f. 5-28-98, cert. ef. 5-29-98; DFW 42-1998(Temp), f. 5-29-98, cert. ef. 5-31-98 thru 6-6-98; DFW 45-1998(Temp), f. 6-5-98, cert. ef. 6-6-98 thru 6-10-98; DFW 67-1998, f. & cert. ef. 8-24-98; DFW 86-1998, f. & cert. ef. 10-28-98 thru 10-30-98; DFW 10-1999, f. & cert. ef. 2-26-99; DFW 55-1999, f. & cert. ef. 8-12-99; DFW 9-2000, f. & cert. ef. 2-25-00; DFW 42-2000, f. & cert. ef. 8-3-00; DFW 3-2001, f. & cert. ef. 2-6-01; DFW 84-2001(Temp), f. & cert. ef. 8-29-01 thru 12-31-01; DFW 89-2001(Temp), f. & cert. ef. 9-14-01 thru 12-31-01; DFW 106-2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; DFW 15-2002(Temp), f. & cert. ef. 2-20-02 thru 8-18-02; DFW 96-2002(Temp), f. & cert. ef. 8-26-02 thru 12-31-02; DFW 12-2003, f. & cert. ef. 2-14-03; DFW 34-2003(Temp), f. & cert. ef. 4-24-03 thru 10-1-03

## 635-042-0180

### Deep River Select Area Salmon Season

Salmon, sturgeon, and shad may be taken for commercial purposes as follows:

(1) From the Highway 4 Bridge, downstream to markers at the mouth of Deep River (a line from navigation marker 16 southwest to a marker on the Washington shore).

(2) There are 25 open fishing periods from 7 p.m. April 17, 2003 to 7 a.m. April 18, 2003, 7 p.m. April 22, 2003 to 7 a.m. April 23, 2003, 7 p.m. April 23, 2003 to 7 a.m. April 24, 2003, 7 p.m. May 1, 2003 to 7 a.m. May 2, 2003, 7 p.m. May 6, 2003 to 7 a.m. May 7, 2003, 7 p.m. May 7, 2003 to 7 a.m. May 8, 2003, 7 p.m. May 8, 2003 to 7 a.m. May 9, 2003, 7 p.m. May 13, 2003 to 7 a.m. May 14, 2003, 7 p.m. May 14, 2003 to 7 p.m. May 15, 2003, 7 p.m. May 15, 2003 to 7 a.m. May 16, 2003, 7 p.m. May 20, 2003 to 7 a.m. May 21, 2003, 7 p.m. May 21, 2003 to 7 a.m. May 22, 2003, 7 p.m. May 22, 2003 to 7 a.m. May 23, 2003, 7 p.m. May 27, 2003 to 7 a.m. May 28, 2003, 7 p.m. May 28, 2003 to 7 a.m. May 29, 2003, 7 p.m. May 29, 2003 to 7 a.m. May 30, 2003, 7 p.m. June 3, 2003 to 7 a.m. June 4, 2003, 7 p.m. June 4, 2003 to 7 a.m. June 5, 2003, 7 p.m. June 5, 2003 to 7 a.m. June 6, 2003, 7 p.m. June 10, 2003 to 7 a.m. June 11, 2003, 7 p.m. June 11, 2003 to 7 a.m. June 12, 2003, and 7 p.m. June 12, 2003 to 7 a.m. June 13, 2003.

(3) Gill nets may not exceed 100 fathoms in length and there is no weight limit on the lead line. It is *unlawful* to use a gill net having a mesh size that is less than seven inches or more than 9-3/4 inches.

(4) Only salmon, sturgeon, and shad may be taken and sold commercially.

(5) It is *unlawful* to transport catch outside the fishing area (except to the Washington Department of Fish and Wildlife sampling station located just upstream of the Highway 4 Bridge deadline) without a transportation permit issued by Washington Department of Fish and Wildlife staff.

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Stat. Auth.: ORS 506.109 & ORS 506.119  
Stats. Implemented: ORS 506.129 & ORS 507.030  
Hist.: FWC 46-1996, f. & cert. ef. 8-23-96; FWC 48-1997, f. & cert. ef. 8-25-97; DFW 55-1999, f. & cert. ef. 8-12-99; DFW 42-2000, f. & cert. ef. 8-3-00; DFW 84-2001(Temp), f. & cert. ef. 8-29-01 thru 12-31-01; DFW 89-2001(Temp), f. & cert. ef. 9-14-01 thru 12-31-01; DFW 106-2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; DFW 96-2002(Temp), f. & cert. ef. 8-26-02 thru 12-31-02; DFW 19-2003(Temp), f. 3-12-03, cert. ef. 4-17-03 thru 6-13-03; DFW 34-2003(Temp), f. & cert. ef. 4-24-03 thru 10-1-03

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**Filed with Sec. of State:** 4-30-2003  
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**Rules Amended:** 635-003-0003, 635-003-0004, 635-003-0076, 635-003-0085, 635-013-0003, 635-013-0004, 635-013-0009, 635-023-0090, 635-039-0090

**Subject:** Amended rules relating to commercial and sport salmon fishing in the Pacific Ocean, sport salmon fishing in specific near-shore ocean waters, bays and coastal streams, and sport salmon fishing in the Columbia River and tributaries.

**Rules Coordinator:** Mike Lueck — (503) 872-5272, ext. 5447

## 635-003-0003

### Purpose and Scope

(1) The purpose of Division 003 is to provide for management of commercial salmon fisheries off the Oregon Coast over which the state has jurisdiction.

(2) Division 003 incorporates into Oregon Administrative Rules, by reference, the annual ocean troll salmon specifications and management measures for 2003, included in the **Pacific Fishery Management Council — Adopted 2003 Ocean Salmon Management Measures and Impacts, dated April 2003**, and in addition to the extent they are consistent with these rules, **Code of Federal Regulations (CFR), Title 50, Part 660, Subpart H (61FR34572, July 2, 1996, as amended** to incorporate the standards in the **Pacific Fishery Management Council referenced document**). Therefore, persons must consult the **Pacific Fishery Management Council referenced document** and **Federal Regulations** in addition to Division 003 to determine all applicable troll salmon fishing requirements. A copy of the **Pacific Fishery Management Council referenced document** and the **Federal Regulations** may be obtained by contacting Steve King or Sharon Bird at 503-872-5252.

(3) Where regulations refer to the fishery management area, that area is extended from shore to three nautical miles from shore coterminous with the Exclusive Economic Zone.

[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 25-1994, f. & cert. ef. 5-2-94; FWC 20-1996, f. & cert. ef. 4-29-96; DFW 34-1998, f. & cert. ef. 5-4-98; DFW 31-1999, f. & cert. ef. 5-3-99; DFW 38-2000, f. & cert. ef. 7-3-00; DFW 28-2001, f. & cert. ef. 5-1-01; DFW 37-2002, f. & cert. ef. 4-23-02; DFW 35-2003, f. 4-30-03, cert. ef. 5-1-03

## 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.

[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

## 635-003-0076

### US-Canada Border to Cape Falcon, May/June All-Except-Coho Season and July-September All Species Season

Vessels must land and deliver their fish within the area or in Garibaldi, Oregon and within 24 hours of any closure. Fishers south of Cape Falcon intending to fish within this area, and/or fishers fishing within this area intending to land salmon in Garibaldi, Oregon shall notify the Newport office of the Oregon Department of Fish and Wildlife before transiting the Cape Falcon line (45°46'00" N. latitude) at the following phone number: (541) 867-0300 extension 252. The notification shall include the name of the vessel and the port where delivery will be made.

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

Stats. Implemented: 506.129

Hist.: FWC 37-1990, f. & cert. ef. 5-1-90; FWC 42-1991, f. 4-29-91, cert. ef. 5-1-91; DFW 34-2001, f. & cert. ef. 5-10-01; DFW 35-2003, f. 4-30-03, cert. ef. 5-1-03

## 635-003-0085

### Extended Commercial Seasons

In addition to the open seasons prescribed in OAR 635-003-0003 there are open seasons for chinook salmon as follows:

(1) Chetco River Ocean Terminal Area — from October 13 through the earlier of a 1,000 chinook quota or November 3 in the area described in section (1)(a) of this rule:

(a) The open area is all Pacific Ocean waters inside an area south of the north shore of Twin Rocks (N. Lat. 42°05'36") to the Oregon/California border (N. Lat. 41°59'47") and seaward three nautical miles offshore;

(b) During the season described in this section (1) it is *unlawful* to take chinook salmon less than 26 inches in total length; it is *unlawful* to use



# ADMINISTRATIVE RULES

barbed hooks or to fish more than four spreads per line; it is *unlawful* to make more than one landing of chinook per day; and it is *unlawful* to have in possession or to land more than 25 chinook per day taken in this fishery. Landings are restricted to Brookings.

(2) Elk River Ocean Terminal Area — from November 1 through December 15 in the area described in section (2)(a) of this rule:

(a) The open area is all Pacific Ocean waters inside an area south of Cape Blanco (42°50'20" N. Lat.) and north of Humbug Mountain (42°40'30" N. Lat.) and seaward three nautical miles offshore;

(b) During the season described in this section (2), it is *unlawful* to take chinook salmon less than 26 inches in total length; it is *unlawful* to use barbed hooks or to fish more than four spreads per line; and landings are restricted to Port Orford.

(3) Tillamook Bay Ocean Terminal Area — from November 1 through November 15 in the area described in section (3)(a) of this rule:

(a) The open area is all Pacific Ocean waters inside an area between Pyramid Rock (44°29'45" N. Lat.) and Twin Rocks (45°35'49" N. Lat.) and seaward three nautical miles offshore;

(b) During the season described in this section (3), it is *unlawful* to take chinook salmon less than 26 inches in total length and it is *unlawful* to use barbed hooks or fish more than four spreads per line.

Stat. Auth.: ORS 496.138, ORS 496.146 & ORS 506.119  
Stats. Implemented: ORS 506.129

Hist.: FWC 48-1984(Temp), f. & ef. 8-31-84; 57-1984(Temp), f. & ef. 9-15-84; FWC 59-1986(Temp), f. & ef. 9-19-86; FWC 106-1992(Temp), f. 10-8-92, cert. ef. 10-24-92; FWC 111-1992(Temp), f. 10-26-92, cert. ef. 10-27-92; FWC 62-1993, f. & cert. ef. 10-1-93; FWC 56-1994, f. 8-30-94, cert. ef. 9-1-94; FWC 80-1994(Temp), f. 10-25-94, cert. ef. 10-26-94; FWC 82-1994(Temp), f. 10-28-94, cert. ef. 10-30-94; FWC 81-1995, f. 9-29-95, cert. ef. 10-1-95; FWC 85-1995(Temp), f. & cert. ef. 10-20-95; FWC 56-1996, f. 9-27-96, cert. ef. 10-1-96; FWC 30-1997, f. & cert. ef. 5-5-97; FWC 66-1997(Temp), f. 10-24-97, cert. ef. 10-26-97; FWC 67-1997(Temp), f. 10-28-97, cert. ef. 10-29-97; DFW 34-1998, f. & cert. ef. 5-4-98; DFW 31-1999, f. & cert. ef. 5-3-99; DFW 24-2000, f. 4-28-00, cert. ef. 5-1-00; DFW 28-2001, f. & cert. ef. 5-1-01; DFW 35-2003, f. 4-30-03, cert. ef. 5-1-03

## 635-013-0003

### Purpose and Scope

(1) The purpose of division 013 is to provide for management of sport salmon fisheries off the Oregon Coast over which the State has jurisdiction.

(2) This rule incorporates by reference, the annual ocean sport salmon specifications and management measures for 2003, included in the **Pacific Fishery Management Council — Adopted 2003 Ocean Salmon Management Measures and Impacts, dated April 2003**, and in addition to the extent they are consistent with these rules, **Code of Federal Regulations (CFR), Title 50, Part 660, Subparts A and H**.

(3) This rule also incorporates by reference the 2003 Oregon Sport Fishing Regulations, including any changes to those rules, as posted on the Department's web page, [www.dfw.state.or.us](http://www.dfw.state.or.us).

(4) A copy of the **Pacific Fishery Management Council referenced document** and the Federal Regulations may be obtained by contacting Steve King or Sharon Bird at 503-872-5252.

(5) Where regulations refer to the fishery management area, that area is extended from shore to three nautical miles from shore coterminous with the Exclusive Economic Zone.

[Publications: Publications referenced are available from the agency.]  
Stat. Auth.: ORS 496.138, ORS 496.146 & ORS 506.119  
Stats. Implemented: ORS 496.162 & ORS 506.129

Hist.: FWC 44-1984(Temp), f. & ef. 8-23-84; FWC 29-1989, f. 4-28-89, cert. ef. 5-1-89; FWC 52-1989(Temp), f. & cert. ef. 7-28-89; FWC 37-1990, f. & cert. ef. 5-1-90; FWC 31-1992, f. 4-29-92, cert. ef. 5-1-92; FWC 25-1994, f. & cert. ef. 5-2-94; FWC 34-1995, f. & cert. ef. 5-1-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-95; FWC 20-1996, f. & cert. ef. 4-29-96; FWC 72-1996, f. 12-21-96, cert. ef. 1-1-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 34-1998, f. & cert. ef. 5-4-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 31-1999, f. & cert. ef. 5-3-99; DFW 38-2000, f. & cert. ef. 7-3-00; DFW 1-2001, f. 1-25-01, cert. ef. 2-1-01; DFW 28-2001, f. & cert. ef. 5-1-01; DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 35-2003, f. 4-30-03, cert. ef. 5-1-03

## 635-013-0004

### Inclusions and Modifications

(1) OAR 635-013-0005 through 635-013-0009 modify or are in addition to provisions contained in **Code of Federal Regulations, Title 50, Part 660, Subparts A and H**, and the **2003 Oregon Sport Fishing Regulations** as posted on the Department's web page.

(2) The **Code of Federal Regulations (CFR), Title 50, Part 660, Subparts A and H**, and the **2003 Oregon Sport Fishing Regulations** contain requirements for sport salmon angling in the Pacific Ocean off the Oregon coast. However, additional regulations may be adopted from time to time, and, to the extent of any inconsistency, they supercede the published federal regulations and the **2003 Oregon Sport Fishing Regulations**. This means that persons must consult not only the federal regulations and the published sport fishing regulations but also the

Department's web page to determine all applicable sport fishing regulations.

(3) This rule contains requirements that modify sport salmon angling regulations off the Oregon coast. The following modifications are organized in sections that apply to the ocean sport 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, Subparts A and H)**.

(4) General Requirements, Definitions, Restrictions or Exceptions: No modifications to this category of regulations in the **Code of Federal Regulations, Title 50, Part 660, Subparts A and H**, and the **2003 Oregon Sport Fishing Regulations**.

(5) In the waters of the Pacific Ocean, each angler aboard a vessel may continue to use angling gear until the daily limit of fish for all legally licensed and juvenile anglers aboard has been achieved. However no individual angler may exceed any personal daily bag limit.

[Publications: Publications referenced are available from the agency.]  
Stat. Auth.: ORS 496.138, ORS 496.146, ORS 497.121 & ORS 506.119

Stats. Implemented: ORS 496.004, ORS 496.009, ORS 496.162 & ORS 506.129  
Hist.: FWC 29-1989, f. 4-28-89, cert. ef. 5-1-89; FWC 31-1992, f. 4-29-92, cert. ef. 5-1-92; FWC 25-1994, f. & cert. ef. 5-2-94; 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 20-1996, f. & cert. ef. 4-29-96; FWC 72-1996, f. 12-21-96, cert. ef. 1-1-97; FWC 19-1997(Temp), f. 3-17-97, cert. ef. 4-15-97; FWC 30-1997, f. & cert. ef. 5-5-97; FWC 43-1997(Temp), f. 8-8-97, cert. ef. 8-10-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 34-1998, f. & cert. ef. 5-4-98; DFW 59-1998(Temp), f. & cert. ef. 8-10-98 thru 8-21-98; DFW 66-1998(Temp), f. & cert. ef. 8-21-98 thru 9-24-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; 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 61-1999(Temp), f. 8-31-99, cert. ef. 9-3-99 thru 9-17-99; FWC 66-1999(Temp), f. & cert. ef. 9-17-99 thru 9-30-99; administrative correction 11-17-99; 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 47-2000(Temp), f. 8-10-00, cert. ef. 8-13-00 thru 9-30-00; 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 16-2001(Temp), f. 3-28-01, cert. ef. 4-1-01 thru 4-30-01; Administrative correction 6-20-01; DFW 59-2001(Temp), f. 7-18-01, cert. ef. 7-19-01 thru 10-31-01; DFW 20-2002(Temp), f. 3-19-02, cert. ef. 4-1-01 thru 4-30-02; DFW 75-2002(Temp), f. 7-19-02, cert. ef. 7-21-02 thru 12-31-02; DFW 80-2002(Temp), f. 7-31-02, cert. ef. 8-1-02 thru 12-31-02; DFW 85-2002(Temp), f. 8-8-02, cert. ef. 8-11-02 thru 12-31-02; DFW 99-2002(Temp), f. 8-30-02, cert. ef. 9-2-02 thru 12-31-02; DFW 100-2002(Temp), f. & cert. ef. 9-6-02 thru 12-31-02; 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 35-2003, f. 4-30-03, cert. ef. 5-1-03

## 635-013-0009

### Tillamook Terminal Area Ocean Fishery

(1) In addition to the open seasons prescribed in OAR 635-013-0004 there are open seasons for chinook salmon in the areas described in Sections (2) and (3) of this rule.

(2) The Pacific Ocean waters inside an area south of Twin Rocks (45°35'49" N. lat.) and north of Pyramid Rock (45°29'45" N. lat.) and seaward three nautical miles offshore are open for chinook salmon March 15-November 15.

(3) A triangular area offshore is open to salmon angling for fin-clipped chinook salmon from March 15 through July 31 and open to angling for all chinook from August 1 through November 15. This triangular area extends from the green buoy approximately one-half mile offshore from the mouth of Tillamook Bay to points approximately three-quarter mile north of the north jetty and approximately one and one-quarter miles south of the south jetty.

(4) During the open season for adipose fin-clipped coho salmon in the ocean, the Terminal Area and the Triangular Control Zone described in sections (2) and (3) of this rule are open to angling for salmon consistent with federal sport salmon management measures for the area Cape Falcon to Humbug Mountain.

(5) During the period August 1-December 31, in the area described in sections (2) and (3), no more than two adult and five jack salmon may be retained per day, no more than four adult chinook salmon may be retained in any seven consecutive days, and no more than 10 adult chinook salmon may be retained per season. Adult chinook salmon catch limits include, in aggregate, salmon taken in Tillamook, Nehalem, and Nestucca bays and tributaries (see OAR 635-014-0090). It is *unlawful* to angle for jack salmon after retaining an adult catch limit. For purposes of this rule, adult salmon are chinook having a length greater than 24 inches and jack salmon are chinook between 15 inches and 24 inches in length.

(6) No more than two single-point, single-shank barbless hooks are required in the ocean adipose fin-clipped coho salmon fishery and in the ocean outside the Terminal Area at all times.

Stat. Auth.: ORS 496.138, ORS 496.146 & ORS 506.119  
Stats. Implemented: ORS 496.162 & ORS 506.129

Hist.: FWC 45-1983(Temp), f. & ef. 9-16-84; FWC 57-1984(Temp), f. & ef. 9-15-84; FWC 64-1984(Temp), f. & ef. 9-21-84; FWC 59-1985(Temp), f. & ef. 9-13-85; FWC 59-1986(Temp), f. & ef. 9-19-86; FWC 76-1987, f. & ef. 9-15-87; FWC 84-1988, f. & cert. ef. 9-9-88; FWC 83-1989, f. 8-31-89, cert. ef. 9-16-89; FWC 86-1990, f. 8-24-90, cert. ef. 9-1-90; FWC 42-1991, f. 4-29-91, cert. ef. 5-1-91; FWC 34-1995, f. & cert. ef. 5-1-95; FWC 20-

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1996, f. & cert. ef. 4-29-96; FWC 19-1997(Temp), f. 3-17-97, cert. ef. 4-15-97; FWC 30-1997, f. & cert. ef. 5-5-97; DFW 34-1998, f. & cert. ef. 5-4-98; DFW 31-1999, f. & cert. ef. 5-3-99; DFW 24-2000, f. 4-28-00, cert. ef. 5-1-00; DFW 28-2001, f. & cert. ef. 5-1-01; DFW 37-2002, f. & cert. ef. 4-23-02; 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

## 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 open from January 1, 2003 through May 15, 2003, from the mouth at Buoy 10 upstream to the I-5 Bridge; from February 15, 2003 through May 15, 2003 from the I-5 Bridge upstream to Bonneville Dam and Tower Island power lines upstream to McNary Dam plus the Oregon bank between Bonneville Dam and the Tower Island power lines 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) In the Columbia River from a north-south line upstream to a line projected from Rocky Point on the Washington bank through red buoy 44 to the navigation light at Tongue Point on the Oregon bank;

(a) Beginning August 1, the bag limit is two salmon per day of which only one may be a chinook.

(b) Beginning August 16, the bag limit is three salmon per day of which only one may be a chinook.

(c) Each angler aboard a vessel may continue to use angling gear until the daily limit of fish for all legally licensed and juvenile anglers aboard has been achieved. However no individual angler may exceed any personal daily bag limit.

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

## 635-039-0090

### Inclusions and Modifications

(1) The **2003 Oregon Sport Fishing Regulations** as posted on [www.dfw.state.or.us](http://www.dfw.state.or.us) provide requirements for sport fisheries for marine fish, shellfish, and marine invertebrates in the Pacific Ocean, coastal bays, and beaches, commonly referred to as the Marine 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) In the waters of the Pacific Ocean, each angler aboard a vessel may continue to use angling gear until the daily limit of fish for all legally licensed and juvenile anglers aboard has been achieved. However no individual angler may exceed any personal daily bag limit.

Stat. Auth.: ORS 496.138, ORS 496.146, ORS 497.121 & ORS 506.129

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

Hist.: FWC 82-1993, f. 12-22-93, cert. ef. 1-1-94; FWC 22-1994, f. 4-29-94, cert. ef. 5-2-94; FWC 29-1994(Temp), f. 5-20-94, cert. ef. 5-21-94; FWC 31-1994, f. 5-26-94, cert. ef. 6-20-94; FWC 43-1994(Temp), f. & cert. ef. 7-19-94; FWC 83-1994(Temp), f. 10-28-94, cert. ef. 11-1-94; FWC 95-1994, f. 12-28-94, cert. ef. 1-1-95; FWC 22-1995, f. 3-7-95, cert. ef. 3-10-95; FWC 25-1995, f. 3-29-95, cert. ef. 4-1-95; FWC 26-1995, 3-29-95, cert. ef. 4-2-95; FWC 36-1995, f. 5-3-95, cert. ef. 5-5-95; FWC 43-1995(Temp), f. 5-26-95, cert. ef. 5-28-95; FWC 46-1995(Temp), f. & cert. ef. 6-2-95; FWC 58-1995(Temp), f. 7-3-95, cert. ef. 7-5-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 28-1996(Temp), f. 5-24-96, cert. ef. 5-26-96; FWC 30-1996(Temp), f. 5-31-96, cert. ef. 6-2-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 68-1999(Temp), f. & cert. ef. 9-17-99 thru 9-30-99; administrative correction 11-17-99; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 83-2000(Temp), f. 12-28-00, cert. ef. 1-1-01 thru 1-31-01; DFW 1-2001, f. 1-25-01, cert. ef. 2-1-01; DFW 118-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 35-2003, f. 4-30-03, cert. ef. 5-1-03

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**Adm. Order No.:** DFW 36-2003(Temp)

**Filed with Sec. of State:** 4-30-2003

**Certified to be Effective:** 5-1-03 thru 10-1-03

**Notice Publication Date:**

**Rules Amended:** 635-023-0090, 635-042-0145, 635-042-0160, 635-042-0170, 635-042-0180

**Subject:** Amended rules relating to the Columbia River sport salmon fishery and Select Area commercial fisheries.

**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 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 on 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.

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.

# ADMINISTRATIVE RULES

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. 6-27-00, 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. & 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(Temp), f. 4-30-03, cert. ef. 5-1-03 thru 10-1-03

## 635-042-0145

### Youngs Bay Salmon Season

(1) Salmon, sturgeon, and shad may be taken for commercial purposes in those waters of Youngs Bay from the new Highway 101 Bridge upstream to the upper boundary markers at the confluence of the Klaskanine and Youngs rivers; except for those waters which are closed southerly of the alternate Highway 101 Bridge (Lewis and Clark River).

(a) The open fishing periods are established in three segments categorized as the winter fishery, paragraph (A), the spring fishery, paragraph (B), and summer fishery, paragraph (C), as follows:

(A) 5 a.m. to 9 p.m. February 18, 2003, 12 noon February 22, 2003 to 6 p.m. February 23, 2003, and 5 a.m. to 9 p.m. February 25, 2003;

(B) 12 noon April 16, 2003 to 6 p.m. April 18, 2003, 12 noon to 8 p.m. May 8, 2003, 12 noon May 12, 2003 to 6 p.m. May 16, 2003, 12 noon May 19, 2003 to 6 p.m. May 23, 2003, 12 noon May 26, 2003 to 6 p.m. May 30, 2003, 12 noon June 2, 2003 to 6 p.m. June 6, 2003, 12 noon June 9, 2003 to 6 p.m. June 12, 2003.

(C) 12 noon June 18, 2003 to 6 p.m. June 20, 2003, 12 noon June 25, 2003 to 6 p.m. June 27, 2003, 12 noon July 2, 2003 to 6 p.m. July 3, 2003, 12 noon July 9, 2003 to 6 p.m. July 10, 2003, 12 noon July 16, 2003 to 6 p.m. July 17, 2003, 12 noon July 23, 2003 to 6 p.m. July 24, 2003, and 12 noon July 30 2003 to 6 p.m. July 31, 2003.

(b) Gill nets may not exceed 1,500 feet (250 fathoms) in length and weight may not exceed two pounds per any fathom. Monofilament gillnets are allowed. It is *unlawful* to use a gill net having a mesh size that is less than 7-1/4 inches during February 18 to March 9, 2003, and it is *unlawful* to use a gill net having a mesh size that is more than eight inches April 16 to June 12, 2003, and June 18 to July 31, 2003;

(c) A maximum of three white sturgeon may be possessed or sold by each participating vessel during each open period between February 18, 2003 and March 9, 2003.

(2) Salmon and sturgeon may be taken for commercial purposes in those waters of Youngs Bay from the new Highway 101 Bridge upstream to the upper boundary markers at Battle Creek Slough, except those waters which are closed southerly of the alternate Highway 101 Bridge (Lewis and Clark River), with the following restrictions:

(a) The open fishing periods are 12 noon August 1, 2000 to 6 p.m. August 2, 2000, 12 noon August 8, 2000 to 6 p.m. August 9, 2000, 12 noon August 15, 2000 to 6 p.m. August 16, 2000, 12 noon August 22, 2000 to 6 p.m. August 23, 2000, 12 noon August 29, 2000 to 6 p.m. August 30, 2000, 12 noon September 5, 2000 to 6 p.m. October 31, 2000.

(b) Gill nets may not exceed 250 fathoms in length and weight on the leadline may not exceed two pounds per any one fathom. Monofilament gill nets are allowed. It is *unlawful* to use a gill net having a mesh size that is more than eight inches.

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

Stats. Implemented: ORS 496.162, ORS 506.129 & ORS 507.030

Hist.: FWC 32-1979, f. & ef. 8-22-79; FWC 28-1980, f. & ef. 6-23-80; FWC 42-1980(Temp), f. & ef. 8-22-80; FWC 30-1981, f. & ef. 8-14-81; FWC 42-1981(Temp), f. & ef. 11-5-81; FWC 54-1982, f. & ef. 8-17-82; FWC 37-1983, f. & ef. 8-18-83; FWC 61-1983(Temp), f. & ef. 10-19-83; FWC 42-1984, f. & ef. 8-20-84; FWC 39-1985, f. & ef. 8-15-85; FWC 37-1986, f. & ef. 8-11-86; FWC 72-1986(Temp), f. & ef. 10-31-86; FWC 64-1987, f. & ef. 8-7-87; FWC 73-1988, f. & cert. ef. 8-19-88; FWC 55-1989(Temp), f. & cert. ef. 8-20-89; FWC 82-1990(Temp), f. 8-14-90, cert. ef. 8-19-90; FWC 86-1991, f. 8-7-91, cert. ef. 8-18-91; FWC 123-1991(Temp), f. & cert. ef. 10-21-91; FWC 30-1992(Temp), f. & cert. ef. 4-27-92; FWC 35-1992(Temp), f. 5-22-92, cert. ef. 5-25-92; FWC 74-1992 (Temp), f. 8-10-92, cert. ef. 8-16-92; FWC 28-1993(Temp), f. & cert. ef. 4-25-93; FWC 48-1993, f. 8-6-93, cert. ef. 8-9-93; FWC 21-1994(Temp), f. 4-22-94, cert. ef. 4-26-94; FWC 51-1994, f. 8-19-94, cert. ef. 8-22-94; FWC 64-1994(Temp), f. 9-14-94, cert. ef. 9-15-94; FWC 66-1994(Temp), f. & cert. ef. 9-20-94; FWC 27-1995, f. 3-29-95, cert. ef. 4-1-95; FWC 48-1995(Temp), f. & cert. ef. 6-5-95; FWC 66-1995, f. 8-22-95, cert. ef. 8-27-95; FWC 69-1995, f. 8-25-95, cert. ef. 8-27-95; FWC 8-1995, f. 2-28-96, cert. ef. 3-1-96; FWC 37-1996(Temp), f. 6-11-96, cert. ef. 6-12-96; FWC 41-1996, f. & cert. ef. 8-12-96; FWC 45-1996(Temp), f. 8-16-96, cert. ef. 8-19-96; FWC 54-1996(Temp), f. & cert. ef. 9-23-96; FWC 4-1997, f. & cert. ef. 1-30-97; FWC 47-1997, f. & cert. ef. 8-15-97; DFW 8-1998(Temp), f. & cert. ef. 2-5-98 thru 2-28-98; DFW 14-1998, f. & cert. ef. 3-3-98; DFW 18-1998(Temp), f. 3-9-98, cert. ef. 3-11-98 thru 3-31-98; DFW 60-1998(Temp), f. & cert. ef. 8-7-98 thru 8-21-98; DFW 67-1998, f. & cert. ef. 8-24-98; DFW 10-1999, f. & cert. ef. 2-26-99; DFW 52-1999(Temp), f. & cert. ef. 8-2-99 thru 8-6-99; DFW 55-1999, f. & cert. ef. 8-12-99; DFW 9-2000, f. & cert. ef. 2-25-00; DFW 42-2000, f. & cert. ef. 8-3-00; DFW 3-2001, f. & cert. ef. 2-6-01; DFW 66-2001(Temp), f. 8-2-01, cert. ef. 8-6-01 thru 8-14-01; DFW 76-2001(Temp), f. & cert. ef. 8-20-01 thru 10-31-01; DFW 106-2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; DFW 15-2002(Temp), f. & cert. ef. 2-20-02 thru 8-18-02; DFW 82-2002(Temp), f. 8-5-02, cert. ef. 8-7-02 thru 9-1-02; DFW 96-2002(Temp), f. & cert. ef. 8-26-02 thru 12-31-02; DFW 12-2003, f. & cert. ef. 2-14-03; DFW 17-2003(Temp), f. 2-27-03, cert. ef. 3-1-03 thru 8-1-03; DFW 32-2003(Temp), f. & cert. ef. 4-23-03 thru 8-1-03; DFW 34-2003(Temp), f. & cert. ef. 4-24-03 thru 10-1-03; DFW 36-2003(Temp), f. 4-30-03, cert. ef. 5-1-03 thru 10-1-03

## 635-042-0160

### Blind Slough and Knappa Slough Select Area Salmon Season

(1) Salmon, sturgeon, and shad may be taken for commercial purposes during open fishing periods described as the winter fishery and the spring fishery in paragraphs (1)(a)(A) or (B) of this rule in those waters of Blind Slough. Blind Slough is those waters adjoining the Columbia River which extend from markers at the mouth of Blind Slough upstream to markers at the mouth of Gnat Creek which is located approximately 1/2 mile upstream of the county road bridge. In addition, Knappa Slough is open to fishing for salmon, sturgeon and shad during open fishing periods described as the spring fishery in paragraph (1)(a)(C) of this rule. Knappa Slough is all waters bounded by a line from the northerly most marker at the mouth of Blind Slough westerly to a marker on Karlson Island downstream to a north-south line defined by a marker on the eastern end of Minaker Island to markers on Karlson Island and the Oregon shore. The following restrictions apply:

(a) The open fishing periods are established in segments categorized as the winter fishery in Blind Slough only in paragraph (A), and the spring fishery in Blind Slough/Knappa Slough, except during May 1, 2003 through May 9, 2003 in Blind Slough only, in paragraph (B) as follows:

(A) 7 p.m. February 15, 2003 to 7 a.m. February 16, 2003, 7 p.m. February 22, 2003 to 7 a.m. February 23, 2003, 7 p.m. March 1, 2003 to 7 a.m. March 2, 2003;

(B) 7 p.m. April 17, 2003 to 7 a.m. April 18, 2003, 7 p.m. May 1, 2003 to 7 a.m. May 2, 2003, 7 p.m. May 8, 2003 to 7 a.m. May 9, 2003, 7 p.m. May 13, 2003 to 7 a.m. May 14, 2003, 7 p.m. May 15, 2003 to 7 a.m. May 16, 2003, 7 p.m. May 20, 2003 to 7 a.m. May 21, 2003, 7 p.m. May 22, 2003 to 7 a.m. May 23, 2003, 7 p.m. May 27, 2003 to 7 a.m. May 28, 2003, 7 p.m. May 29, 2003 to 7 a.m. May 30, 2003, 7 p.m. June 3, 2003 to 7 a.m. June 4, 2003, 7 p.m. June 5, 2003 to 7 a.m. June 6, 2003, 7 p.m. June 10, 2003 to 7 a.m. June 11, 2003, and 7 p.m. June 12, 2003 to 7 a.m. June 13, 2003.

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(b) A maximum of three white sturgeon may be possessed or sold by each participating vessel during each open period between February 15, 2003 and March 2, 2003;

(c) Gear restrictions are as follows:

(A) During the winter fishery (see paragraph (1)(a)(A) of this rule) gill nets may not exceed 100 fathoms in length with no weight limit on the lead line. It is *unlawful* to use a gill net having a mesh size that is less than 7-1/4 inches;

(B) During the spring (see paragraphs (1)(a)(B) of this rule) gill nets may not exceed 100 fathoms in length with no weight limit on the lead line. It is *unlawful* to use a gill net having a mesh size that is more than eight inches.

(2) Salmon and sturgeon may be taken for commercial purposes in those waters of Blind Slough and Knappa Slough. Blind Slough is those waters adjoining the Columbia River which extend from markers at the mouth of Blind Slough upstream to markers at the mouth of Gnat Creek which is located approximately 1/2 mile upstream of the county road bridge. Knappa Slough is all waters bounded by a line from the northerly most marker at the mouth of Blind Slough westerly to a marker on Karlson Island downstream to a boundary line defined by markers on the western end of Minaker Island to markers on Karlson Island and the Oregon shore, except a 100 foot radius defined by markers at the mouth of Big Creek remains closed. The following restrictions apply:

(a) Open fishing periods are:

(A) In the area described for Blind Slough only from 7 p.m. September 7, 2000 to 7 a.m. September 8, 2000, 7 p.m. September 8, 2000 to 7 a.m. September 9, 2000, 7 p.m. September 11 to 7 a.m. September 12, 7 p.m. September 12 to 7 a.m. September 13, 7 p.m. September 14 to 7 a.m. September 15, and 7 p.m. September 15 to 7 a.m. September 16;

(B) In the area described for Blind Slough and Knappa Slough combined from 7 p.m. September 18, 2000 to 7 a.m. September 19, 2000, 7 p.m. September 19, 2000 to 7 a.m. September 20, 2000, 7 p.m. September 21, 2000 to 7 a.m. September 22, 2000, 7 p.m. September 22, 2000 to 7 a.m. September 23, 2000, 7 p.m. September 25, 2000 to 7 a.m. September 26, 2000, 7 p.m. September 26, 2000 to 7 a.m. September 27, 2000, 7 p.m. September 28, 2000 to 7 a.m. September 29, 2000, 7 p.m. September 29, 2000 to 7 a.m. September 30, 2000; and

(C) In the area described for Blind Slough and Knappa Slough combined from 6 p.m. October 2, 2000 to 8 a.m. October 3, 2000, 6 p.m. October 3, 2000 to 8 a.m. October 4, 2000, 6 p.m. October 5, 2000 to 8 a.m. October 6, 2000, 6 p.m. October 6, 2000 to 8 a.m. October 7, 2000, 6 p.m. October 9, 2000 to 8 a.m. October 10, 2000, 6 p.m. October 10, 2000 to 8 a.m. October 11, 2000, 6 p.m. October 12, 2000 to 8 a.m. October 13, 2000, 6 p.m. October 13, 2000 to 8 a.m. October 14, 2000, 6 p.m. October 16, 2000 to 8 a.m. October 17, 2000, 6 p.m. October 17, 2000 to 8 a.m. October 18, 2000, 6 p.m. October 19, 2000 to 8 a.m. October 20, 2000, 6 p.m. October 20, 2000 to 8 a.m. October 21, 2000, 6 p.m. October 23, 2000 to 8 a.m. October 24, 2000, 6 p.m. October 24, 2000 to 8 a.m. October 25, 2000, 6 p.m. October 26, 2000 to 8 a.m. October 27, 2000, 6 p.m. October 27, 2000 to 8 a.m. October 28, 2000, and 6 p.m. October 30, 2000 to 8 a.m. October 31, 2000.

(b) Gear restrictions described in subsection (1)(b) of this rule are in effect during these open fishing periods.

(3) Oregon licenses are required in the open waters upstream from the railroad bridge.

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

Stats. Implemented: ORS 496.162, ORS 506.129 & ORS 507.030

Hist.: FWC 46-1996, f. & cert. ef. 8-23-96; FWC 48-1997, f. & cert. ef. 8-25-97; DFW 15-1998, f. & cert. ef. 3-3-98; DFW 67-1998, f. & cert. ef. 8-24-98; DFW 86-1998(Temp), f. & cert. ef. 10-28-98 thru 10-30-98; DFW 10-1999, f. & cert. ef. 2-26-99; DFW 48-1999(Temp), f. & cert. ef. 6-24-99 thru 7-2-99; DFW 55-1999, f. & cert. ef. 8-12-99; DFW 9-2000, f. & cert. ef. 2-25-00; DFW 42-2000, f. & cert. ef. 8-3-00; DFW 65-2000(Temp) f. 9-22-00, cert. ef. 9-25-00 thru 12-31-00; DFW 3-2001, f. & cert. ef. 2-6-01; DFW 84-2001(Temp), f. & cert. ef. 8-29-01 thru 12-31-01; DFW 86-2001, f. & cert. ef. 9-4-01 thru 12-31-01; DFW 89-2001(Temp), f. & cert. ef. 9-14-01 thru 12-31-01; DFW 106-2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; DFW 14-2002(Temp), f. 2-13-02, cert. ef. 2-18-02 thru 8-17-02; DFW 96-2002(Temp), f. & cert. ef. 8-26-02 thru 12-31-02; DFW 12-2003, f. & cert. ef. 2-14-03; DFW 34-2003(Temp), f. & cert. ef. 4-24-03 thru 10-1-03; DFW 36-2003(Temp), f. 4-30-03, cert. ef. 5-1-03 thru 10-1-03

## 635-042-0170

### Tongue Point Basin and South Channel Select Area Salmon Season

(1) Salmon, sturgeon, and shad may be taken for commercial purposes in those waters of the Columbia River Tongue Point basin bounded by a line from the red light "2" at Tongue Point to the flashing green light "3" at the rock jetty on the northwesterly tip of Mott Island, a line from a marker at the south end of Mott Island easterly to a marker on the northwest bank on Lois Island, and a line from a marker on the southwest end of Lois Island due westerly to a marker on the opposite bank. In addition, South Channel

is open to fishing in all waters bounded by a line from a marker on John Day Point through the green buoy "7" thence to a marker on the southwest end of Lois Island upstream to an upper boundary line from a marker on Settler Point northwesterly to flashing red marker "10" thence northwesterly to a marker on the sand bar defining the terminus of South Channel.

(a) Open fishing periods are 7 p.m. April 17, 2003 to 7 a.m. April 18, 2003;

(b) Gear restrictions are as follows:

(A) In waters described in section (1) as Tongue Point basin, gill nets may not exceed 250 fathoms in length and weight limit on the lead line is not to exceed two pounds on any one fathom. It is *unlawful* to use a gill net having a mesh size that is more than eight inches. While fishing during the seasons described in this rule, gillnets with lead line in excess of two pounds per fathom may be stored on boats;

(B) In waters described in section (1) as South Channel, nets are restricted to 100 fathoms in length with no weight restrictions on the lead line. It is *unlawful* to use a gill net having a mesh size that is more than eight inches. While fishing during the seasons described in this rule, gillnets up to 250 fathoms in length may be stored on boats.

(2) Salmon and sturgeon only may be taken for commercial purposes in those waters of the Columbia River Tongue Point basin and South Channel as described in section (1) of this rule. The following restrictions apply:

(a) Open fishing periods are:

(A) In the area described for Tongue Point basin only from 7 p.m. September 5, 2000 to 7 a.m. September 6, 2000, 7 p.m. September 6, 2000 to 7 a.m. September 7, 2000, 7 p.m. September 10, 2000 to 7 a.m. September 11, 2000, 7 p.m. September 11, 2000 to 7 a.m. September 12, 2000, 7 p.m. September 13, 2000 to 7 a.m. September 14, 2000, and 7 p.m. September 14, 2000 to 7 a.m. September 15, 2000;

(B) In the areas described for Tongue Point basin and South Channel combined from 7 p.m. September 17, 2000 to 7 a.m. September 18, 2000, 7 p.m. September 18, 2000 to 7 a.m. September 19, 2000, 7 p.m. September 20, 2000 to 7 a.m. September 21, 2000, 7 p.m. September 21, 2000 to 7 a.m. September 22, 2000, 7 p.m. September 24, 2000 to 7 a.m. September 25, 2000, 7 p.m. September 25, 2000 to 7 a.m. September 26, 2000, 7 p.m. September 27, 2000 to 7 a.m. September 28, 2000, and 7 p.m. September 28, 2000 to 7 a.m. September 29, 2000;

(C) In the area described for Tongue Point basin and South Channel combined from 6 p.m. October 1, 2000 to 8 a.m. October 2, 2000, 6 p.m. October 2, 2000 to 8 a.m. October 3, 2000, 6 p.m. October 4, 2000 to 8 a.m. October 5, 2000, 6 p.m. October 5, 2000 to 8 a.m. October 6, 2000, 6 p.m. October 8, 2000 to 8 a.m. October 9, 2000, 6 p.m. October 9, 2000 to 8 a.m. October 10, 2000, 6 p.m. October 11, 2000 to 8 a.m. October 12, 2000, 6 p.m. October 12, 2000 to 8 a.m. October 13, 2000, 6 p.m. October 15, 2000 to 8 a.m. October 16, 2000, 6 p.m. October 16, 2000 to 8 a.m. October 17, 2000, 6 p.m. October 18, 2000 to 8 a.m. October 19, 2000, 6 p.m. October 19, 2000 to 8 a.m. October 20, 2000, 6 p.m. October 22, 2000 to 8 a.m. October 23, 2000, 6 p.m. October 23, 2000 to 8 a.m. October 24, 2000, 6 p.m. October 25, 2000 to 8 a.m. October 26, 2000, 6 p.m. October 26, 2000 to 8 a.m. October 27, 2000, 6 p.m. October 29, 2000 to 8 a.m. October 30, 2000, 6 p.m. October 30, 2000 to 8 a.m. October 31, 2000.

(b) Gear restrictions described in subsection (1)(b) of this rule are in effect during these open fishing periods.

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

Stats. Implemented: ORS 496.162, ORS 506.129 & ORS 507.030

Hist.: FWC 46-1996, f. & cert. ef. 8-23-96; FWC 48-1997, f. & cert. ef. 8-25-97; FWC 61-1997(Temp), f. 9-23-97, cert. ef. 9-24-97; DFW 15-1998, f. & cert. ef. 3-3-98; DFW 41-1998(Temp), f. 5-28-98, cert. ef. 5-29-98; DFW 42-1998(Temp), f. 5-29-98, cert. ef. 5-31-98 thru 6-6-98; DFW 45-1998(Temp), f. 6-5-98, cert. ef. 6-6-98 thru 6-10-98; DFW 67-1998, f. & cert. ef. 8-24-98; DFW 86-1998, f. & cert. ef. 10-28-98 thru 10-30-98; DFW 10-1999, f. & cert. ef. 2-26-99; DFW 55-1999, f. & cert. ef. 8-12-99; DFW 9-2000, f. & cert. ef. 2-25-00; DFW 42-2000, f. & cert. ef. 8-3-00; DFW 3-2001, f. & cert. ef. 2-6-01; DFW 84-2001(Temp), f. & cert. ef. 8-29-01 thru 12-31-01; DFW 89-2001(Temp), f. & cert. ef. 9-14-01 thru 12-31-01; DFW 106-2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; DFW 15-2002(Temp), f. & cert. ef. 2-20-02 thru 8-18-02; DFW 96-2002(Temp), f. & cert. ef. 8-26-02 thru 12-31-02; DFW 12-2003, f. & cert. ef. 2-14-03; DFW 34-2003(Temp), f. & cert. ef. 4-24-03 thru 10-1-03; DFW 36-2003(Temp), f. 4-30-03, cert. ef. 5-1-03 thru 10-1-03

## 635-042-0180

### Deep River Select Area Salmon Season

Salmon, sturgeon, and shad may be taken for commercial purposes as follows:

(1) From the Highway 4 Bridge, downstream to markers at the mouth of Deep River (a line from navigation marker 16 southwest to a marker on the Washington shore), except May 1 through May 9, 2003, from the Highway 4 Bridge, downstream to the boat ramp located on the west shore approximately one mile upstream from Channel Marker 16.

# ADMINISTRATIVE RULES

(2) There are 23 open fishing periods from 7 p.m. April 17, 2003 to 7 a.m. April 18, 2003, 7 p.m. April 22, 2003 to 7 a.m. April 23, 2003, 7 p.m. April 23, 2003 to 7 a.m. April 24, 2003, 7 p.m. May 1, 2003 to 7 a.m. May 2, 2003, 7 p.m. May 8, 2003 to 7 a.m. May 9, 2003, 7 p.m. May 13, 2003 to 7 a.m. May 14, 2003, 7 p.m. May 14, 2003 to 7 p.m. May 15, 2003, 7 p.m. May 15, 2003 to 7 a.m. May 16, 2003, 7 p.m. May 20, 2003 to 7 a.m. May 21, 2003, 7 p.m. May 21, 2003 to 7 a.m. May 22, 2003, 7 p.m. May 22, 2003 to 7 a.m. May 23, 2003, 7 p.m. May 27, 2003 to 7 a.m. May 28, 2003, 7 p.m. May 28, 2003 to 7 a.m. May 29, 2003, 7 p.m. May 29, 2003 to 7 a.m. May 30, 2003, 7 p.m. June 3, 2003 to 7 a.m. June 4, 2003, 7 p.m. June 4, 2003 to 7 a.m. June 5, 2003, 7 p.m. June 5, 2003 to 7 a.m. June 6, 2003, 7 p.m. June 10, 2003 to 7 a.m. June 11, 2003, 7 p.m. June 11, 2003 to 7 a.m. June 12, 2003, and 7 p.m. June 12, 2003 to 7 a.m. June 13, 2003.

(3) Gill nets may not exceed 100 fathoms in length and there is no weight limit on the lead line. It is *unlawful* to use a gill net having a mesh size that is less than seven inches or more than 9-3/4 inches.

(4) Only salmon, sturgeon, and shad may be taken and sold commercially.

(5) It is unlawful to transport catch outside the fishing area (except to the Washington Department of Fish and Wildlife sampling station located just upstream of the Highway 4 Bridge deadline) without a transportation permit issued by Washington Department of Fish and Wildlife staff.

Stat. Auth.: ORS 506.109 & ORS 506.119

Stats. Implemented: ORS 506.129 & ORS 507.030

Hist.: FWC 46-1996, f. & cert. ef. 8-23-96; FWC 48-1997, f. & cert. ef. 8-25-97; DFW 55-1999, f. & cert. ef. 8-12-99; DFW 42-2000, f. & cert. ef. 8-3-00; DFW 84-2001(Temp), f. & cert. ef. 8-29-01 thru 12-31-01; DFW 89-2001(Temp), f. & cert. ef. 9-14-01 thru 12-31-01; DFW 106-2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; DFW 96-2002(Temp), f. & cert. ef. 8-26-02 thru 12-31-02; DFW 19-2003(Temp), f. 3-12-03, cert. ef. 4-17-03 thru 6-13-03; DFW 34-2003(Temp), f. & cert. ef. 4-24-03 thru 10-1-03; DFW 36-2003(Temp), f. 4-30-03, cert. ef. 5-1-03 thru 10-1-03

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**Adm. Order No.:** DFW 37-2003(Temp)

**Filed with Sec. of State:** 5-7-2003

**Certified to be Effective:** 5-7-03 thru 10-1-03

**Notice Publication Date:**

**Rules Amended:** 635-042-0145

**Subject:** Amend rules to modify the Youngs Bay Select Area commercial fishery.

**Rules Coordinator:** Mike Lueck—(503) 872-5272, ext. 5447

## 635-042-0145

### Youngs Bay Salmon Season

(1) Salmon, sturgeon, and shad may be taken for commercial purposes in those waters of Youngs Bay from the new Highway 101 Bridge upstream to the upper boundary markers at the confluence of the Klaskanine and Youngs rivers; except for those waters which are closed southerly of the alternate Highway 101 Bridge (Lewis and Clark River).

(a) The open fishing periods are established in three segments categorized as the winter fishery, paragraph (A), the spring fishery, paragraph (B), and summer fishery, paragraph (C), as follows:

(A) 5 a.m. to 9 p.m. February 18, 2003, 12 noon February 22, 2003 to 6 p.m. February 23, 2003, and 5 a.m. to 9 p.m. February 25, 2003;

(B) 12 noon April 16, 2003 to 6 p.m. April 18, 2003, 11 a.m. to 7 p.m. May 7, 2003, 12 noon May 12, 2003 to 6 p.m. May 16, 2003, 12 noon May 19, 2003 to 6 p.m. May 23, 2003, 12 noon May 26, 2003 to 6 p.m. May 30, 2003, 12 noon June 2, 2003 to 6 p.m. June 6, 2003, 12 noon June 9, 2003 to 6 p.m. June 12, 2003.

(C) 12 noon June 18, 2003 to 6 p.m. June 20, 2003, 12 noon June 25, 2003 to 6 p.m. June 27, 2003, 12 noon July 2, 2003 to 6 p.m. July 3, 2003, 12 noon July 9, 2003 to 6 p.m. July 10, 2003, 12 noon July 16, 2003 to 6 p.m. July 17, 2003, 12 noon July 23, 2003 to 6 p.m. July 24, 2003, and 12 noon July 30 2003 to 6 p.m. July 31, 2003.

(b) Gill nets may not exceed 1,500 feet (250 fathoms) in length and weight may not exceed two pounds per any fathom. Monofilament gillnets are allowed. It is *unlawful* to use a gill net having a mesh size that is less than 7-1/4 inches during February 18 to March 9, 2003, and it is *unlawful* to use a gill net having a mesh size that is more than eight inches April 16 to June 12, 2003, and June 18 to July 31, 2003;

(c) A maximum of three white sturgeon may be possessed or sold by each participating vessel during each open period between February 18, 2003 and March 9, 2003.

(2) Salmon and sturgeon may be taken for commercial purposes in those waters of Youngs Bay from the new Highway 101 Bridge upstream to the upper boundary markers at Battle Creek Slough, except those waters

which are closed southerly of the alternate Highway 101 Bridge (Lewis and Clark River), with the following restrictions:

(a) The open fishing periods are 12 noon August 1, 2000 to 6 p.m. August 2, 2000, 12 noon August 8, 2000 to 6 p.m. August 9, 2000, 12 noon August 15, 2000 to 6 p.m. August 16, 2000, 12 noon August 22, 2000 to 6 p.m. August 23, 2000, 12 noon August 29, 2000 to 6 p.m. August 30, 2000, 12 noon September 5, 2000 to 6 p.m. October 31, 2000.

(b) Gill nets may not exceed 250 fathoms in length and weight on the headline may not exceed two pounds per any one fathom. Monofilament gill nets are allowed. It is *unlawful* to use a gill net having a mesh size that is more than eight inches.

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

Stats. Implemented: ORS 496.162, ORS 506.129 & ORS 507.030

Hist.: FWC 32-1979, f. & cert. ef. 8-22-79; FWC 28-1980, f. & cert. ef. 6-23-80; FWC 42-1980(Temp), f. & cert. ef. 8-22-80; FWC 30-1981, f. & cert. ef. 8-14-81; FWC 42-1981(Temp), f. & cert. ef. 11-5-81; FWC 54-1982, f. & cert. ef. 8-17-82; FWC 37-1983, f. & cert. ef. 8-18-83; FWC 61-1983(Temp), f. & cert. ef. 10-19-83; FWC 42-1984, f. & cert. ef. 8-20-84; FWC 39-1985, f. & cert. ef. 8-15-85; FWC 37-1986, f. & cert. ef. 8-11-86; FWC 72-1986(Temp), f. & cert. ef. 10-31-86; FWC 64-1987, f. & cert. ef. 8-7-87; FWC 73-1988, f. & cert. ef. 8-19-88; FWC 55-1989(Temp), f. 8-7-89, cert. ef. 8-20-89; FWC 82-1990(Temp), f. 8-14-90, cert. ef. 8-19-90; FWC 86-1991, f. 8-7-91, cert. ef. 8-18-91; FWC 123-1991(Temp), f. & cert. ef. 10-21-91; FWC 30-1992(Temp), f. & cert. ef. 4-27-92; FWC 35-1992(Temp), f. 5-22-92, cert. ef. 5-25-92; FWC 74-1992 (Temp), f. 8-10-92, cert. ef. 8-16-92; FWC 28-1993(Temp), f. & cert. ef. 4-26-93; FWC 48-1993, f. 8-6-93, cert. ef. 8-9-93; FWC 21-1994(Temp), f. 4-22-94, cert. ef. 4-25-94; FWC 51-1994, f. 8-19-94, cert. ef. 8-22-94; FWC 64-1994(Temp), f. 9-14-94, cert. ef. 9-15-94; FWC 66-1994(Temp), f. & cert. ef. 9-20-94; FWC 27-1995, f. 3-29-95, cert. ef. 4-1-95; FWC 48-1995(Temp), f. & cert. ef. 6-5-95; FWC 66-1995, f. 8-22-95, cert. ef. 8-27-95; FWC 69-1995, f. 8-25-95, cert. ef. 8-27-95; FWC 8-1995, f. 2-28-96, cert. ef. 3-1-96; FWC 37-1996(Temp), f. 6-11-96, cert. ef. 6-12-96; FWC 41-1996, f. & cert. ef. 8-12-96; FWC 45-1996(Temp), f. 8-16-96, cert. ef. 8-19-96; FWC 54-1996(Temp), f. & cert. ef. 9-23-96; FWC 4-1997, f. & cert. ef. 1-30-97; FWC 47-1997, f. & cert. ef. 8-15-97; DFW 8-1998(Temp), f. & cert. ef. 2-5-98 thru 2-28-98; DFW 14-1998, f. & cert. ef. 3-3-98; DFW 18-1998(Temp), f. 3-9-98, cert. ef. 3-11-98 thru 3-31-98; DFW 60-1998(Temp), f. & cert. ef. 8-7-98 thru 8-21-98; DFW 67-1998, f. & cert. ef. 8-24-98; DFW 10-1999, f. & cert. ef. 2-26-99; DFW 52-1999(Temp), f. & cert. ef. 8-2-99 thru 8-6-99; DFW 55-1999, f. & cert. ef. 8-12-99; DFW 9-2000, f. & cert. ef. 2-25-00; DFW 42-2000, f. & cert. ef. 8-3-00; DFW 3-2001, f. & cert. ef. 2-6-01; DFW 66-2001(Temp), f. 8-2-01, cert. ef. 8-6-01 thru 8-14-01; DFW 76-2001(Temp), f. & cert. ef. 8-20-01 thru 10-31-01; DFW 106-2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; DFW 15-2002(Temp), f. & cert. ef. 2-20-02 thru 8-18-02; DFW 82-2002(Temp), f. 8-5-02, cert. ef. 8-7-02 thru 9-1-02; DFW 96-2002(Temp), f. & cert. ef. 8-26-02 thru 12-31-02; DFW 12-2003, f. & cert. ef. 2-14-03; DFW 17-2003(Temp), f. 2-27-03, cert. ef. 3-1-03 thru 8-1-03; DFW 32-2003(Temp), f. & cert. ef. 4-23-03 thru 8-1-03; DFW 34-2003(Temp), f. & cert. ef. 4-24-03 thru 10-1-03; DFW 36-2003(Temp), f. 4-30-03, cert. ef. 5-1-03 thru 10-1-03; DFW 37-2003(Temp), f. & cert. ef. 5-7-03 thru 10-1-03

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**Adm. Order No.:** DFW 38-2003(Temp)

**Filed with Sec. of State:** 5-7-2003

**Certified to be Effective:** 5-10-03 thru 10-31-03

**Notice Publication Date:**

**Rules Amended:** 635-014-0090

**Subject:** Amend rules regarding sport fishing regulations in the Northeast Zone on Big Creek, Gnat Creek, Klaskanine River, Lewis and Clark River, Youngs River, and Three Rivers.

**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 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 \_ 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.

# ADMINISTRATIVE RULES

(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.

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. 1-11-02 cert. ef. 1-12-02 thru 7-11-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 37-2002, f. & cert. ef. 4-23-02; DFW 91-2002(Temp), f. 8-19-02, cert. ef. 8-20-02 thru 11-1-02 (Suspended by DFW 101-2002(Temp), f. & cert. ef. 10-3-02 thru 11-1-02); DFW 118-2002(Temp), f. 10-22-02, cert. ef. 12-1-02 thru 3-31-03; DFW 120-2002(Temp), f. 10-24-02, cert. ef. 10-26-02 thru 3-31-03; DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 18-2003(Temp), f. 2-28-03, cert. ef. 3-1-03 thru 4-30-03; DFW 38-2003(Temp), f. 5-7-03, cert. ef. 5-10-03 thru 10-31-03

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**Adm. Order No.:** DFW 39-2003(Temp)

**Filed with Sec. of State:** 5-12-2003

**Certified to be Effective:** 5-12-03 thru 10-6-03

**Notice Publication Date:**

**Rules Amended:** 635-043-0056

**Subject:** Adopt rules to authorize Oregon Department of Fish and Wildlife to trap and relocate nuisance wildlife found within the city limits of Paisley and town limits of Lakeview.

**Rules Coordinator:** Mike Lueck—(503) 872-5272, ext. 5447

## 635-043-0056

### Trapping of Wildlife

(1) For the purpose of alleviating a public nuisance or preventing property damage, the Department may trap and relocate wild turkeys found within the Roseburg city limits.

(2) For the purpose of alleviating a public nuisance or preventing property damage, the Department may hunt or trap and relocate wildlife found within the city limits of Baker City.

(3) For the purpose of alleviating a public nuisance or preventing property damage, the Department may trap and relocate wildlife found within the city limits of Paisley and town limits of Lakeview.

Stat. Auth.: ORS 498.158

Stats. Implemented: ORS 498.158

Hist.: DFW 1-2003(Temp), f. & cert. ef. 1-14-03 thru 7-9-03; DFW 30-2003(Temp), f. & cert. ef. 4-15-03 thru 10-6-03; DFW 31-2003, f. & cert. ef. 4-17-03; DFW 39-2002(Temp), f. & cert. ef. 5-12-03 thru 10-6-03

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**Adm. Order No.:** DFW 40-2003

**Filed with Sec. of State:** 5-13-2003

**Certified to be Effective:** 5-13-03

**Notice Publication Date:** 4-1-03

**Rules Amended:** 635-053-0100, 635-053-0105, 635-053-0125

**Subject:** Amend rules regarding the Upland Game Bird Stamp by establishing dates and bird species for submission of artwork.

**Rules Coordinator:** Mike Lueck—(503) 872-5272, ext. 5447

## 635-053-0100

### Purpose

The purpose of these rules is to describe the procedures and necessary accompanying information for submitting artwork for the 2004 through 2008 upland bird stamps, the criteria for selection of the winning designs, and the obligation of winning artists pursuant to ORS Chapter 496.

Stat. Auth.: ORS 496.012, ORS 496.138, ORS 496.146, ORS 496.162, ORS 496.558, ORS 496.562, ORS 496.566 & ORS 496.570

Stats. Implemented: ORS 496.012, ORS 496.138, ORS 496.146, ORS 496.162, ORS 496.558, ORS 496.562, ORS 496.566 & ORS 496.570

Hist.: FWC 9-1990, f. & cert. ef. 2-1-90; FWC 6-1991, f. & cert. ef. 1-29-91; FWC 138-1991, f. & cert. ef. 12-23-91; FWC 123-1992, f. & cert. ef. 11-23-92; FWC 73-1993, f. & cert. ef. 11-24-93; FWC 37-1994, f. & cert. ef. 6-20-94; FWC 55-1995, f. & cert. ef. 6-23-95; FWC 34-1996, f. & cert. ef. 6-7-96; DFW 43-1998, f. & cert. ef. 5-29-98; DFW 40-2003, f. & cert. ef. 5-13-03

## 635-053-0105

### Submission of Artwork: Requirements

(1) Applicants shall submit artwork for the upland bird stamp to the Department headquarters office by 5:00 p.m. on the following deadline dates:

- 2004 upland game bird stamp deadline is December 31, 2003;
- 2005 upland game bird stamp deadline is December 31, 2004;
- 2006 upland game bird stamp deadline is December 31, 2005;
- 2007 upland game bird stamp deadline is December 31, 2006; and
- 2008 upland game bird stamp deadline is December 31, 2007.

(2) The 2004 through 2008 upland game bird stamp artwork shall feature the following species in their natural setting:

- 2004 — Mountain quail (*Oreortyx pictus*);
- 2005 — Gray partridge (*Alectoris rufa*);
- 2006 — California quail (*Callipepla californica*);
- 2007 — Ringed-necked pheasant (*Phasianus colchicus*); and
- 2008 — Blue grouse (*Dendragapus obscurus*).

(3) Each entry shall measure 13 inches by 18 inches (horizontal or vertical) and shall be in any full color medium except any photographic process.

(4) The artwork shall be original and unsigned by the artist, and shall not have been used in production or entered into any other state upland bird stamp competition.

(5) The entry may be mounted and/or matted, but it shall not be framed or under glass.

(6) Artists may submit more than one entry meeting the requirements herein.

(7) Each artist shall submit with his or her entry or entries a brief biographical description that includes the artist's background, experience, and previous artistic accomplishments. The Department reserves the right to use this information for publicity should the work be selected.

Stat. Auth.: ORS 496.012, ORS 496.138, ORS 496.146, ORS 496.162, ORS 496.558, ORS 496.562, ORS 496.566 & ORS 496.570

Stats. Implemented: ORS 496.012, ORS 496.138, ORS 496.146, ORS 496.162, ORS 496.558, ORS 496.562, ORS 496.566 & ORS 496.570

Hist.: FWC 9-1990, f. & cert. ef. 2-1-90; FWC 10-1990(Temp), f. & cert. ef. 2-1-90; FWC 6-1991, f. & cert. ef. 1-29-91; FWC 138-1991, f. & cert. ef. 12-23-91; FWC 123-1992, f. & cert. ef. 11-23-92; FWC 73-1993, f. & cert. ef. 11-24-93; FWC 37-1994, f. & cert. ef. 6-20-94; FWC 55-1995, f. & cert. ef. 6-23-95; FWC 34-1996, f. & cert. ef. 6-7-96; DFW 43-1998, f. & cert. ef. 5-29-98; DFW 88-2002, f. & cert. ef. 8-14-02; DFW 40-2003, f. & cert. ef. 5-13-03

## 635-053-0125

### Other Provisions

(1) Sale of 2004 through 2008 upland bird stamps by the department shall end at the close of business on June 30, of the following year. Excess stamps at that time shall be shredded after auditing of sales takes place.

(2) The Department shall award three thousand dollars (\$3,000) to the artist whose entry is selected for the upland game bird stamp.

(3) The winning entry shall become the exclusive property of the Department.

(4) The Department shall retain all reproduction rights and may review proposals for limited edition prints, posters, or other related art products.

(5) The artist shall sign, at no charge, up to two hundred (200) upland game bird stamps for sale by the Department.

Stat. Auth.: ORS 496.012, ORS 496.138, ORS 496.146, ORS 496.162, ORS 496.558, ORS 496.562, ORS 496.566 & ORS 496.570

Stats. Implemented: ORS 496.012, ORS 496.138, ORS 496.146, ORS 496.162, ORS 496.558, ORS 496.562, ORS 496.566 & ORS 496.570

Hist.: FWC 9-1990, f. & cert. ef. 2-1-90; FWC 6-1991, f. & cert. ef. 1-29-91; FWC 138-1991, f. & cert. ef. 12-23-91; FWC 123-1992, f. & cert. ef. 11-23-92; FWC 73-1993, f. & cert. ef. 11-24-93; FWC 37-1994, f. & cert. ef. 6-20-94; FWC 55-1995, f. & cert. ef. 6-23-95; FWC 34-1996, f. & cert. ef. 6-7-96; DFW 43-1998, f. & cert. ef. 5-29-98; DFW 40-2003, f. & cert. ef. 5-13-03

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**Adm. Order No.:** DFW 41-2003(Temp)

**Filed with Sec. of State:** 5-12-2003

**Certified to be Effective:** 5-12-03 thru 6-21-03

**Notice Publication Date:**

**Rules Amended:** 635-006-0850

**Subject:** Amend rules to delay the beginning of harvest activity in the Oregon ocean commercial sardine fishery.

**Rules Coordinator:** Mike Lueck—(503) 872-5272, Ext. 5447

# ADMINISTRATIVE RULES

635-006-0850

## Developmental Fisheries Species List

(I) The Developmental Fisheries species, permit and gear restrictions, and landing requirements for renewal of Category A permits are as follows:

(a) FISH:

(A) Pacific hagfish (*Eptatretus stouti*) fishery has a qualifying and annual renewal requirement of five landings. There are 25 permits for harvest of which there are no trawl permits;

(B) Blue shark (*Prionace glauca*) fishery has a qualifying and annual renewal requirement of either five landings consisting of at least 500 pounds each landing or one landing consisting of at least 5000 pounds. There are 10 permits for harvest of which there are no high seas drift net permits and no large mesh gill net permits. No permit is needed for hand lines or hand harvest. Experimental gear permits may be required;

(C) Swordfish (*Xiphias gladius*) fishery has a qualifying and annual renewal requirement of either five landings consisting of at least 500 pounds each landing or one landing consisting of at least 5000 pounds. Permits are valid for and renewal requirements are calculated from February 1 through January 31 of the following year. There are 20 permits for harvest by floating longline and 10 permits for harvest by other gear. Specially adapted drift/gill net may be permitted. Experimental gear permits may be required. Five single-delivery permits will be issued to those who applied by annual filing date, but did not receive a Developmental Fishery Permit. Gill net gear must conform to California gear restrictions;

(D) Northern anchovy (*Engraulis mordax*) and Pacific herring (*Clupea pallasii*) fishery has a qualifying and annual renewal requirement of either five landings consisting of at least 500 pounds each landing or one landing consisting of at least 5000 pounds. There are 15 permits for ocean harvest. Specially adapted small mesh drift/gill net may be permitted. No permit is needed for hand lines or hand harvest. Experimental gear permits may be required;

(E) Pacific sardine (*Sardinops sagax*) and Pacific saury (*Cololabis saira*) fishery has a qualifying and annual renewal requirement of either five landings consisting of at least 500 pounds each landing or one landing consisting of at least 5000 pounds. There are 20 permits for ocean harvest. Specially adapted small mesh drift/gill net may be permitted. Experimental gear permits may be required. This rule incorporates, by reference, the sardine management measures for 2003 included in the Pacific Council List of Decisions for the November 2002 PFMC meeting, and in addition to the extent they are consistent with these rules, **Code of Federal Regulations, Title 50 Part 660**, as amended to incorporate the standards recommendations of the Pacific Council. Therefore, persons must consult the Federal Regulations in addition to this rule to determine all applicable sardine fishing requirements. Where regulations refer to the fishery management area, that area is extended from shore to three nautical miles from shore coterminous with the Exclusive Economic Zone. A copy of the Pacific Council decisions and the Federal Regulations may be obtained by contacting the Fish Division at 503-872-5252. It is unlawful to harvest Pacific sardines from the Pacific Ocean from May 12, 2003 through June 21, 2003;

(F) Pacific sandfish (*Trichodon trichodon*) fishery has a qualifying and annual renewal requirement of five landings. There are 10 permits for harvest of which there are no dredging permits and no trawl permits, however, limited numbers of experimental gear permits may be issued for trawl harvest. Permits are area specific. Experimental gear permits may be required. No permit is needed for hand lines or hand harvest;

(G) Eulachon (*Thaleichthys pacificus*), whitebait smelt (*Allosmerus elongatus*), night smelt (*Spirinchus starksi*), longfin smelt (*Spirinchus thaleichthys*) and surf smelt (*Hypomesus pretiosus*) fishery has a qualifying and annual renewal requirement of five landings consisting of at least 100 pounds each landing. There are 20 permits for ocean harvest of which there are no trawl permits, however, limited numbers of experimental gear permits may be issued for trawl harvest. Specially adapted small mesh drift/gill net may be permitted. No permit is needed for hand lines or hand harvest. Experimental gear permits may be required;

(H) Pacific pomfret (*Brama japonica*) fishery has a qualifying and annual renewal requirement of five landings consisting of at least 100 pounds each landing. There are 10 permits for harvest. Experimental gear permits may be required;

(I) Slender sole (*Eopsetta exilis*) fishery has a qualifying and annual renewal requirement of five landings consisting of at least 100 pounds each landing. There are 10 permits for harvest. Experimental gear permits may be required.

(J) Nearshore fishery species are: Buffalo sculpin (*Enophrys bison*), Red Irish Lord (*Hemilepidotus hemilepidotus*), Brown Irish lord (*Hemilepidotus spinosus*), Cabezon (*Scorpaenichthys marmoratus*), Kelp

greenling (*Hexagrammos decagrammus*), Rock greenling (*Hexagrammos lagocephalus*), Whitespotted greenling (*Hexagrammos stelleri*), Painted greenling (*Oxylebius pictus*), Kelp rockfish (*Sebastes atrovirens*), Brown rockfish (*Sebastes auriculatus*), Gopher rockfish (*Sebastes carnatus*), Copper rockfish (*Sebastes caurinus*), Black & Yellow rockfish (*Sebastes chrysomelas*), Calico rockfish (*Sebastes dalli*), Quillback rockfish (*Sebastes maliger*), Vermilion rockfish (*Sebastes miniatus*), China rockfish (*Sebastes nebulosus*), Tiger rockfish (*Sebastes nigrocinctus*), Grass rockfish (*Sebastes rastrelliger*), Olive rockfish (*Sebastes serranoides*), Treefish (*Sebastes serriceps*). Applicants for a nearshore Developmental Fisheries permit must own a vessel that has landed at least 500 lbs. of nearshore species in Oregon in any one calendar year during the window period January 1, 1997 through July 1, 2001 to qualify for a permit north of Heceta Head. The majority of qualifying landings must have been made into ports north of Heceta Head. Applicants for a nearshore Developmental Fisheries Permit must own a vessel that has landed at least 750 lbs. of nearshore species in Oregon in any one calendar year during the window period January 1, 1997 through July 1, 2001 to qualify for a permit south of Heceta Head. The majority of qualifying landings must have been made into ports south of Heceta Head. Permits will be issued for either hook-and-line gear (including pole-and-line, troll, longline, and stick gear) or traps (pots) based on gear used for the majority of qualifying landings. Permits issued for pot gear shall be limited to a maximum of 35 pots. Annual renewal requirements are at least 5 landings and a total of 100 pounds of nearshore species in Oregon. Landings of nearshore species are restricted to north of Heceta Head or south of Heceta Head based on location of majority of landings made during qualification period. After 2003, no new permits will be issued until the number of permits issued falls below 50. Thereafter, there will be 50 permits available.

(b) INVERTEBRATES:

(A) Box crab (*Lopholithodes foraminatus*) fishery has a qualifying and annual renewal requirement of five landings consisting of at least 100 pounds each landing. There are 25 permits for harvest with pots only;

(B) Grooved tanner crab (*Chionoecetes tanneri*), Oregon hair crab (*Paralomis multispina*) and scarlet king crab (*Lithodes couesi*) fishery has a qualifying and annual renewal requirement of five landings consisting of at least 100 pounds each landing. There are 10 permits for harvest with pots only;

(C) Spot prawn (*Pandalus platyceros*) fishery has a qualifying and annual renewal requirement of five landings consisting of at least 100 pounds (round weight) each landing or one landing consisting of at least 1000 pounds. After 2002, new permits for trawl gear will not be issued and trawl permits may be renewed as pot permits. After 2003, permits will be issued for pot gear only; no new permits will be issued until the number of permits issued is below 10, after which there may continue to be 10 permits. Permits are area specific. Experimental gear permits may be required. Permits are issued geographically, split at Heceta Head with 50 percent issued north and 50 percent issued south of Heceta Head, until after the date of the lottery;

(D) Coonstripe shrimp (*Pandalus danae*) and sidestripe shrimp (*Pandalopsis dispar*) fishery has a qualifying and annual renewal requirement of five landings consisting of at least 100 pounds (round weight) each landing. There are 10 permits for harvest by pot gear;

(E) Ocean cockle clams (*Clinocardium nuttallii*) fishery has a qualifying and annual renewal requirement of five landings consisting of at least 100 pounds each landing. There are five permits for ocean harvest only. No permit is needed for hand lines or hand harvest. Experimental gear permits may be required;

(F) Bay clams including cockle clams (*Clinocardium nuttallii*), butter clams (*Saxidomus giganteus*), gaper clams (*Tresus capax*, *nuttallii*), native littleneck clams (*Protothaca staminea*), and softshell clams (*Mya arenaria*) fishery has no qualifying and annual renewal requirements for intertidal hand harvest, an unlimited number of permits, and a \$25 permit fee. There are 11 permits (individual or vessel) for subtidal dive harvest, effective March 18, 1997-December 31, 1997, and 10 permits thereafter for statewide harvest and five permits for harvest south of Heceta Head. Qualifying requirements are either five landings consisting of at least 200 pounds each landing or an annual total of 2500 pounds for one calendar year during the qualifying period of January 1, 1990 through October 16, 1995. Annual renewal requirements are either five landings consisting of at least 100 pounds each landing or an annual total of 2500 pounds. An incidental catch of one gaper clam per eight butter clams, or 25 pounds of gaper clams per 100 pounds of butter clams, whichever allows the greater gaper clam incidental catch, is allowed during the closed season notwithstanding OAR 635-005-0020;

# ADMINISTRATIVE RULES

(G) Giant octopus (*Octopus dofleini*) fishery has a qualifying and annual renewal requirement of five landings consisting of at least 100 pounds each landing. There are 10 permits for harvest using octopus pots only;

(H) California market squid (*Loligo opalescens*) and other squid (several species) fishery has a qualifying and annual renewal requirement of either five landings consisting of at least 500 pounds each landing or one landing consisting of at least 5000 pounds. There are 30 permits for harvest using trawl gear and 30 permits for harvest using other gear types. Experimental gear permits may be required. Permits are issued geographically, split at Heceta Head with 50 percent issued north and 50 percent issued south of Heceta Head, until after the date of the lottery;

(I) Fragile urchin (*Alloccentrotus fragilis*) fishery has a qualifying and annual renewal requirement of five landings consisting of at least 500 pounds each landing. There are six permits for harvest using trawl gear and six permits for harvest using other gear. Experimental gear permits may be required. Permits are issued geographically, split at Heceta Head with 50 percent issued north and 50 percent issued south of Heceta Head;

(J) Sea cucumber (*Parastichopus* spp.) fishery has a qualifying and annual renewal requirement of five landings consisting of at least 100 pounds each landing. There are six permits for harvest using trawl gear, 10 permits for harvest by diver, and 10 permits for harvest by other gear. Experimental gear permits may be required. Permits are issued geographically, split at Heceta Head with 50 percent issued north and 50 percent issued south of Heceta Head, until after the date of the lottery;

(K) Marine snails (various species) fishery has a qualifying and annual renewal requirement of five landings consisting of at least 100 pounds each landing. There are 10 permits for subtidal harvest only;

(L) Brine shrimp (*Artemia* spp.) fishery has a qualifying and annual renewal requirement of at least 5000 pounds landed. There are three permits to harvest adults.

(M) Flat abalone (*Haliotis walallensis*) fishery has a single permit authorized, a 3,000 pound annual quota limit, an annual renewal requirement of 10 landings of at least 20 pounds each landing, a 4-1/2 inch minimum size, year-round season, taken from nonintertidal areas with an abalone iron, and such additional permit conditions as the Director deems appropriate as required by OAR 635-006-870 and 635-006-0880.

(2) The Developmental Fisheries Species List, Category "B," is as follows:

(a) FISH:

- (A) Salmon shark (*Lamna ditropis*);
- (B) Carp (*Cyprinus carpio*);
- (C) Black hagfish (*Eptatretus deani*);
- (D) Yellow perch (*Perca flavescens*);
- (E) Eelpouts (family Zoarcidae);
- (F) Brown bullhead (*Ameiurus nebulosus*);
- (G) Skiffish (*Erilepis zonifer*);
- (H) Northern squawfish (*Ptychocheilus oregonensis*).

(b) INVERTEBRATES:

- (A) Euphausiids (krill) (family Euphausiidae);
- (B) Pacific sand crab (*Emerita analoga*);
- (C) Freshwater mussels (families Margaritifera, Anodonta, Gonidea, and Corbicula).

(3) The Developmental Fisheries Species List, Category "C," is as follows:

(a) FISH:

- (A) Spiny dogfish (*Squalus acanthias*);
- (B) Soupfin shark (*Galeorhinus zyopterus*);
- (C) Skate (family Rajidae);
- (D) American shad (*Alosa sapidissima*);
- (E) Pacific cod (*Gadus macrocephalus*);
- (F) Pacific flatnose (*Antimora microlepis*);
- (G) Pacific grenadier (*Coryphaenoides acrolepis*);
- (H) Jack mackerel (*Trachurus symmetricus*);
- (I) Chub (Pacific) mackerel (*Scomber japonicus*);
- (J) Greenstriped rockfish (*Sebastes elongatus*);
- (K) Redstripe rockfish (*Sebastes proriger*);
- (L) Shortbelly rockfish (*Sebastes jordani*);
- (M) Sharpchin rockfish (*Sebastes zacentrus*);
- (N) Splitnose rockfish (*Sebastes diploproa*);
- (O) Pacific sanddab (*Citharichthys sordidus*);
- (P) Butter sole (*Pleuronectes isolepis*);
- (Q) English sole (*Pleuronectes vetulus*);
- (R) Rex sole (*Errex zechirus*);
- (S) Rock sole (*Pleuronectes bilineatus*);

(T) Sand sole (*Psettichthys melanostictus*);

(U) Curlfin (lemon) sole (*Pleuronichthys decurrens*);

(V) Spotted ratfish (*Hydrolagus colliei*);

(W) Wolf-eel (*Anarrhichthys ocellatus*);

(X) Walleye pollock (*Theragra chalcogramma*).

(b) INVERTEBRATES:

(A) Red rock crab (*Cancer productus*);

(B) Purple sea urchins (*Strongylocentrotus purpuratus*);

(C) Crayfish (*Pacifastacus leniusculus*).

Stat. Auth.: ORS 506.109 & ORS 506.119

Stats. Implemented: ORS 506.129, ORS 506.450, ORS 506.455, ORS 506.460 & ORS 506.465

Hist.: FWC 85-1994, f. 10-31-94, cert. ef. 11-1-94; FWC 87-1995, f. 11-17-95, cert. ef. 11-20-95; FWC 1-1997, f. & cert. ef. 1-16-97; FWC 18-1997(Temp), f. & cert. ef. 3-18-97; FWC 34-1997, f. 6-11-97, cert. ef. 6-15-97; DFW 3-1998, f. & cert. ef. 1-12-98; DFW 17-1998(Temp), f. & cert. ef. 3-6-98 thru 7-31-98; DFW 93-1998, f. & cert. ef. 11-25-98; DFW 85-1999, f. & cert. ef. 11-1-99, DFW 89-1999, f. & cert. ef. 11-15-99; DFW 76-2000, f. 11-21-00, cert. ef. 1-1-01; DFW 30-2001, f. & cert. ef. 5-4-01; DFW 119-2001, f. & cert. ef. 12-24-01; DFW 116-2002, f. & cert. ef. 10-21-02; DFW 117-2002, f. & cert. ef. 10-21-02; DFW 135-2002, f. 12-23-02, cert. ef. 1-1-03; DFW 25-2003, f. & cert. ef. 3-26-03; DFW 41-2003(Temp), f. & cert. ef. 5-12-03 thru 6-21-03

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

**Adm. Order No.:** OMAP 34-2003

**Filed with Sec. of State:** 5-1-2003

**Certified to be Effective:** 5-1-03

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

**Rules Amended:** 410-120-1875

**Subject:** The General Rules program Administrative rules govern Office of Medical Assistance Programs (OMAP) payments for services provided to clients. Rule 410-120-1875 is amended to indicate additions to types of hearings affected by rule.

**Rules Coordinator:** Darlene Nelson—(503) 945-6927

### 410-120-1875

#### Agency Hearing Representatives

(1) Subject to the approval of the Attorney General, an agency officer or employee is authorized to appear (but not make legal argument) on behalf of the agency in the following classes of hearings:

- (a) Denial of Medical Assistance service coverage;
- (b) Denial of prior authorization of payment;
- (c) Overpayment determination;
- (d) Provider sanction decisions.

(2) Legal argument as used in ORS 183.450(8) and this rule has the same meaning as defined in OAR 137-003-0008(1)(c) and (d) 137-003-0545.

(3) When an agency officer or employee represents the agency, the presiding officer shall advise such representative of the manner in which objections may be made and matters preserved for appeal. Such advice is of a procedural nature and does not change applicable law on waiver or the duty to make timely objection. Where such objections involve legal argument, the presiding officer shall provide reasonable opportunity for the agency officer or employee to consult legal counsel and permit such legal counsel to file written legal argument within a reasonable time after the conclusion of the hearing.

Stat. Auth.: ORS 409

Statutes Implemented: ORS 414.065

Hist.: HR 8-1996, f. 5-31-96, cert. ef. 6-1-96; OMAP 35-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 34-2003, f. & cert. ef. 5-1-03

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**Adm. Order No.:** OMAP 35-2003

**Filed with Sec. of State:** 5-1-2003

**Certified to be Effective:** 5-1-03

**Notice Publication Date:** 4-1-03

**Rules Amended:** 410-121-0030

**Subject:** The Pharmaceutical Services program rules govern Office of Medical Assistance Programs (OMAP) payments for pharmaceutical products and services provided to clients. Rule 410-121-0030 is revised to strengthen the exception process for drugs not covered on the Practitioner-Managed Prescription Drug Plan (PMPDP) - Plan Drug List (PDL).

**Rules Coordinator:** Darlene Nelson—(503) 945-6927



# ADMINISTRATIVE RULES

## 410-121-0030

### Practitioner-Managed Prescription Drug Plan (PMPDP)

(1) Practitioner-Managed Prescription Drug Plan (PMPDP):

(a) The Practitioner-Managed Prescription Drug Plan is a plan that ensures that fee for service clients of the Oregon Health Plan will have access to the most effective prescription drugs appropriate for their clinical conditions at the best possible price;

(b) Decisions concerning the clinical effectiveness of the prescription drugs are made by licensed health practitioners, informed by the latest peer-reviewed research and consider the health condition of a client or characteristics of a client, including the client's gender, race or ethnicity.

(2) PMPDP Plan Drug List (PDL):

(a) The PDL is the primary tool that the Department of Human Services (DHS) has developed to inform licensed health care practitioners about the results of the latest peer-reviewed research and cost effectiveness of prescription drugs;

(b) The PDL is a listing of prescription drugs for selected classes that DHS, in consultation with the Health Resources Commission (HRC), has determined represents effective drug(s) available at the best possible price;

(c) For each selected drug class, the PDL will identify a drug(s) as the benchmark drug that has been determined to be the most effective drug(s) available for the best possible price. The PDL will include other drugs in the class that are Medicaid reimbursable and which the FDA has determined to be safe and effective if the relative cost is less than the benchmark drug(s). If pharmaceutical manufacturers enter into supplemental discount agreements with DHS that reduces the cost of their drug below that of the benchmark drug for the class, their drug will also be included in the PDL. A copy of the PDL is available on the web at [www.omap.hr.state.or.us](http://www.omap.hr.state.or.us).

(3) PMPDP Plan Drug List (PDL) Selection Process:

(a) DHS will utilize the recommendations made by the HRC, which result from an evidence-based evaluation process, as the basis for identifying the most effective drug(s) within a selected drug class;

(b) DHS will determine the drug(s) identified in (3)(a) that is available for the best possible price; and considering any input from the HRC, other FDA approved drug(s) in the same class that are available for a lesser relative price. Relative price will be determined using the methodology described in subsection (4);

(c) Drug classes and selected drug(s) for the drug classes will be reviewed annually or more frequently if in the discretion of DHS, new safety information or the release of new drugs in a class or other information makes this advisable. New drugs will not be added to the PDL until they have been reviewed by the HRC. All changes or revisions to the PDL will be made publicly, using the rulemaking process, and will be published in OMAP's Pharmaceutical Services provider guide.

(4) Relative Cost and Best Possible Price Determination:

(a) DHS will determine the relative cost of all drugs in each selected class that are Medicaid reimbursable and that the FDA has determined to be safe and effective;

(b) DHS will first determine the benchmark drug based on the Average Wholesale Price (AWP) on the first of the month in which DHS reviews that specific drug class;

(c) Once the cost of the benchmark drug is determined, the costs of other FDA approved drugs in the class will be recalculated using AWP, Oregon Maximum Allowable Cost (OMAC) and/or Federal Upper Limits in effect on the first of the month in which DHS reviews that specific drug class (OAR 410-121-0180), less average rebate. Drugs with prices under 105% of the benchmark drug price will be included on the PDL;

(d) DHS will consider price, rebate, and the stability of both, over a period of time in determining the cost effectiveness. DHS may also consider dosing issues, patterns of use and compliance issues. These factors will be weighed with any advice provided by the Health Resources Commission in reaching a final decision.

(5) PMPDP Reimbursement: OMAP will only reimburse for the prescription drugs specifically listed in the PMPDP categories on the Plan Drug List(s). OMAP will only reimburse for drugs not listed in the PMPDP categories by using the exception process.

(6) PMPDP Plan Drug List (PDL) Exception Process:

(a) If the prescribing practitioner, in his/her professional judgement, wishes to prescribe a drug not on the PDL, he/she may request an exception, subject to the requirements of OAR 410-121-0040. The prescribing practitioner must call the Managed Access Program (MAP) Help Desk to request an exception for medically appropriate drugs not listed in the PDL categories.

(b) Regardless of the PDL, prescriptions shall be dispensed in the generic form unless practitioner requests otherwise subject to the regulations outlined in OAR 410-121-0155.

Table 121-0030-1, PMPDP Plan Drug List (PDL) (updated effective 4/1/03)

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: OMAP 25-2002, f. 6-14-02 cert. ef. 7-1-02; OMAP 31-2002, f. & cert. ef. 8-1-02;

OMAP 36-2002, f. 8-30-02, cert. ef. 9-1-02; OMAP 29-2003, f. 3-31-03 cert. ef. 4-1-03;

OMAP 35-2003, f. & cert. ef. 5-1-03

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**Adm. Order No.:** OMAP 36-2003

**Filed with Sec. of State:** 5-1-2003

**Certified to be Effective:** 5-1-03

**Notice Publication Date:** 12-1-02, 2-1-03

**Rules Amended:** 410-122-0020, 410-122-0030

**Subject:** The Durable Medical Equipment and Medical Supplies Services program rules govern Office of Medical Assistance Programs (OMAP) payments for products and services provided to clients. Having filed a Temporary Certificate and Order effective December 2002, OMAP is permanently amending rule 410-122-0030 to update the price for code K0108, Wheelchair, accessories, not otherwise specified and E1399, DME miscellaneous supplies, effective May 1, 2003. Having filed a Temporary Certificate and Order effective December 2002, OMAP is permanently amending Rule 410-122-0020 to change the requirement for yearly prescriptions to allow lifetime prescriptions for some items and specify when yearly prescription are required, to be effective May 1, 2003.

**Rules Coordinator:** Darlene Nelson—(503) 945-6927

## 410-122-0020

### Prescription Requirement

(1) The purchase or rental on or after October 1, 2002, of durable medical equipment (DME) and supplies must have a proper written order signed by the prescribing practitioner. An original, fax, or electronic prescription is acceptable. A practitioner means a person licensed pursuant to Federal and State law to engage in the provision of health care services within the scope of the practitioner's license and certification. A prescription is also required if modifications are made to original durable medical equipment. Repairs, parts needed for repairs and replacement parts (e.g., batteries), do not require a prescription.

(2) The DME provider must obtain a prescription before providing the service. The prescription must be supported by documentation in the prescribing practitioner's records.

(3) The prescription must be dated, legible and specify the exact medical item or service required, the ICD-9-CM diagnosis codes, number of units, and length of time needed. The Office of Medical Assistance Programs (OMAP) defines a lifetime need as 99 months. Only the initial lifetime prescription is required, unless otherwise indicated by the prescribing practitioner, for the following items:

(a) Ventilators;

(b) Suction pumps and related supplies;

(c) Intermittent positive pressure breathing device;

(d) Continuous positive pressure airway (CPAP) device and related supplies;

(e) Respiratory assist device and related supplies;

(f) Medicare 15-month capped rentals (follow Medicare guidelines related to prescription requirements and certificates of medical necessity).

(4) A new prescription is required:

(a) Once a year for incontinent supplies, ostomy supplies, urological supplies, and some diabetic supplies, per Medicare guidelines;

(b) When there is a change in the order for the item;

(c) When an item is replaced; or

(d) When there is a change of Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS) provider.

(5) DME providers are responsible for retaining a copy of the prescription in their records.

(6) The DME provider may change a prescription by documenting the change on the prescription with the date, time, initials, and who provided the change.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: AFS 41-1982, f. 4-29-82 & AFS 52-1982, f. 5-28-82, ef. 5-1-82 in the North Salem,

Woodburn, McMinnville, Lebanon, Albany and Corvallis branch offices, ef. 6-30-82 in the

balance of the state; AFS 20-1983, f. 5-5-83, ef. 6-1-83; AFS 49-1987, f. 10-16-87, ef. 11-1-

87; AFS 48-1989, f. & cert. ef. 8-24-89; HR 13-1991, f. & cert. ef. 3-1-91; Renumbered from

# ADMINISTRATIVE RULES

461-024-0004; HR 32-1992, f. & cert. ef. 10-1-92; HR 9-1993, f. & cert. ef. 4-1-93; HR 10-1994, f. & cert. ef. 2-15-94; HR 17-1996, f. & cert. ef. 8-1-96; OMAP 13-1999, f. & cert. ef. 4-1-99; OMAP 37-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 32-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 47-2002, f. & cert. ef. 10-1-02; OMAP 72-2002(Temp), f. & cert. ef. 12-24-02 thru 5-15-03; OMAP 36-2003, f. & cert. ef. 5-1-03

## 410-122-0030

### Pricing

(1) The Office of Medical Assistance Programs (OMAP) will reimburse for the lowest level of service which will meet the medical appropriateness.

(2) Rental fees include:

(a) Delivery;

(b) Training in the use of the equipment;

(c) Pick-up;

(d) Routine service, maintenance and repair;

(e) Moving equipment to new residence, if coverage is to continue.

(3) Purchase price includes delivery, assembly, adjustments, if needed, and training in the use of the equipment or supply.

(4) Repair of equipment includes pick-up and delivery. Travel time shall not be billed to OMAP or the client.

(5) OMAP payment will be based on either Medicare's maximum allowable rate, OMAP's maximum allowable rate, or billed rate, whichever is the lesser.

(6) For E1399 and K0108 the price is set at 100% of Manufacturer's Suggested Retail Price (MSRP) or a lesser amount that is the best price.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: AFS 9-1993, f. & cert. ef. 4-1-93; HR 18-1993, f. & cert. ef. 8-9-93; HR 10-1994, f. & cert. ef. 2-15-94; HR 26-1994, f. & cert. ef. 7-1-94; OMAP 37-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 32-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 47-2002, f. & cert. ef. 10-1-02; OMAP 69-2002(Temp), f. 11-15-02, cert. ef. 12-1-02 thru 5-1-03; OMAP 36-2003, f. & cert. ef. 5-1-03

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**Adm. Order No.:** OMAP 37-2003

**Filed with Sec. of State:** 5-1-2003

**Certified to be Effective:** 5-1-03

**Notice Publication Date:** 4-1-03

**Rules Amended:** 410-125-0141, 410-125-0195

**Subject:** The rules of Hospital Services govern Office of Medical Assistance Programs (OMAP) payment to providers for services provided for clients of the Medical Assistance programs. Rules 410-125-0141 and 410-125 0195 are permanently amended, to clarify the percentage adjustment by specifying in rule the percentage amount to implement the DHS March 2003 budget reduction actions resulting from the December 2002 budget shortfall. These rules are Permanently adopted, effective May 1, 2003.

**Rules Coordinator:** Darlene Nelson—(503) 945-6927

## 410-125-0141

### DRG Rate Methodology

(1) Diagnosis Related Groups:

(a) Diagnosis Related Groups (DRG) is a system of classification of diagnoses and procedures based on the International Classification of Diseases, 9th Revision, Clinical Modification (ICD-9-CM);

(b) The DRG classification methodology assigns a DRG category to each inpatient service, based on the patient's diagnoses, age, procedures performed, length of stay, and discharge status.

(2) Medicare Grouper: The Medicare Grouper is the software used to assign individual claims to a DRG category. Medicare revises the Grouper program each year in October. OMAP uses the Medicare Grouper program in the assignment of inpatient hospital claims. The most recent version of the Medicare grouper will be installed each year within 90 days of the date it is implemented by Medicare. Where better assignment of claims is achieved through changes to the grouper logic, OMAP may modify the logic of the grouper program. OMAP will work with representatives of hospitals that may be affected by grouper logic changes in reaching a cooperative decision regarding changes. OMAP DRG weight tables can be found at web site [www.dhs.state.or.us/provguides/hospital](http://www.dhs.state.or.us/provguides/hospital).

(3) DRG Relative Weights:

(a) Relative weights are a measure of the relative resources required in the treatment of the average case falling within a specific DRG category;

(b) For most DRGs, OMAP establishes a relative weight based on federal Medicare DRG weights. For state-specific Rehabilitation, Neonate, and Adolescent Psychiatric DRGs, Oregon Title XIX fee-for-service claims

history is used. To determine whether enough claims exist to establish a reasonable weight for each state-specific Rehabilitation, Neonate, and Adolescent Psychiatric DRG, OMAP uses the following methodology: Using the formula  $N = \frac{Z}{R} \cdot S$  where  $Z = 1.15$  (a 75% confidence level),  $S$  is the standard deviation, and  $R = 10\%$  of the mean. OMAP determines the minimum number of claims required to set a stable weight for each DRG ( $N$  must be at least 5). For state-specific Rehabilitation, Neonate, and Adolescent Psychiatric DRGs lacking sufficient volume, OMAP sets a relative weight using:

(A) OMAP non-Title XIX claims data; or

(B) Data from other sources expected to reflect a population similar to the OMAP Title XIX caseload.

(c) When a test shows at the 90% confidence level that an externally derived weight is not representative of the average cost of services provided to the OMAP Title XIX population in that DRG, the weight derived from OMAP Title XIX claims history is used instead of the externally-derived weight for that DRG.

(d) Those relative weights based on Federal Medicare DRG weights, will be established when changes are made to the DRG Grouper logic. State-specific relative weights shall be adjusted, as needed, as determined by OMAP ([www.dhs.state.or.us/provguides/hospital](http://www.dhs.state.or.us/provguides/hospital)). When relative weights are recalculated, the overall Case Mix Index (CMI) will be kept constant. Reweighting of DRGs or the addition or modification of the grouper logic will not result in a reduction of overall payments or total relative weights.

(4) Case Mix Indexed: The hospital-specific case mix index is the total of all relative weights for all services provided by a hospital during a period, divided by the number of discharges.

(5) Operating Costs:

(a) For the purposes of determining costs for all hospitals except for Type A, Type B, and Critical Access Hospitals, costs are defined as costs derived from the Medicare cost reports for the hospital FY ending during the State FY 87 (July 1, 1986 through June 30, 1987) adjusted to the Medicaid mix of services and trended forward using Data Resources Inc. (DRI) inflation factors;

(b) For the purposes of determining each hospital's unit value for services beginning July 1, 1991, the following procedure was used:

(A) The Medicaid cost per discharge was derived from each hospital's Medicare cost report as described above, and adjusted to the Medicaid mix of services. The costs of capital and direct and indirect medical education were deducted from this amount (capital and education costs were taken from the Medicare cost report for the hospital's fiscal year ending during the State 1987 Fiscal Year). The resultant amount is referred to as the "operating cost" per discharge;

(B) The operating cost per discharge as described in (5)(A) of this rule (Operating Costs) for each hospital was adjusted in order to bring all hospitals to the same 1987 mid-point, using HCFA-DRI inflation adjustments. The operating cost was then inflated forward to the mid-point of Oregon Fiscal Year 1992 (January, 1992) using the compounded HCFA-DRI inflation factor.

(6) Unit Value: The Unit Value for each hospital effective for services beginning on or after July 1, 1991, was established as follows:

(a) The Oregon Fiscal Year 1992 operating cost per discharge was multiplied by the ratio of the projected 1992 CMI to the 1987 CMI to adjust for changes in the CMI between 1987 and the CMI for 1992;

(b) The CMI-trend adjusted cost per discharge is divided by the hospital's projected 1992 CMI in order to compare all hospitals as though they had a CMI of 1.0;

(c) All hospitals, including Type A, Type B, and Critical Access hospitals, are ranked by their CMI adjusted cost per discharge;

(d) Each hospital below the 70th percentile is assigned a Preliminary FY 1992 Unit Value equal to its CMI adjusted operating costs per discharge described in (5), Operating Costs. This preliminary FY 1992 Unit Value is reduced by the cost outlier payments which had been projected for FY 1992 (the projections which were the basis for the FY 1992 prospective rates). This preliminary unit value is further reduced by 2.45% to get the Final Unit Value for FY 1992. This shall also be the hospital's Unit Value for the period beginning December 1, 1993;

(e) Each hospital at or above the 70th percentile is assigned a Preliminary FY 1992 Unit Value equal to the Preliminary Unit Value of the hospital at the 70th percentile. This Preliminary FY 1992 Unit Value is adjusted downwards as required in order that the outlier payments which had been projected for FY 1992 combined with the Operational Payment will not exceed the hospital's FY 1992 Operating Cost per Discharge as described in (5), of this rule. This preliminary unit value is further reduced

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by 2.45% to get the final Unit Value for FY 1992. This shall also be the hospital's Unit Value for the period beginning December 1, 1993;

(f) For services beginning on or after October 1, 1996 the Unit Values for each hospital shall be adjusted at an inflation factor determined by the Department in consideration of inflationary trends, hospital productivity and other relevant factors.

(g) The Unit Value will be calculated as specified in (6)(a)-(f). Effective for services provided on or after March 10, 2003, the Unit Value for each hospital shall be reduced by 12 percent.

(7) DRG Payment: The DRG payment to each hospital is calculated by multiplying the Relative Weight for the DRG by the Hospital-Specific Unit Value. This is also referred to as the Operational Payment.

(8) Cost Outlier Payments:

(a) Cost outlier payments are an additional payment made to disproportionate share qualifying hospitals. For dates of service effective March 10, 2003 payment will be at the time a claim is processed for exceptionally costly services or exceptionally long lengths of stay provided to Title XIX and SF (State Facility) clients under one year of age in compliance with Sec. 1933.42 U.S.C. 1396r-4.

(b) Effective for services beginning on or after July 1, 1991, the calculation to determine the cost outlier payment for all hospitals is as follows:

(A) Non-covered services (such as ambulance charges) are deducted from billed charges;

(B) The remaining billed charges are converted to hospital-specific costs using the hospital's cost-to-charge ratio derived from the most recent audited Medicare cost report and adjusted to the Medicaid case load;

(C) If the hospital's net costs as determined above are greater than 300 percent of the DRG payment for the admission and are greater than \$25,000, an additional cost outlier payment is made;

(D) Costs which exceed the threshold (\$25,000 or 300% of the DRG payment, whichever is greater) are reimbursed using the following formula:

- (i) Billed charges less non-covered charges, times;
- (ii) Hospital-specific cost-to-charge ratio, equals;
- (iii) Net Costs, minus;
- (iv) 300% of the DRG or \$25,000 (whichever is greater), equals;
- (v) Outlier Costs, times;
- (vi) Cost Outlier Percentage, (cost outlier percentage is 50%), equals;
- (vii) Cost Outlier Payment.

(E) Third party reimbursements are deducted from the OMAP calculation of payable amount;

(F) When hospital cost reports are audited, an adjustment will be made to cost outlier payments to reflect the actual Medicaid hospital-specific cost-to-charge ratio during the time cost outlier claims were incurred. The cost-to-charge ratio in effect for that period of time will be determined from the audited Medicare Cost Report and OMAP 42, adjusted to reflect the Medicaid mix of services.

(9) Capital:

(a) The capital payment is a reimbursement to in-state hospitals for capital costs associated with the delivery of services to Title XIX, non-Medicare persons. The Office of Medical Assistance Programs uses the Medicare definition and calculation of capital costs. These costs are taken from the Hospital Statement of Reimbursable Cost (Medicare Report);

(b) Capital cost per discharge is calculated as follows:

(A) The capital cost proportional to the number of Title XIX non-Medicare discharges during the period from July 1, 1986 through June 30, 1987 is divided by the number of Title XIX non-Medicare discharges. This results in the Title XIX Capital Cost per discharge. The Title XIX capital cost per discharge for each hospital above the 50th percentile will be set at the 50th percentile for Oregon hospitals receiving DRG reimbursement;

(B) The Title XIX Capital Cost per discharge for this period is inflated forward to Oregon FY 1992, using the compounded HCFA-DRI market basket adjustment.

(c) Capital Payment Per Discharge:

(A) The number of Title XIX discharges paid during the quarter for each hospital is multiplied by the Title XIX cost per discharge from 1987 trended forward as described above. This determines the current quarter's capital costs. Reimbursement is made at 85% of this amount. Payment is made within thirty days of the end of the quarter;

(B) The capital payment per discharge will be adjusted at an inflation factor determined by the Department in consideration of inflationary trends, hospital productivity and other relevant factors.

(10) Direct Medical Education:

(a) The direct medical education payment is a reimbursement to in-state hospitals for direct medical education costs associated with the deliv-

ery of services to Title XIX eligible persons. The Office of Medical Assistance Programs uses the Medicare definition and calculation of direct medical education costs. These costs are taken from the Hospital Statement of Reimbursable Cost (Medicare Report);

(b) Direct Medical Education cost per discharge is calculated as follows:

(A) The direct medical education cost proportional to the number of Title XIX non-Medicare discharges during the period from July 1, 1986 through June 30, 1987 is divided by the number of Title XIX non-Medicare discharges. This is the Title XIX Direct Medical Education Cost per discharge;

(B) The Title XIX Direct Medical Education cost per discharge for this period is inflated forward to January 1, 1992, using the compounded HCFA-DRI market basket adjustment.

(c) Direct Medical Education Payment Per Discharge:

(A) The number of Title XIX non-Medicare discharges from each hospital for the quarterly period is multiplied by the inflated Title XIX cost per discharge. This determines the current quarter's Direct Medical Education costs. This amount is then multiplied by 85%. Payment is made within thirty days of the end of the quarter;

(B) The Direct Medical Education Payment Per Discharge will be adjusted at an inflation factor determined by the Department in consideration of inflationary trends, hospital productivity and other relevant factors.

(11) Indirect Medical Education:

(a) The indirect medical education payment is a reimbursement made to in-state hospitals for indirect medical education costs associated with the delivery of services to Title XIX non-Medicare clients;

(b) Indirect medical education costs are those indirect costs identified by Medicare as resulting from the effect of teaching activity on operating costs;

(c) Indirect medical education payments are made to in-state hospitals determined by Medicare to be eligible for such payments. The indirect medical education factor in use by Medicare for each of these eligible hospitals at the beginning of the State's fiscal year is the Office of Medical Assistance Program's indirect medical education factor. This factor is used for the entire Oregon fiscal year;

(d) The calculation for the Indirect Medical Education quarterly payment is as follows: Total paid discharges during the quarter multiplied by the Case Mix Index, multiplied by the Unit Value, multiplied by the Indirect Factor equals Indirect Medical Education Payment;

(e) This determines the current quarter's Indirect Medical Education Payment. Indirect medical education payments are made quarterly to each eligible hospital. Payment for indirect medical education costs will be made within thirty days of the end of the quarter.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: AFS 14-1980, f. 3-27-80, ef. 4-1-80; AFS 57-1980, f. 8-29-80, ef. 9-1-80; AFS 1982(Temp), f. & ef. 3-1-82; AFS 60-1982, f. & ef. 7-1-82; Renumbered from 461-15-120(5); AFS 37-1983(Temp), f. & ef. 7-15-83; AFS 1-1984, f. & ef. 1-9-84; AFS 45-1984, f. & ef. 10-1-84; AFS 6-1985, f. 1-28-85, ef. 2-1-85; AFS 52-1985, f. 9-3-85, ef. 10-1-85; AFS 46-1986(Temp), f. 6-25-86, ef. 7-1-86; AFS 61-1986, f. 8-12-86, ef. 9-1-86; AFS 33-1987(Temp), f. & ef. 7-22-87; AFS 46-1987, f. & ef. 10-1-87; AFS 62-1987(Temp), f. 12-30-87, ef. 1-1-88; AFS 12-1988, f. 2-10-88, cert. ef. 6-1-88; AFS 26-1988, f. 3-31-88, cert. ef. 4-1-88; AFS 47-1988(Temp), f. 7-13-88, cert. ef. 7-1-88; AFS 63-1988, f. 10-3-88, cert. ef. 12-1-88; AFS 7-1989(Temp), f. 2-17-89, cert. ef. 3-1-89; AFS 15-1989(Temp), f. 3-31-89, cert. ef. 4-1-89; AFS 36-1989(Temp), f. & cert. ef. 6-30-89; AFS 37-1989(Temp), f. 6-30-89, cert. ef. 7-1-89; AFS 45-1989, f. & cert. ef. 8-21-89; AFS 49-1989(Temp), f. 8-24-89, cert. ef. 9-1-89; AFS 72-1989, f. & cert. ef. 12-1-89; Renumbered from 461-015-0006, 461-015-0020 & 461-015-0124; HR 18-1990(Temp), f. 6-29-90, cert. ef. 7-1-90; HR 21-1990, f. & cert. ef. 7-9-90; Renumbered from 461-015-570, 461-015-0590, 461-105-0600 & 461-015-0610; HR 31-1990(Temp), f. & cert. ef. 9-11-90; HR 36-1990(Temp), f. 10-29-90, cert. ef. 11-1-90; HR 42-1990, f. & cert. ef. 11-30-90; HR 3-1991, f. & cert. ef. 1-4-91; HR 28-1991(Temp), f. & cert. ef. 7-1-91; HR 32-1991(Temp), f. & cert. ef. 7-29-91; HR 53-1991, f. & cert. ef. 11-18-91; Renumbered from 410-125-0840, 410-125-0880, 410-125-0900, 410-125-0920, 410-125-0960 & 410-125-0980; HR 35-1993(Temp), f. & cert. ef. 12-1-93; HR 23-1994, f. 5-31-94, cert. ef. 6-1-94; HR 11-1996(Temp), f. & cert. ef. 7-1-96; HR 22-1996, f. 11-29-96, cert. ef. 12-1-96; OMAP 45-1998, f. & cert. ef. 12-1-98; OMAP 34-1999, f. & cert. ef. 10-1-99; OMAP 35-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 13-2003, f. 2-28-03, cert. ef. 3-1-03; OMAP 16-2003(Temp), f. & cert. ef. 3-10-03 thru 8-1-03; OMAP 37-2003, f. & cert. ef. 5-1-03

## 410-125-0195

### In State DRG Hospitals

(1) Interim reimbursement:

(a) The interim reimbursement for laboratory, diagnostic and therapeutic radiology, nuclear medicine, CT scans, MRI services, other imaging services, and maternity case management services is the OMAP fee schedule.

(b) The individual hospital's interim percentage reimbursement for other outpatient hospital services will be reduced by 12 percent effective March 10, 2003.

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## (2) Settlement reimbursement:

(a) For Title XIX/Title XXI clients: Effective for dates of service on or after March 10, 2003, an adjustment to 51.9 percent of costs is made during the cost settlement process.

(b) For GA clients: Effective for dates of service on or after March 10, 2003, other outpatient hospital services are reimbursed at 44% of billed charges or 51.9 percent of costs, whichever is less.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: AFS 14-1980, f. 3-27-80, ef. 4-1-80; AFS 57-1980, f. 8-29-80, ef. 9-1-80; AFS 18-1982(Temp), f. & ef. 3-1-82; AFS 60-1982, f. & ef. 7-1-82; Renumbered from 461-015-0120(5); AFS 37-1983(Temp), f. & ef. 7-15-83; AFS 1-1984, f. & ef. 1-9-84; AFS 45-1984, f. & ef. 10-1-84; AFS 6-1985, f. 1-28-85, ef. 2-1-85; AFS 52-1985, f. 9-3-85, ef. 10-1-85; AFS 46-1986(Temp), f. 6-25-86, ef. 7-1-86; AFS 61-1986, f. 8-12-86, ef. 9-1-86; AFS 33-1987(Temp), f. & ef. 7-22-87; AFS 46-1987, f. & ef. 10-1-87; AFS 62-1987(Temp), f. 12-30-87, ef. 1-1-88; AFS 12-1988, f. 2-10-88, cert. ef. 6-1-88; AFS 26-1988, f. 3-31-88, cert. ef. 4-1-88; AFS 47-1988(Temp), f. 7-13-88, cert. ef. 7-1-88; AFS 63-1988, f. 10-3-88, cert. ef. 12-1-88; AFS 7-1989(Temp), f. 2-17-89, cert. ef. 3-1-89; AFS 15-1989(Temp), f. 3-31-89, cert. ef. 4-1-89; AFS 36-1989(Temp), f. & cert. ef. 6-30-89; AFS 37-1989(Temp), f. 6-30-89, cert. ef. 7-1-89; AFS 45-1989, f. & cert. ef. 8-21-89; AFS 49-1989(Temp), f. 8-24-89, cert. ef. 9-1-89; AFS 72-1989, f. & cert. ef. 12-1-89; Renumbered from 461-015-0124; HR 18-1990(Temp), f. 6-29-90, cert. ef. 7-1-90; HR 21-1990, f. & cert. ef. 7-9-90; Renumbered from 461-015-0540 & 461-015-0550; HR 31-1990(Temp), f. & cert. ef. 9-11-90; HR 2-1991, f. & cert. ef. 1-4-91; HR 15-1991(Temp), f. & cert. ef. 4-8-91; HR 28-1991(Temp), f. & cert. ef. 7-1-91; HR 32-1991(Temp), f. & cert. ef. 7-29-91; HR 53-1991, f. & cert. ef. 11-18-91; Renumbered from 410-125-0780 & 410-125-0800; HR 22-1993(Temp), f. & cert. ef. 9-1-93; HR 36-1993, f. & cert. ef. 12-1-93; OMAP 34-1999, f. & cert. ef. 10-1-99; OMAP 13-2003, f. 2-28-03, cert. ef. 3-1-03; OMAP 16-2003(Temp), f. & cert. ef. 3-10-03 thru 8-1-03; OMAP 37-2003, f. & cert. ef. 5-1-03

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**Adm. Order No.:** OMAP 38-2003

**Filed with Sec. of State:** 5-9-2003

**Certified to be Effective:** 5-9-03

**Notice Publication Date:** 4-1-03

**Rules Amended:** 410-121-0157

**Subject:** The Pharmaceutical Services program rules govern Office of Medical Assistance Programs (OMAP) payments for pharmaceutical products and services provided to clients. OMAP temporarily amended Rule 410-121-0157 to reference the updated information regarding participating pharmaceutical companies to the Medicaid Drug Rebate Program, in compliance with federal regulations. This rule is permanently adopted effective upon filing (May 2003).

**Rules Coordinator:** Darlene Nelson—(503) 945-6927

## 410-121-0157

### Participation in the Medicaid Drug Rebate Program

(1) The Oregon Medicaid Pharmaceutical Services Program is a participant in the Centers for Medicare and Medicaid Services (CMS) formerly Health Care Financing Administration (HCFA) Medicaid Drug Rebate Program, created by the Omnibus Budget Reconciliation Act (OBRA) of 1990. The Medicaid Drug Rebate Program requires a drug manufacturer to enter into and have in effect a national rebate agreement with the Secretary of the Department of Health and Human Services for States to receive federal funding for outpatient drugs dispensed to Medicaid patients. The drug rebate program is administered by CMS's Center for Medicaid and State Operations (CMSO). Pharmaceutical companies participating in this program have signed agreements with CMS to provide rebates to OMAP on all their drug products. OMAP will reimburse providers only for outpatient drug products manufactured or labeled by companies participating in this program.

(2) Names and Labeler Code numbers for participants in the Medicaid Drug Rebate Program are the responsibility of and maintained by CMS. OMAP receives this information from CMS in the form of numbered and dated Releases. OMAP includes in rule by reference, Release #121, dated February 28, 2003. This information is available on OMAP's website: <http://www.dhs.state.or.us/policy/healthplan/rules/>, and on the CMS website: [www.cms.hhs.gov/medicaid/drugs/drughmpg.asp](http://www.cms.hhs.gov/medicaid/drugs/drughmpg.asp), or by contacting CMS.

(3) OMAP contracts with First Health Services to manage the Medicaid Rebate Dispute Resolution program. Pharmacy providers must verify the accuracy of their Medicaid pharmacy claims with First Health Services within 30 days of request in instances where drug manufacturers dispute their claim information. Verification can be photocopies of drug invoices showing that the billed products were in stock during the time of the date of service.

(4) The actual NDC dispensed and the actual Metric decimal quantity dispensed, must be billed.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 16-1991(Temp), f. 4-12-91, cert. ef. 4-15-91; HR 22-1991, f. & cert. ef. 5-16-91; HR 23-1991(Temp), f. 6-14-91, cert. ef. 6-17-91; HR 31-1991, f. & cert. ef. 7-16-91; HR 36-1991(Temp), f. 9-16-91, cert. ef. 10-1-91; HR 45-1992, f. & cert. ef. 10-16-91; HR 50-1991(Temp), f. & cert. ef. 10-29-91; HR 1-1992, f. & cert. ef. 1-2-92; HR 13-1992, f. & cert. ef. 6-1-92; HR 21-1992, f. 7-31-92, cert. ef. 8-1-92; HR 31-1992, f. & cert. ef. 10-1-92; HR 34-1992, f. & cert. ef. 12-1-92; HR 4-1993, f. 3-10-93, cert. ef. 3-11-93; HR 7-1993(Temp), f. & cert. ef. 4-1-93; HR 14-1993, f. & cert. ef. 7-2-93; HR 24-1993, f. & cert. ef. 10-1-93; HR 17-1994, f. & cert. ef. 4-1-94; 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 29-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 43-2000(Temp), f. 12-29-00, cert. ef. 1-1-01 thru 5-1-01; OMAP 3-2001, f. & cert. ef. 3-16-01; OMAP 24-2001(Temp), f. 5-9-01, cert. ef. 5-10-01 thru 11-1-01; OMAP 25-2001(Temp), f. 6-28-01, cert. ef. 7-1-01 thru 12-1-01; OMAP 27-2001(Temp), f. 7-30-01, cert. ef. 8-1-01 thru 1-26-02; OMAP 48-2001(Temp), f. 9-28-01, cert. ef. 10-1-01 thru 3-1-02; OMAP 56-2001(Temp), f. & cert. ef. 11-1-01 thru 4-15-02; OMAP 57-2001(Temp), f. 11-28-01, cert. ef. 12-1-01 thru 4-15-02; OMAP 66-2001(Temp), f. 12-28-01, cert. ef. 1-1-02 thru 5-15-02; OMAP 4-2002(Temp), f. & cert. ef. 3-5-02 thru 8-1-02; OMAP 16-2002(Temp), f. & cert. ef. 4-12-02 thru 9-1-02; OMAP 20-2002(Temp), f. & cert. ef. 5-15-02 thru 10-1-02; OMAP 34-2002(Temp), f. & cert. ef. 8-14-02 thru 1-15-03; OMAP 67-2002(Temp), f. & cert. ef. 11-1-02 thru 3-15-03; OMAP 6-2003(Temp), f. & cert. ef. 2-14-03 thru 7-1-03; OMAP 38-2003, f. & cert. ef. 5-9-03

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**Adm. Order No.:** OMAP 39-2003(Temp)

**Filed with Sec. of State:** 5-15-2003

**Certified to be Effective:** 5-15-03 thru 10-15-03

**Notice Publication Date:**

**Rules Amended:** 410-121-0157

**Subject:** The Pharmaceutical Services program rules govern Office of Medical Assistance Programs (OMAP) payments for services provided to clients. Rule 410-121-0157 is amended to reference the updated information regarding participating pharmaceutical companies to the Medicaid Drug Rebate Program, in compliance with federal regulations. Updates include information from CMS Release #122, dated April 22, 2003.

**Rules Coordinator:** Darlene Nelson—(503) 945-6927

## 410-121-0157

### Participation in the Medicaid Drug Rebate Program

(1) The Oregon Medicaid Pharmaceutical Services Program is a participant in the Centers for Medicare and Medicaid Services (CMS) formerly Health Care Financing Administration (HCFA) Medicaid Drug Rebate Program, created by the Omnibus Budget Reconciliation Act (OBRA) of 1990. The Medicaid Drug Rebate Program requires a drug manufacturer to enter into and have in effect a national rebate agreement with the Secretary of the Department of Health and Human Services for States to receive federal funding for outpatient drugs dispensed to Medicaid patients. The drug rebate program is administered by CMS's Center for Medicaid and State Operations (CMSO). Pharmaceutical companies participating in this program have signed agreements with CMS to provide rebates to OMAP on all their drug products. OMAP will reimburse providers only for outpatient drug products manufactured or labeled by companies participating in this program.

(2) Names and Labeler Code numbers for participants in the Medicaid Drug Rebate Program are the responsibility of and maintained by CMS. OMAP receives this information from CMS in the form of numbered and dated Releases. OMAP includes in rule by reference, Release #122, dated April 22, 2003. This information is available on OMAP's website: <http://www.dhs.state.or.us/policy/healthplan/rules/>, and on the CMS website: [www.cms.hhs.gov/medicaid/drugs/drughmpg.asp](http://www.cms.hhs.gov/medicaid/drugs/drughmpg.asp), or by contacting CMS.

(3) OMAP contracts with First Health Services to manage the Medicaid Rebate Dispute Resolution program. Pharmacy providers must verify the accuracy of their Medicaid pharmacy claims with First Health Services within 30 days of request in instances where drug manufacturers dispute their claim information. Verification can be photocopies of drug invoices showing that the billed products were in stock during the time of the date of service.

(4) The actual NDC dispensed and the actual Metric decimal quantity dispensed, must be billed.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 16-1991(Temp), f. 4-12-91, cert. ef. 4-15-91; HR 22-1991, f. & cert. ef. 5-16-91; HR 23-1991(Temp), f. 6-14-91, cert. ef. 6-17-91; HR 31-1991, f. & cert. ef. 7-16-91; HR 36-1991(Temp), f. 9-16-91, cert. ef. 10-1-91; HR 45-1992, f. & cert. ef. 10-16-91; HR 50-1991(Temp), f. & cert. ef. 10-29-91; HR 1-1992, f. & cert. ef. 1-2-92; HR 13-1992, f. & cert. ef. 6-1-92; HR 21-1992, f. 7-31-92, cert. ef. 8-1-92; HR 31-1992, f. & cert. ef. 10-1-92; HR 34-1992, f. & cert. ef. 12-1-92; HR 4-1993, f. 3-10-93, cert. ef. 3-11-93; HR 7-1993(Temp), f. & cert. ef. 4-1-93; HR 14-1993, f. & cert. ef. 7-2-93; HR 24-1993, f. & cert. ef. 10-1-93; HR 17-1994, f. & cert. ef. 4-1-94; HR 25-1994, f. & cert. ef. 7-1-94; HR 2-1995, f. & cert.

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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 29-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 43-2000(Temp), f. 12-29-00, cert. ef. 1-1-01 thru 5-1-01; OMAP 3-2001, f. & cert. ef. 3-16-01; OMAP 24-2001(Temp), f. 5-9-01, cert. ef. 5-10-01 thru 11-1-01; OMAP 25-2001(Temp), f. 6-28-01, cert. ef. 7-1-01 thru 12-1-01; OMAP 27-2001(Temp), f. 7-30-01, cert. ef. 8-1-01 thru 1-26-02; OMAP 48-2001(Temp), f. 9-28-01, cert. ef. 10-1-01 thru 3-1-02; OMAP 56-2001(Temp), f. & cert. ef. 11-1-01 thru 4-15-02; OMAP 57-2001(Temp), f. 11-28-01, cert. ef. 12-1-01 thru 4-15-02; OMAP 66-2001(Temp), f. 12-28-01, cert. ef. 1-1-02 thru 5-15-02; OMAP 4-2002(Temp), f. & cert. ef. 3-5-02 thru 8-1-02; OMAP 16-2002(Temp), f. & cert. ef. 4-12-02 thru 9-1-02; OMAP 20-2002(Temp), f. & cert. ef. 5-15-02 thru 10-1-02; OMAP 34-2002(Temp), f. & cert. ef. 8-14-02 thru 1-15-03; OMAP 67-2002(Temp), f. & cert. ef. 11-1-02 thru 3-15-03; OMAP 6-2003(Temp), f. & cert. ef. 2-14-03 thru 7-1-03; OMAP 38-2003, f. & cert. ef. 5-9-03; OMAP 39-2003(Temp), f. & cert. ef. 5-15-03 thru 10-15-03

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## Department of Human Services, Public Health Chapter 333

**Adm. Order No.:** PH 5-2003

**Filed with Sec. of State:** 5-15-2003

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

**Notice Publication Date:** 4-1-03

**Rules Amended:** 333-064-0025

**Subject:** Amends Rules (for accrediting environmental testing laboratories) to change the standards for accreditation from the NELAC 2000 to NELAC 2001 Standards as required to maintain national recognition of the Oregon Environmental Laboratory Accreditation Program by the U.S. Environmental Protection Agency's National Environmental Laboratory Accreditation Program

**Rules Coordinator:** Jana Fussell—(503) 731-4320

### 333-064-0025

#### Definitions

As used in these rules, unless the context indicates otherwise:

(1) "Accrediting Authority" means the official accrediting authority for the Oregon Environmental Laboratory Accreditation Program comprised of the Administrator of the Office of Oregon State Public Health Laboratories or designee, the Laboratory Administrator of the Department of Environmental Quality or designee and the Laboratory Administrator of the Department of Agriculture or designee.

(2) "Clean Air Act (CAA)" means the enabling legislation, **42 U.S.C. 7401 et seq. (1974), Public Law 91-604, 84 Stat. 1676 Public Law 95-95, 91 Stat., 685 and Public Law 95-190, 91 Stat., 1399**, that empowers the EPA to promulgate air quality standards, monitor and enforce them.

(3) "Clean Water Act (CWA)" means the enabling legislation under **33 U.S.C. 1251 et seq., Public Law 92-50086, Stat. 816** that empowers the EPA to set discharge limitations, write discharge permits, monitor and bring enforcement action for non-compliance.

(4) "Environmental laboratory" means a fixed location or mobile facility that analyzes environmental samples in a controlled and scientific manner.

(5) "National Environmental Laboratory Accreditation Conference (NELAC)" means the voluntary organization of state and federal environmental officials and interest groups purposed primarily to establish mutually acceptable standards for accrediting environmental laboratories.

(6) "National Environmental Laboratory Accreditation Program (NELAP)" means the program established and administered by the EPA to oversee the implementation of the NELAC Standards.

(7) "NELAC Standards" means the adopted **May 2001 NELAC Constitution, By-Laws, and Standards (EPA/600/R-01/100)** document describing the elements of laboratory accreditation that was developed and established by the consensus principles of NELAC and meets with the approval requirements of NELAC procedures and policies.

(8) "NELAP approved accrediting authority" means a state or federal department/agency that has been approved by NELAP as being an entity whose accreditation and assessment program meets all of the requirements of the NELAC Standards.

(9) "On-site assessment" means an on-site visit to the environmental laboratory to verify items addressed in the ORELAP application and to evaluate the facility and analytical performance for conformance with the NELAC Standards.

(10) "ORELAP approved assessor" means an assessor whose qualification has been evaluated by ORELAP and found to meet NELAC Standards for laboratory on-site assessors.

(11) "Primary Accreditation" means accreditation by a NELAP approved accrediting authority based on a laboratory's compliance to

NELAC Standards after a review of the laboratory's application, Quality Manual, PT results and on-site inspection results as described in the NELAC Standards.

(12) "Proficiency testing (PT)" means the analysis of samples obtained from providers that meet the NELAC standards for PT providers. The composition of the sample is unknown to the laboratory performing the analysis, and is used in part to evaluate the ability of the laboratory to produce precise and accurate results.

(13) "Public water system" means a water system as defined in OAR 333-061-0010.

(14) "Quality Manual (QM)" means a document stating the management policies, objectives, principles, organizational structure and authority, responsibilities, accountability, and implementation of a laboratory to ensure the quality of its product and the utility of its product to its users.

(15) "Resource Conservation and Recovery Act (RCRA)" means the enabling legislation 42 U.S.C. section 6901 et seq.(1976) that requires the EPA to protect human health and protecting and monitoring the environment by regulating hazardous waste disposal practices.

(16) "Safe Drinking Water Act (SDWA)" means the SDWA enacted in 1974 and the Safe Drinking Water Amendments of 1986, 42 U.S.C. 300f et seq., Public Law 93-523, that is the enabling legislation that requires the EPA to protect the quality of drinking water in the U.S. by setting maximum allowable contaminant levels, monitoring, and enforcing violations.

(17) "Secondary Accreditation" means the recognition by reciprocity for the fields of testing, methods and analytes for which the laboratory holds current primary accreditation by another NELAP recognized accrediting authority.

(18) "These rules" means the Oregon Administrative Rules encompassed by OAR 333-064-0005 through 333-064-0065.

(19) "Third party assessor" means an ORELAP approved assessor who has a current contract with the Oregon Department of Human Services to perform on-site assessments of laboratories for ORELAP and is not employed by the state agencies comprising ORELAP's accrediting authority.

(20) "United States Environmental Protection Agency (EPA)" means the federal government agency with the responsibility for protecting public health and safeguarding and improving the natural environment (i.e., air, water, and land) upon which human life depends.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 184, 448.150(1), ORS 448.131, ORS 448.280(1)(b) & (2), ORS 438.605, ORS 438.610, ORS 438.615 & ORS 438.620

Stats. Implemented: ORS 448.280(1)(b) & (2), 438.605, 438.610, 438.615 & 620

Hist.: OHD 7-1999, f. & cert. ef. 10-26-99; OHD 1-2001, f. & cert. ef. 1-17-01; OHD 16-2002, f. & cert. ef. 10-10-02; PH 5-2003, f. 5-15-03, cert. ef. 7-1-03

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

**Adm. Order No.:** SSP 10-2003(Temp)

**Filed with Sec. of State:** 5-1-2003

**Certified to be Effective:** 5-1-03 thru 9-30-03

**Notice Publication Date:**

**Rules Amended:** 461-110-0115, 461-135-0725, 461-150-0050, 461-155-0250

**Subject:** Rule 461-110-0115 is being amended to incorporate new definitions used in determining eligibility for the OSIP-EPD and OSIPM-EPD programs.

Rule 461-135-0725 is being amended to incorporate the new definition of "attached to the workforce."

Rule 461-150-0050 is being amended to incorporate the new prospective and retrospective eligibility and quarterly budgeting process for the OSIP-EPD and OSIPM-EPD programs.

Rule 461-155-0250 is being amended to add the amount of earned income needed for someone to be considered Attached to the Workforce.

**Rules Coordinator:** Annette Tesch—(503) 945-6067

### 461-110-0115

#### Terms Used in Determining Eligibility; OSIP-EPD and OSIPM-EPD

(1) *Approved account* means a segregated account in a financial institution; the purpose of which is to save for future expenses that would increase the individual's independence and employment potential. Also included in this category are retirement accounts (IRAs, 401(k)s, TSAs, KEOGHs, etc.) and Medical Savings Accounts (MSAs).

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(2) *Attached to the workforce* means a person is employed and has, in each countable quarter, earnings sufficient to receive credit from the Social Security Administration for a quarter of coverage for purposes of obtaining Social Security benefits (see 42 U.S.C. § 413).

(3) *Blind Work Expenses* (BWEs) are those costs defined by the Social Security Administration (SSA) that can be used as reductions to earned income as defined in 20 CFR 416.1112(c)(8).

(4) *Client contribution* is the amount that must be paid monthly as a condition of eligibility for the EPD program. This contribution is the combination of the Cost Share and the Premium.

(5) *Cost share* means the amount of unearned income in excess of the OSIP income and payment standard that is given to the state.

(6) *Disabled* means having a physical or mental impairment, or a combination of these impairments, that meets the definition of disability used by the Social Security Administration when determining eligibility for Supplemental Security Income (SSI) and Social Security Disability Insurance (SSDI) as defined in 20 CFR Part 404.

(7) *Disability determination* means the process used to establish whether the individual's disability meets the definitions used by the Social Security Administration (SSA) in determining eligibility for Supplemental Security Income (SSI) and Social Security Disability Insurance (SSDI).

(8) *Employment* means an ongoing work activity for which income is received and a potential tax liability is incurred.

(9) *Employment and independence expense* (EIE) means the cost of any expense that can be reasonably expected to enhance the individual's independence and employment potential.

(10) *Impairment Related Work Expenses* (IRWEs) are those costs defined by the Social Security Administration (SSA) that can be used as reductions to earned income. To be allowed, the item/service must be related to the impairment and necessary to enable the person to perform their job as defined in 20 CFR 416.976.

(11) *Premium* means the payment given to the state that is based on a graduated percentage of the individual's total income.

Stat. Auth.: ORS 411.060, ORS 411.070 & ORS 414.042  
Stats. Implemented: ORS 411.060, ORS 411.070 & ORS 414.042  
Hist.: AFS 1-1999(Temp), f. & cert. ef. 2-1-99 thru 7-31-99; AFS 7-1999, f. 4-27-99, cert. ef. 5-1-99; AFS 22-2002, f. 12-31-02, cert. ef. 1-1-03; SSP 10-2003(Temp) f. & cert. ef. 5-1-03 thru 9-30-03

## 461-135-0725

### Specific Requirements; OSIP-EPD, OSIPM-EPD

- (1) To be eligible for OSIP-EPD and OSIPM-EPD, a person must:
  - (a) Be disabled, as defined in OAR 461-125-0370(2);
  - (b) Have adjusted income below the limit provided in OAR 461-155-0250(6); and
  - (c) Be attached to the workforce as defined in OAR 461-110-0115.

Once found eligible, a client remains attached to the workforce while not working if the employer treats the client as an employee, such as when the client is absent from the job under the provisions of the Family Medical Leave Act.

(2) If an OSIP-EPD or OSIPM-EPD client becomes unemployed and meets all eligibility requirements for the other OSIP or OSIPM sub-programs except for resources, the client will remain eligible for OSIP-EPD or OSIPM-EPD until his or her resources are below the OSIP or OSIPM resource limit.

Stat. Auth.: ORS 411.060  
Stats. Implemented: ORS 411.060  
Hist.: AFS 1-1999(Temp), f. & cert. ef. 2-1-99 thru 7-31-99; AFS 7-1999, f. 4-27-99, cert. ef. 5-1-99; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; AFS 17-2000, f. 6-28-00, cert. ef. 7-1-00; SSP 10-2003(Temp) f. & cert. ef. 5-1-03 thru 9-30-03

## 461-150-0050

### Use of Prospective or Retrospective Eligibility and Budgeting; GA, OSIP, OSIPM, QMB

Determine how and when to use prospective or retrospective eligibility and budgeting for GA, GAM, OSIP, OSIPM, and QMB as follows:

(1) For GA, GAM, OSIP (except OSIP-EPD and OSIP-IC), OSIPM (except OSIPM-EPD and OSIPM-IC) and QMB:

(a) For the initial month, use prospective eligibility and budgeting. Exclude money received from a nonrecurring source before the date of application. If any money remains after the date of application, count it as a resource.

(b) For ongoing months, use prospective eligibility and prospective budgeting for unearned income and stable earned income. Use retrospective budgeting for varying earned income.

(c) Deduct from the following month's benefit any unearned income received during the budget month that was not used to reduce the current

month's benefit. Supplement the benefit to restore lost benefits if anticipated income is not received.

(2) In the OSIP-EPD and OSIPM-EPD programs, quarterly budgeting is used as follows:

(a) For initial eligibility, a quarter begins the first full month that a client earns income. The quarter will be for three consecutive months. Eligibility begins no later than the date of request, notwithstanding any other eligibility requirements.

(b) For the initial quarterly period, prospective eligibility is used for earned income. Prospective budgeting is used for earned and unearned income. Unearned income received from a nonrecurring source prior to the date of application is excluded, and the remaining balance is a resource.

(c) For changes reported during a certification period, prospective eligibility is used for earned income. Prospective budgeting is used for earned and unearned income.

(d) For redeterminations of eligibility, the last month of eligibility plus the two prior months are used to constitute the quarter, unless prospective eligibility would be more indicative of future eligibility. If prospective eligibility is used, the last month of eligibility plus the following two months are used.

(3) For OSIP-IC and OSIPM-IC, the budget month is the initial month of eligibility.

Stat. Auth.: ORS 411.060  
Stats. Implemented: ORS 411.060  
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; AFS 17-2000, f. 6-28-00, cert. ef. 7-1-00; AFS 11-2001, f. 6-29-01, cert. ef. 7-1-01; SSP 10-2003(Temp) f. & cert. ef. 5-1-03 thru 9-30-03

## 461-155-0250

### Income and Payment Standard; OSIP, OSIPM

(1) For OSIP and OSIPM (except OSIP-EPD, OSIPM-EPD and OSIPM-MN) clients in long-term care and in waived nonstandard living arrangements, the countable income limit standard is 300 percent of the SSI standard. The one-person SSI standard is used for an individual who has no income and is living alone in the community to compute the countable income limit. Other OSIP and OSIPM clients do not have a countable income limit.

(2) The non-SSI OSIP and OSIPM (except OSIP-EPD, OSIPM-EPD and OSIPM-MN) adjusted income standard takes into consideration the need for housing, utilities, food, clothing, personal incidentals and household supplies. The standard is itemized as follows: [Table not included. See ED. NOTE.]

(3) The payment standard is used as the adjusted income limit and to calculate cash benefits for non-SSI OSIP clients. The OSIP-AB adjusted income/payment standard includes a transportation allowance. The total standard is: [Table not included. See ED. NOTE.]

(4) The payment standard for SSI/OSIP clients living in the community is either the SIP amount or the ESB amount. The SIP (supplemental income payment) is a need amount added to any other special or service needs to determine the actual payment. The ESB (excess SSI benefit) is a resource amount used to offset special and service need payments:

(a) For clients whose unearned income minus any SSI or Veterans Nonservice-Connected Disability Benefits is less than \$20: [Table not included. See ED. NOTE.]

(b) For clients whose unearned income minus any SSI or Veterans Nonservice-Connected Disability Benefits is \$20 or more: [Table not included. See ED. NOTE.]

(c) The SSI/OSIP-AB standard includes a transportation allowance. The standard for two assumes one individual is blind and the other is not. If both are blind, \$20 is added to the SIP amount.

(d) For SSI couples in an AFC, ALF or RCF, an amount is added to each person's SIP entry that equals the difference between the individual's income (including SSI and other income) and the OSIP standard for a one-person need group.

(5) For OSIP and OSIPM clients in long-term care, the following amounts are allowed for clothing and personal incidentals:

(a) For clients who receive a VA pension based on unusual medical expenses (UME), \$90 is allowed.

(b) For all other clients, \$30 is allowed.

(6) In the OSIP-EPD and OSIPM-EPD programs, the adjusted income limit is 250 percent of the 2003 federal poverty level for a family of one. This 250 percent limit equals \$1,871 per month or \$22,452 per year.

(7) In the OSIP-EPD and OSIPM-EPD programs, \$890 in earnings is needed to meet the requirement in OAR 461-110-0115 for "sufficient earnings" in the definition of "attached to the workforce."

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

Stat. Auth.: ORS 411.060

# ADMINISTRATIVE RULES

Stats. Implemented: ORS 411.070  
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 16-1990, f. 6-29-90, cert. ef. 7-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 25-1991, f. 12-30-91, cert. ef. 1-1-92; AFS 35-1992, f. 12-31-92, cert. ef. 1-1-93; AFS 29-1993, f. 12-30-93, cert. ef. 1-1-94; AFS 29-1994, f. 12-29-94, cert. ef. 1-1-95; AFS 41-1995, f. 12-26-95, cert. ef. 1-1-96; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 24-1997, f. 12-31-97, cert. ef. 1-1-98; AFS 25-1998, f. 12-28-98, cert. ef. 1-1-99; AFS 1-1999(Temp), f. & cert. ef. 2-1-99 thru 7-31-99; AFS 3-1999, f. 3-31-99, cert. ef. 4-1-99; AFS 16-1999, f. 12-29-99, cert. ef. 1-1-00; AFS 10-2000, f. 3-31-00, cert. ef. 4-1-00; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 27-2001, f. 12-21-01, cert. ef. 1-1-02; AFS 5-2002, f. & cert. ef. 4-1-02; AFS 22-2002, f. 12-31-02, cert. ef. 1-1-03; SSP 7-2003, f. & cert. ef. 4-1-03; SSP 10-2003(Temp) f. & cert. ef. 5-1-03 thru 9-30-03

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**Adm. Order No.:** SSP 11-2003

**Filed with Sec. of State:** 5-1-2003

**Certified to be Effective:** 5-1-03

**Notice Publication Date:** 3-1-03

**Rules Adopted:** 461-155-0526, 461-155-0551

**Rules Amended:** 461-145-0540, 461-155-0500, 461-155-0600, 461-155-0610

**Rules Repealed:** 461-145-0540(T), 461-155-0560

**Subject:** Rule 461-145-0540 is being amended to remove attorney fees related to establishing an income cap trust and ongoing administrative costs (including trustee fees) in excess of \$50, as costs that are allowed to be distributed from the trust. The temporary version of this rule is being repealed.

Rules 461-155-0500, 461-155-0526, 461-155-0551, 461-155-0560, 461-155-0600 and 461-155-0610 are being adopted, amended or repealed because of program budget cuts. Rule 461-155-0500 is being amended to make it consistent with the other rule changes in this package. Rule 461-155-0526 is being adopted to utilize federal matching funds in a category that has not previously been used. Rule 461-155-0551 is being adopted to specify the conditions under which payments to adapt a home are allowable in order to accommodate a client's physical condition. Rule 461-155-0560 is being repealed in its entirety. Rule 461-155-0600 is being amended to authorize payments for home repairs only. (Payments for adaptations to the home to accommodate the physical condition of the client previously in this rule are being moved to OAR 461-155-0551). In addition, payments are limited to \$1,000 in any 24-month period. Rule 461-155-0610 is being amended to limit payments to \$300 in any 12-month period.

**Rules Coordinator:** Annette Tesch—(503) 945-6067

## 461-145-0540

### Trusts

(1) Trust funds are money, securities or similar property held by a person or institution for the benefit of another person.

(2) This section applies to all trust funds in the FS, MAA, MAF, OHP, REF, SAC and TANF programs. It also applies to GA, GAM, OSIP, OSIPM and QMB for trust funds established before October 1, 1993:

(a) Trust funds are counted as a resource if the fund is legally available for use by a member of the financial group for items covered by program benefits.

(b) Trust funds are excluded if the fund is not available for use by a member of the financial group. The financial group must try to remove legal restrictions on the trust, unless that would cause an expense to the group.

(c) The part of the fund available for use for medical expenses covered by the medical program for which the financial group is eligible is counted.

(3) In the ERDC program, all trust funds are excluded.

(4) In the OSIP, OSIPM, and QMB programs, trust funds established on or after October 1, 1993, are treated in accordance with sections (5) through (11) of this rule. In the GA and GAM programs, trust funds established on or after October 1, 1993, are treated in accordance with sections (5) through (9) of this rule.

(5) A trust is considered established if the financial group used their resources to form all or part of the trust and if any of the following established a trust, other than by a will:

- (a) The client.
- (b) The client's spouse.

(c) Any other person, including a court or administrative body, with legal authority to act in place of or on behalf of the client or the client's spouse.

(d) Any other person, including a court or administrative body, acting at the direction or upon the request of the client or the client's spouse.

(6) If the trust contains resources or income of another person, only the share attributable to the client is considered available.

(7) Except as provided in section (10) of this rule, the following factors are ignored when determining how to treat a trust:

(a) The purpose for which the trust was established.

(b) Whether or not the trustees have or exercise any discretion under the trust.

(c) Any restrictions on when or if distributions may be made from the trust.

(d) Any restrictions on the use of distributions from the trust.

(8) If the trust is revocable, it is treated as follows:

(a) The total value of the trust is considered a resource available to the client.

(b) A payment made from the trust to or for the benefit of the client is considered unearned income.

(c) A payment from the trust other than to or for the benefit of the client is considered a transfer of assets covered by OAR 461-140-0210 and following.

(9) If the trust is irrevocable, it is treated as follows:

(a) If, under any circumstances, the funds transferred into the trust are unavailable to the client and the trustee has no discretion to distribute the funds to or for the benefit of the client, the client is subject to a transfer-of-resources penalty as provided in OAR 461-140-0210 and following.

(b) If, under any circumstances, payments could be made to or on behalf of the client, the share of the trust from which the payment could be made is considered a resource. A payment from the trust other than one to or for the benefit of the client is considered a transfer of assets that may be covered by OAR 461-140-0210.

(c) If, under any circumstances, income is generated by the trust and could be paid to the client, the income is unearned income. Payments made for any reason other than to or for the benefit of the client are considered a transfer of assets subject to disqualification per OAR 461-140-0210.

(d) If any change in circumstance makes assets (income or resources) from the trust unavailable to the client, the change is a disqualifying transfer as of the date of the change.

(10) Notwithstanding the provisions above in this rule, the following trusts are not considered in determining eligibility for OSIPM and QMB:

(a) A trust containing the assets of a client determined disabled by SSI criteria, and created before the client reached age 65, if the trust was established by one of the following and the state will receive all funds remaining in the trust upon the death of the client, up to the amount of medical benefits provided on behalf of the client:

- (A) The client's parent.
- (B) The client's grandparent.
- (C) The client's legal guardian or conservator.
- (D) A court.

(b) A trust established between October 1, 1993 and March 31, 1995 for the benefit of the client and containing only the current and accumulated income of the client. The accumulated amount remaining in the trust must be paid directly to the state upon the death of the client up to the amount of medical benefits provided on behalf of the client. A trust established under this provision enables a client who, because of income, would have been eligible for OSIPM-MN and ineligible for paid nursing facility care or waived services to qualify for OSIPM. The trust is the total income in excess of the income standard for OSIPM. The remaining income not deposited into the trust is available for the following deductions in the order they appear prior to applying the patient liability:

- (A) Personal-needs allowance.
- (B) Community spouse monthly maintenance needs allowance.
- (C) Medicare and other private medical insurance premiums.
- (D) Other incurred medical.

(c) A trust established on or after April 1, 1995 for the benefit of the client and containing the current and accumulated income of the client. The accumulated amount remaining in the trust must be paid directly to the state upon the death of the client up to the amount of medical assistance provided on behalf of the client. A trust established under this provision enables a client who, because of income, would have been eligible for OSIPM-MN and ineligible for paid nursing facility care or waived services, to qualify for OSIPM. The trust contains all the client's income. The income deposited into the trust is distributed monthly in the following order with excess

# ADMINISTRATIVE RULES

amounts treated as income to the individual subject to the rules on transfer of assets in division 140 of this chapter of rules:

(A) Personal needs allowance.

(B) Reasonable administrative costs of the trust, not to exceed a total of \$50 per month, including the following:

(i) Trustee fees;

(ii) A reserve for administrative fees and costs of the trust, including bank service charges, copy charges, postage, accounting and tax preparation fees, future legal expenses, and income taxes attributable to trust income; and

(iii) Conservatorship and guardianship fees and costs.

(C) Community spouse and family monthly maintenance needs allowance.

(D) Medicare and other private medical insurance premiums.

(E) Other incurred medical care costs that are not reimbursed by a third party. Contributions to reserves for personal liabilities including but not limited to child support, alimony, and property and income taxes. Contributions to reserves for the purchase of an irrevocable burial plan on a monthly basis and contributions to a reserve for home maintenance if the client's name remains on the title.

(F) Patient liability not to exceed the cost of waived services or nursing facility care.

(d) A trust containing the resources or income of a client who is disabled as defined by OSIPM criteria and meeting the following conditions:

(A) The trust is established and managed by a non-profit association.

(B) A separate account is maintained for each beneficiary.

(C) The trust is established by the client, client's parent, grandparent, or legal guardian or a court for clients who are disabled.

(D) To the extent that amounts remaining in the beneficiary's account upon the death of the beneficiary are not retained by the trust, the trust pays to the State an amount equal to the total medical assistance paid on behalf of the beneficiary under the State plan for Medicaid.

(11) In the GA, GAM, OSIP, OSIPM and QMB programs, the provisions of this rule may be waived if the Department determines that denial of benefits would create an undue hardship on the client if, among other things:

(a) The absence of the services requested may result in a life-threatening situation.

(b) The client was a victim of fraud or misrepresentation.

Stat. Auth.: ORS 411.060, ORS 411.816 & ORS 418.100

Stats. Implemented: ORS 411.060, ORS 411.700, ORS 411.816 & ORS 418.100

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 18-1993(Temp), f. & cert. ef. 10-1-93; AFS 29-1993, f. 12-30-93, cert. ef. 1-1-94; AFS 6-1994, f. & cert. ef. 4-1-94; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 21-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 13-1997, f. 8-28-97, cert. ef. 9-1-97; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 22-2001, f. & cert. ef. 10-1-01; AFS 5-2002, f. & cert. ef. 4-1-02; AFS 18-2002(Temp), f. & cert. ef. 11-19-02 thru 5-18-03; SSP 11-2003, f. & cert. ef. 5-1-03

## 461-155-0500

### Special Needs; Overview

(1) In the GA, GAM, MAA, MAF, OSIP, OSIPM, REF, REFM and TANF programs, special needs are needs not included in the basic standard. They may be one-time needs or ongoing needs.

(2) Ongoing special needs are needs that last several months at a consistent cost. Examples are special diets and shelter exceptions. Ongoing special needs are used to determine eligibility and benefit amount for clients who are in a non-waived living arrangement. For all other clients, ongoing special needs are not used to determine eligibility.

(3) Some special need items replace the standard allowances and do not change the standard payment. No additional payments are made for these items, for instance room and board or adult foster care.

(4) To be eligible for a special need item, clients must have no other available resources in the community or in their natural support system to meet the need, excluding resources used in determining eligibility.

(5) To be eligible for a special need item, clients must not be eligible for the item through Medicare, Medicaid or any other medical coverage.

(6) The Department will authorize payment for one-time and ongoing special needs for the following, in accordance with the rules that follow:

(a) One-time needs for the following:

(A) Home adaptations to accommodate a client's physical condition;

(B) Home repairs;

(C) Moving costs;

(D) Property taxes;

(E) Transportation costs;

(F) Community transition services;

(b) Ongoing needs for the following:

(A) Adult foster care (AFC);

(B) Food for guide dogs and special assistance animals;

(C) Laundry allowances;

(D) Residential care facility (RCF)/(ALF);

(E) Restaurant meals;

(F) Room and board;

(G) Shelter exceptions;

(H) Special diet allowances;

(I) Telephone allowances.

(7) In the GA, GAM, OSIP and OSIPM programs, payment for a one-time special need will be authorized if providing for the need will sustain the client's independence and stability. This includes payments to prevent foreclosure resulting from nonpayment of property taxes and payments for adaptations to the home for reasonable accommodation of physical needs. Ongoing special needs are to be provided to enhance the client's ability to meet an unmet maintenance need such as a telephone allowance in lieu of additional service hours or due to a rural setting. Ongoing special needs are to be considered if the client cannot meet these needs through family support or other service organizations that provide funding for persons who are elderly or disabled.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.070

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 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 23-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; AFS 16-2002(Temp), f. & cert. ef. 11-1-02 thru 4-30-03; SSP 11-2003, f. & cert. ef. 5-1-03

## 461-155-0526

### Special Need; Community Transition Services; GA, OSIP and OSIPM

(1) In the GA, OSIP and OSIPM programs, the Department will authorize one-time payments for allowable expenses necessary to return the following clients to the community:

(a) Clients leaving a nursing facility.

(b) Clients leaving an acute care hospital, who meet one of the service priority levels of OAR 411-015-0015(1).

(2) Examples of allowable expenses are expenses for moving; housing security deposits; essential furnishings; eating utensils; food preparation items; deposits for utility hook-ups for heat, electricity and telephone; and health and safety measures such as pest eradication or allergen control. Allowable expenses do not include rent for housing or recreational items such as a television or cable television access.

(3) Payment will be authorized only for the minimum amount necessary to establish the client's basic living arrangement.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 16-2002(Temp), f. & cert. ef. 11-1-02 thru 4-30-03; SSP 11-2003, f. & cert. ef. 5-1-03

## 461-155-0551

### Special Need; Home Adaptations to Accommodate a Client's Physical Condition

(1) In the GA, OSIP and OSIPM programs, the Department will authorize—consistent with the restrictions in this rule—a one-time special needs payment for a home adaptation required by the client's care plan, if the adaptation is needed to accommodate the client's physical condition and prevent the client's placement in a nursing facility.

(2) For a home adaptation:

(a) The client must be the owner or buyer of the house.

(b) The adaptation must cost less than moving to another home.

(c) Payment is limited to the lowest possible cost that will provide adequate facilities. The client must provide three competitive bids for the repairs, unless there are not three providers of the service in the local area.

(d) Providers of the adaptations must ensure that the work being completed meets current building codes.

(e) Adaptations authorized by this rule include only changes to the structure of the building, such as installation of ramps, grab-bars, and railings; widening of doorways; modification of bathroom facilities; and installation of electric and plumbing systems necessary to accommodate the client's medical equipment or supplies.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 16-2002(Temp), f. & cert. ef. 11-1-02 thru 4-30-03; SSP 11-2003, f. & cert. ef. 5-1-03



# ADMINISTRATIVE RULES

## 461-155-0600

### Special Need; Home Repairs

In the GA, OSIP and OSIPM programs, the Department will authorize a special need payment for home repairs for homeowners or buyers as a one-time special need within the following limits:

- (1) The repairs must be needed to remove a physical hazard to the health and safety of the client.
- (2) Payment for repairs authorized by this rule:
  - (a) May be authorized for not more than one repair in any 24-month period;
  - (b) Is limited to the least expensive means possible; and
  - (c) Cannot exceed \$1,000 in any 24-month period.
- (3) Payments necessary for a one-time home repair may be made over a period not to exceed 30 consecutive days.
- (4) A filing group that has received a home repair payment under this rule is not eligible for a home repair payment again until the first day of the 24th month following the first payment that was made for the most recent home repair.

(5) The repairs must cost less than moving to another home.

(6) Payment is limited to the lowest possible cost that will provide adequate facilities. The client must provide three competitive bids for the repairs, unless there are not three providers of the service in the local area.

(7) Before approving payment for repairs or new installations, the Department will consider the use value and will determine whether it is consistent with the care plan for the client to remain in the house. Providers of the repairs or new installations must ensure that the work being completed meets current building codes.

(8) Repairs or replacements include, but are not limited to:

(a) Electrical wiring that does not constitute conversion to electrical space heating but that is needed:

(A) To avoid condemnation; or

(B) To remove a definite fire or shock hazard as documented by appropriate public officials.

(b) Plumbing—but not including the costs of plumbing items with which the house is not already equipped except that a toilet may be paid for when newly required by the creation or extension of a sewer district. Examples of what plumbing-related items may be covered include:

(A) Toilets and sinks.

(B) Cleaning or replacing septic tanks or cesspools.

(C) Installing sewer connections from house to street—but not sewer installation—if required by the creation of a new sewer district or the extension of an existing district.

(c) Repair or replacement of existing electric pumps for wells needed to continue the water supply. This does not include drilling a new well.

(d) Heating equipment—repair of heating stoves, furnaces and water heaters and, if repair is not possible, replacement with the least expensive adequate equipment.

(e) Repair of roofs.

(f) Repair or replacement of steps and repair of floors.

(9) Clients with life estates are not eligible for this special need allowance. The person who will benefit from the life estate, following the death of the client, is considered responsible for the home repairs.

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 12-1993, f. & cert. ef. 7-1-93; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 23-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 16-2002(Temp), f. & cert. ef. 11-1-02 thru 4-30-03; SSP 11-2003, f. & cert. ef. 5-1-03

## 461-155-0610

### Special Need; Moving Costs

(1) In the GA, OSIP and OSIPM programs, the Department will authorize payment for the cost of moving a client's household effects as a one-time special need if:

(a) Moving is essential to provide nonhazardous housing. "Hazardous" housing means a building so deteriorated and unsafe that it is uninhabitable or subject to condemnation. If no official certification to that effect can be obtained, the condition of the dwelling must have been seen by a Department employee and documented in the case record.

(b) The client has been evicted for reasons other than his or her own neglect or failure to make rent or house payments.

(c) The move is a result of domestic violence or protective services.

(2) The Department will not authorize payment of expenses to return the client to a state of former residence.

(3) Payment for moving costs authorized by this rule:

(a) May be authorized for not more than one move in any 12-month period;

(b) Is limited to the least expensive means possible; and

(c) Cannot exceed \$300 in any 12-month period.

(4) Payments necessary for a one-time move may be made over a period not to exceed 30 consecutive days.

(5) A filing group that has received a payment for moving costs under this rule is not eligible for a moving cost payment again until the first day of the 12th month following the first payment that was made for the most recent month.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.070

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; AFS 16-2002(Temp), f. & cert. ef. 11-1-02 thru 4-30-03; SSP 11-2003, f. & cert. ef. 5-1-03

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

**Adm. Order No.:** SPD 10-2003(Temp)

**Filed with Sec. of State:** 4-25-2003

**Certified to be Effective:** 4-25-03 thru 6-30-03

**Notice Publication Date:**

**Rules Amended:** 411-999-0010, 411-999-0011, 411-999-0013, 411-999-0014, 411-999-0015

**Rules Suspended:** 411-999-0010(T), 411-999-0011(T), 411-999-0013(T), 411-999-0014(T), 411-999-0015(T)

**Subject:** Amendments to the Community Resource Development Services rules are necessary to extend transition services to a larger eligibility group, for a limited period of time. Audits are taking place to review whether clients were reassessed correctly following program cuts to Medicaid Service levels 12-17. Many clients may have been assessed incorrectly because new service priority rules in OAR 411-015-0000 through 0100, effective 12/6/2002, were not properly utilized during these reassessments. As a result, there will likely be more clients losing Home and Community Based Care waiver eligibility. Services provided by these rules will enable those clients to make a successful transition to the community, providing them with greater independence once they transition out of waiver services.

**Rules Coordinator:** Pam Rouske—(503) 945-6954

### 411-999-0010

#### Purpose

(1) The purpose of these rules is to provide for the administration and implementation of Community Resource Development Services.

(2) Community Resource Development Services are services provided to an individual who is transitioning from the Departments Home and Community-Based Care Services waiver to non-waiver community supports as the result of a loss of eligibility for Medicaid services, whether based on financial or service eligibility factors.

(3) This service is furnished to individuals who are facing a crisis in service delivery that would otherwise jeopardize their ability to remain in the community.

(4) The scope of services is limited to transitional items or activities.

The program ends June 30, 2003.

Stat. Auth: ORS 409.050 & ORS 410.070

Stats. Implemented: ORS 410.070

Hist.: SPD 4-2003(Temp), f. & cert. ef. 3-11-03 thru 6-30-03; SPD 10-2003(Temp), f. & cert. ef. 4-25-03 thru 6-30-03

### 411-999-0011

#### Definitions

(1) "Adaptive Equipment" — Medical equipment that allows an individual with physical impairments to live as independently as possible.

(2) "Area Agency on Aging" or "AAA" — An established public agency within a planning and service area designated under Section 305 of the Older Americans' Act that has contracted with the Department to provide local administration of the Department's programs for seniors and people with disabilities.

(3) "Assistive Technology" — Any item, piece of equipment, or product system, that is used to increase, maintain, or improve functional capabilities of individuals with disabilities.

(4) "Case Management" — The function of overseeing the effective provision of services to the client.

# ADMINISTRATIVE RULES

(5) "Case Manager" — An employee of the Department of Human Services or Area Agency on Aging who ensures client entry, evaluation, case planning, service implementation, and evaluation of the effectiveness of the services.

(6) "Client" — The individual eligible for Community Resource Development Services.

(7) "Department" — The Department of Human Services, Seniors and People with Disabilities.

(8) "Evaluation of Need" — An assessment completed by the Case Manager to determine whether an individual qualifies for Community Resource Development Services.

(9) "Home" — The primary residence of an individual that is not licensed as a foster home, residential care facility, assisted living facility, any other residential program, or a nursing facility.

(10) "Home and Community Based Care Waiver Services" or "Waiver Services" — 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.

(11) "Home Modification" — Changes to the physical structure of a home or apartment to enable a client to live independently and achieve maximum self-sufficiency.

(12) "Informal Support System" — Other possible resources for the provision of services to meet the client'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.

(13) "Life skills" — Skills that can be taught to an individual to help them move into or remain living in their own home.

(14) "Service Plan" — The written authorization for Community Resource Development Services. The Service Plan includes a description of the services and the signature of the Case Manager.

(15) "Set up expenses" — Costs such as rent, security deposits, pet deposits, utility deposits, installation costs or other expenses that are required for one to move into their own home or apartment.

(16) "Service Priority" — The order in which Department clients are found eligible for nursing home, Home and Community Based Care waivers, spousal pay program and Oregon Project Independence.

(17) "Vendor" — Any agency, program, company, Client-Employed Provider, licensed residential care facility staff, or individual that has the skills to provide one or more authorized services for the Community Resource Development Program, as defined in OAR 411-999-0012. When significant changes to the physical structure of a home are authorized, the vendor must be licensed and bonded.

(18) "Work Plan and Authorization" — A form completed by the Case Manager which indicates the vendors who will perform the authorized services, the cost and a description of services to be performed. The form is signed by the client, indicating consent to receive the authorized services and to authorize the release of necessary information to the vendor. Necessary information can include such things as the client's name, address and Department identification number.

Stat. Auth: ORS 409.050 & ORS 410.070

Stats. Implemented: ORS 410.070

Hist.: SPD 4-2003(Temp), f. & cert. ef. 3-11-03 thru 6-30-03; SPD 10-2003(Temp), f. & cert. ef. 4-25-03 thru 6-30-03

## 411-999-0013

### Eligibility

The eligibility requirements for Community Resource Development Project Services are as follows:

(1) Clients must be currently receiving waiver services at the time their "evaluation of need" and "service plan", are completed by the Case Manager.

(2) The "evaluation of need" and "service plan" must be completed before June 30, 2003.

(3) Clients must be current Home and Community Based Care waiver clients, whose services are ending as the result of program reductions to service levels 12-14.

(4) Eligible clients may not reside in a nursing home.

(5) The services must be completed by June 30, 2003.

(6) Community Resource Development Project Services are not meant to replace services that could be provided through the client's informal support system.

Stat. Auth: ORS 409.050 & ORS 410.070

Stats. Implemented: ORS 410.070

Hist.: SPD 4-2003(Temp), f. & cert. ef. 3-11-03 thru 6-30-03; SPD 10-2003(Temp), f. & cert. ef. 4-25-03 thru 6-30-03

## 411-999-0014

### Authorization of Service

(1) Evaluation of Need. AAA or local state office Case Managers will conduct an "evaluation of need" in a format approved by the Department. All individuals who will be receiving Community Resource Development Services must also be current Home and Community Based Care clients with a current Title XIX assessment in the Client Assessment and Planning System (CA/PS).

(2) Time Lines for Authorization. Case Managers will conduct an "evaluation of need" and if the client is determined eligible, will authorize services by June 30, 2003. The services must be authorized while the client is receiving services under the Home and Community Based Care Waiver. No services can be authorized after June 30, 2003.

(3) Vendor selection. The client carries the primary responsibility for locating and selecting vendors who will be paid to provide specific services. When authorizing the teaching of life skills or the training of unpaid, informal care providers, the Case Manager will verify that the vendor has the necessary skills and/or experience to provide teaching and training.

Stat. Auth: ORS 409.050 & ORS 410.070

Stats. Implemented: ORS 410.070

Hist.: SPD 4-2003(Temp), f. & cert. ef. 3-11-03 thru 6-30-03; SPD 10-2003(Temp), f. & cert. ef. 4-25-03 thru 6-30-03

## 411-999-0015

### Payment for Services

(1) Payment and billing

(a) The Department will contract with a fiscal intermediary to make payments to vendors for authorized services.

(b) The Department will send a list of clients who have been authorized for community resource development services to the fiscal intermediary.

(c) The local office will send the "Work Plan and Authorization" to the fiscal intermediary with vendor information and service cost.

(d) The local office can send amended versions of the "Work Plan and Authorization" to the fiscal intermediary as the client's needs are identified.

(e) The vendor must complete all authorized services on or before June 30, 2003. The billing for services may occur after that date.

(2) Payment Limitations: The Service Plan must be implemented on or before June 30, 2003. In order to receive these services, a client must be deemed ineligible for waiver services as the result of a loss of eligibility for Medicaid services, whether based on financial eligibility or service priority.

(a) The maximum amount of payment that can be authorized per client for the total amount of services cannot exceed \$800,000 with one exception. If the client qualifies for one time set up expenses, the total payment that can be authorized is \$1200.00. The AAA or local office will submit the Service Plan to Seniors and People with Disabilities. Services are not meant to replace informal support systems.

(b) Community Resource Development Services are not available to clients who remain eligible for waiver services or for those clients whose waiver services have already ended reasons other than a program reduction.

(c) Ongoing supplies or services cannot be authorized.

Stat. Auth: ORS 409.050 & ORS 410.070

Stats. Implemented: ORS 410.070

Hist.: SPD 4-2003(Temp), f. & cert. ef. 3-11-03 thru 6-30-03; SPD 10-2003(Temp), f. & cert. ef. 4-25-03 thru 6-30-03

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**Adm. Order No.:** SPD 11-2003

**Filed with Sec. of State:** 5-2-2003

**Certified to be Effective:** 5-2-03

**Notice Publication Date:** 3-1-03

**Rules Amended:** 411-032-0000, 411-032-0001, 411-032-0005, 411-032-0010, 411-032-0015, 411-032-0020, 411-032-0044

**Subject:** These amendments are proposed to become effective May 2, 2003 update Oregon Project Independence (OPI) program goals; increase program policy requirements for the Area Plan; clarify requirements for client notification; add a provision allowing local Area Agencies on Aging to establish local priorities for service authorization; clarify minimum requirements for client grievance procedures and clarify use of OPI client fees for expansion of services.

**Rules Coordinator:** Pam Rouske—(503) 945-6954

# ADMINISTRATIVE RULES

411-032-0000

## Definitions

(1) "Activities of Daily Living" (ADL) means those personal functional activities required by an individual for continued well-being, health and safety. This includes eating, dressing/grooming, bathing/personal hygiene, mobility, bowel and bladder management, and cognition.

(2) "Administrative Costs" means those expenses associated with the overall operation of the Oregon Project Independence (OPI) Program which are not directly attributed to a service.

(3) "Adult Day Care" means a structured comprehensive program designed to meet the needs of functionally and/or cognitively impaired adults. Adult day care provides individually planned care, supervision, social and related support services, and health monitoring in a protective setting during any part of a day, but less than 24-hour care.

(4) "Advisory Council" means an advisory council of the authorized agencies.

(5) "Alzheimer's Disease and Other Related Disorders" means a progressive and degenerative neurological disease which is characterized by dementia including the insidious onset of symptoms of short-term memory loss, confusion, behavior changes and personality changes. It includes dementia caused from any one of the following disorders:

(a) Multi-Infarct Dementia (MID);

(b) Normal Pressure Hydrocephalus (NPH);

(c) Inoperable Tumors of the Brain;

(d) Parkinson's Disease;

(e) Creutzfeldt-Jakob Disease;

(f) Huntington's Disease;

(g) Multiple Sclerosis;

(h) Uncommon Dementia such as Pick's Disease, Wilson's Disease, and Progressive Supranuclear Palsy; or

(i) All other related disorders recognized by the National Alzheimer's Association.

(6) "Area Agency" means the agency designated by the Department as an Area Agency on Aging which is charged with the responsibility to provide a comprehensive and coordinated system of services to the elderly and possibly the disabled in a planning and service area. For purposes of these rules, the term "Area Agency" (AAA) is inclusive of both Type A and B Area Agencies on Aging as defined in ORS 410.040 to 410.350.

(7) "Area Plan" means the approved plan for providing authorized services under Oregon Project Independence.

(8) "Assisted Transportation" means escort services which provides assistance to a person who has difficulties (physical or cognitive) using regular vehicular transportation.

(9) "Authorized Service" means any service designated by the Department and these rules to be eligible for Oregon Project Independence funding.

(10) "Case Management" means a service designed to individualize and integrate social and health care options for or with a person being served. Its goal is to provide access to an array of service options to assure appropriate levels of service and to maximize coordination in the service delivery system. Case management must include four general components: entry, assessment, service implementation, and evaluation.

(11) "Case Management Costs" means those expenses associated with individualizing and integrating social and health care options for or with a person receiving a service. Costs elements should include time spent with the client, travel to and from a client's home, mandated training time, case recording, reporting, time spent arranging for and coordinating services for the client, supervision and staffing time related to a client, and time spent in the initial assessment of a person who does not become an OPI client.

(12) "Chore Service" means assistance with heavy housework, yard work or sidewalk maintenance for persons who need assistance with these activities to assure safety.

(13) "Client-Employed Provider" (CEP) refers to the program wherein the provider is directly employed by the client and provides hourly services.

(14) "Client's Adjusted Income" means the income for all household members after deductions for household medical expenses as defined in OAR 411-032-0020(5).

(15) "Department of Administrative Services" means the Department of Administrative Services for the State of Oregon.

(16) "Department" means the Oregon Department of Human Services, Seniors and People with Disabilities, unless otherwise specifically defined.

(17) "Department of Revenue" means the Oregon Department of Revenue.

(18) "Diagnosed" means, for purposes of these rules, that the client's physician has reason to believe and indicates that the client has Alzheimer's Disease or a Related Disorder.

(19) "Direct Service Costs" means those expenses for direct labor which are attributable to a client-related service. For example, the direct service cost of home care is the cost of time actually spent providing home care services in the home. Other direct service costs are those which are directly attributable to a client-related function. For example, the cost of mileage for the service worker to get to the client's home.

(20) "Eligibility Determination" means the process of deciding if a prospective client meets the requirements necessary to receive authorized services under Oregon Project Independence.

(21) "Exception or Variances" means that an agency or individual contractor or subcontractor is not required to meet one or more specific requirements of these rules.

(22) "Fiscal Records and Data" means all information pertaining to the financial operation of an agency or program.

(23) "Gross Income" means household income from salaries, interest and dividends, pensions, Social Security, railroad retirement benefits, and any other income prior to any deductions.

(24) "Health Services" means the Department of Human Services, Health Services.

(25) "Home Care or Homemaker Services" means all those ADL or IADL in-home services, requiring minimal to substantial assistance, necessary to help clients achieve the greatest degree of independent functioning.

(26) "Home Delivered Meal" means a meal paid from OPI funds and delivered to a client who is receiving at least one additional OPI service, excluding Case Management.

(27) "Home Health Agency" means a public or private agency providing coordinated home health services on a home visiting basis.

(28) "Home Health Service" means items and services furnished to an individual by a home health agency, or by others under arrangement with such agency, on a visiting basis in a place of temporary or permanent residence used as the individual's home for the purpose of maintaining that individual at home.

(29) "Household" means the client, spouse and any dependents as defined by the Internal Revenue Service.

(30) "In-home Care Agency" means a public or private agency providing coordinated home care service on a home visiting basis and licensed by the Department of Human Services, Health Services, under ORS 443.305 to 443.350.

(31) "Institutions" means any state, community or private hospital and any nursing facility.

(32) "Instrumental Activities of Daily Living (IADL)" means those self-management activities, other than activities of daily living, required by an individual to continue independent living; i.e., medication and oxygen assistance (except for administering medications, making judgments regarding dosage of prescription medications, and adjusting oxygen levels), providing transportation, preparing meals, shopping, housekeeping, paying bills and performing banking functions.

(33) "Personal Care Service" means in-home services provided to maintain, strengthen, or restore an elderly individual's functioning in their own home when an individual is dependent in one or more ADLs, or when an individual requires substantial assistance, and one or more of the following conditions exist:

(a) Medical instability;

(b) Potential for skin breakdown or pressure ulcers;

(c) Multiple health problems or frailty with a strong possibility of deterioration; or

(d) Potential for increased self-care, but client instruction and support are needed to reach goals.

(34) "Program Records and Data" means any information of a non-fiscal nature.

(35) "Program Support Costs" means those expenses associated with managing the services provided either through contract or directly by the area agency on aging, which are attributable to a specific service.

(36) "Registered Nurse Services" mean services provided by a registered nurse on a short-term or intermittent basis which include but are not limited to: interviewing the client and, when appropriate, other relevant parties; assessing the client's ability to perform tasks; preparing a care plan which includes treatment needed by the client; monitoring medication; training and educating care providers; and setting realistic goals and outcomes for the client.

(37) "Respite" means paid temporary services to provide relief for families or other caregivers. In-home and out-of-home respite care may be

# ADMINISTRATIVE RULES

provided on an hourly or daily basis, including 24-hour care for several consecutive days. Range of tasks to be provided may include: supervision, companionship and personal care services usually provided by the primary caregiver of the disabled adult. Services appropriate to the needs of individuals with dementing illnesses are also provided.

(38) "Seniors and People with Disabilities" means Seniors and People with Disabilities of the Department of Human Services.

(39) "Service Provider" means any agency or program that provides one or more authorized services under Oregon Project Independence.

(40) "Service Determination" means the process of determining the proper authorized service for each client.

(41) "Substitute Care" means services provided by adult foster homes, residential care facilities and specialized living facilities.

Stat. Auth.: ORS 410.070

Stats. Implemented: ORS 410.410

Hist.: SSD 11-1984, f. 11-30-84, ef. 12-1-84; SSD 6-1987, f. & ef. 7-1-87; SSD 12-1988, f. & cert. ef. 12-2-89; SSD 19-1989(Temp), f. 12-29-89, cert. ef. 1-1-90; SSD 5-1990, f. & cert. ef. 2-1-90; SSD 11-1993, f. 12-30-93, cert. ef. 1-1-94; SSD 3-1997, f. 11-28-97, cert. ef. 12-1-97; SDS 7-1999, f. 6-30-99, cert. ef. 7-1-99; SDS 9-2002(Temp), f. & cert. ef. 11-1-02 thru 4-29-03; SPD 11-2003, f. & cert. ef. 5-2-03

## 411-032-0001

### Goals

The goals of Oregon Project Independence shall be to:

(1) Promote quality of life and independent living among older persons;

(2) Provide preventive and long-term care services to eligible individuals to reduce the risk for institutionalization and promote self-determination;

(3) Provide services to frail and vulnerable older adults who are lacking or have limited access to other long-term care services; and

(4) Optimize older individuals' personal and community support resources.

Stat. Auth.: ORS 410

Stats. Implemented: ORS 410.420

Hist.: SSD 12-1988, f. & cert. ef. 12-2-89; SDS 9-2002(Temp), f. & cert. ef. 11-1-02 thru 4-29-03; SPD 11-2003, f. & cert. ef. 5-2-03

## 411-032-0005

### Administration

(1) Advisory Council Each area agency shall show evidence that the advisory council of the area agency, and the community were involved in the identification of need, selection of services to be offered, and the development of the Area Plan.

(2) Area Plan:

(a) Each area agency shall submit an Area Plan by a date specified and on forms provided by the Department.

(b) The Area Plan shall, at a minimum, contain:

(A) The types and amounts of authorized services to be offered;

(B) The costs of these services;

(C) How the agency will ensure timely response to inquiries for service;

(D) How clients will receive initial and ongoing periodic screening for other community services, including Medicaid;

(E) How eligibility will be determined;

(F) How the services will be provided;

(G) The agency policy for prioritizing OPI service delivery;

(H) The agency policy for denial, reduction or termination of services;

(I) The agency policy for informing clients of their right to grieve adverse eligibility and/or service determination decisions or consumer complaints;

(J) How fees for services will be developed, billed, collected and utilized;

(K) The agency policy for addressing client non-payment of fees, including when exceptions will be made for repayment and when fees will be waived; and

(L) How service providers will be monitored and evaluated.

(3) Contracts

(a) Contracts between the Department and area agencies for Oregon Project Independence shall be effective each year on July 1, unless otherwise agreed to by the Department. These contracts shall be based on the Area Plan and shall contain at a minimum:

(A) A budget showing the amounts of Oregon Project Independence funds;

(B) The types of authorized services to be offered;

(C) The stipulation that contracted authorized services will be in accordance with the standards and requirements provided in these rules, or

in accordance with the In-Home Services Rules (OAR 411, division 030), or the Home Health Agencies Rules (OAR 333, division 027);

(D) The stipulation that required data will be gathered, reported and monitored in accordance with these rules and the Department;

(E) A section pertaining to general provisions as required by the Department of Administrative Services;

(F) A provision that area agencies will submit service provider contracts and amendments to the Department upon request from the Department; and

(G) Fee for service schedules developed in accordance with these rules.

(b) Contracts between area agencies and service providers shall be signed and kept on file by the area agencies for not less than three years for all services funded through Oregon Project Independence. The contracts shall, at a minimum, contain:

(A) A budget or a maximum amount of Oregon Project Independence funds, as well as all other resources devoted to Oregon Project Independence under the contract;

(B) The types and amounts of authorized services to be offered and the rate per unit for each authorized service;

(C) The stipulation that authorized services will be offered in accordance with the standards and requirements provided in these rules, or in accordance with the In-Home Services Rules, OAR 411, division 030, or the Home Health Agency Rules, OAR 333, division 027;

(D) The stipulation that required data will be gathered and reported in accordance with these rules and the Department; and

(E) A section pertaining to general provisions as required by the Department of Administrative Services.

(c) All contracts as described in this rule can be amended with the consent of both parties.

(d) All contracts as described in this rule will contain provisions for cancellation of the contract for non-performance and violation of the terms of the contract.

(4) Personnel Practices and Procedures

(a) Each area agency and service provider shall maintain written personnel policies.

(b) The personnel policies shall contain all items required by state and federal laws and regulations, including such items as:

(A) An affirmative action plan; and

(B) Evidence that the area agency and service provider are equal opportunity employers.

(c) Each area agency and service provider shall maintain a personnel record on each employee.

(5) Non-Compliance

(a) Non-compliance to these rules, except in those cases where an exception or variance has been granted by the Department may result in a reduction or termination of Oregon Project Independence funding;

(b) The determination of the amount of reduced funding will be made by the administrator of the Department;

(c) Any funds which are either reduced or terminated from a funding grant will be reserved by the Department for redistribution at its discretion. At the end of the biennium, unexpended funds will be returned to the State General Fund.

Stat. Auth.: ORS 410.070

Stats. Implemented: ORS 410.420, ORS 410.450 & ORS 410.460

Hist.: SSD 11-1984, f. 11-30-84, ef. 12-1-84; SSD 12-1988, f. & cert. ef. 12-2-89; SSD 19-1989(Temp), f. 12-29-89, cert. ef. 1-1-90; SSD 5-1990, f. & cert. ef. 2-1-90; SSD 11-1993, f. 12-30-93, cert. ef. 1-1-94; SSD 3-1997, f. 11-28-97, cert. ef. 12-1-97; SDS 7-1999, f. 6-30-99, cert. ef. 7-1-99; SDS 9-2002(Temp), f. & cert. ef. 11-1-02 thru 4-29-03; SPD 11-2003, f. & cert. ef. 5-2-03

## 411-032-0010

### Authorized Services and Allowable Costs

(1) Authorized Services:

(a) Oregon Project Independence funds shall only be expended for administration and direct service for the following authorized services:

(A) Homemaker (Home Care);

(B) Chore;

(C) Assisted Transportation (Escort);

(D) Home Health;

(E) Personal Care;

(F) Adult Day Care;

(G) Respite;

(H) Case Management;

(I) Registered Nurses;

(J) Home Delivered Meals, only when an individual also receives other OPI funded services; and

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(K) Other services authorized by the administrator of the Department or his/her designee.

(b) Home health services shall meet the standards and requirements of the Home Health Agencies Rules (OAR 333, Division 027), and can only be offered through a home health agency licensed by the Department of Human Services, Health Services.

(c) Services provided by a home care agency shall meet the standards and requirements of In-Home Care Agencies under ORS 443.305 to 443.350, and can only be offered through a home care agency licensed by the Department of Human Services, Health Services.

(d) Services provided by a Client Employed Provider (CEP) shall meet the standards and requirements of the Home Care Commission under ORS 410.600 to 410.614.

(e) Area agencies shall not directly provide authorized services to clients, unless they are providing such services on the effective date of these rules, or unless direct provision is required to assure an adequate supply of service. Those area agencies already providing direct services shall not be required to seek a variance or exception as defined in these rules. The provision of authorized services shall be contracted to service providers by area agencies.

(2) Computation of Allowable Costs — Allowable costs by area agencies are those associated with the direct provision of services to clients and such administrative costs as may be required to assure adequate services and to provide information to the Department.

(3) Administrative Costs — Administrative costs shall not exceed ten percent of Oregon Project Independence funds.

Stat. Auth.: ORS 410.070

Stats. Implemented: ORS 410.420 & ORS 410.460

Hist.: SSD 11-1984, f. 11-30-84, ef. 12-1-84; SSD 6-1987, f. & ef. 7-1-87; SSD 12-1988, f. & cert. ef. 12-2-89; SSD 19-1989(Temp), f. 12-29-89, cert. ef. 1-1-90; SSD 5-1990, f. & cert. ef. 2-1-90; SSD 11-1993, f. 12-30-93, cert. ef. 1-1-94; SSD 3-1997, f. 11-28-97, cert. ef. 12-1-97; SDSD 9-2002(Temp), f. & cert. ef. SPD 11-2003, f. & cert. ef. 5-2-0311-1-02 thru 4-29-03; SPD 11-2003, f. & cert. ef. 5-2-03

## 411-032-0015

### Data Collection, Records, and Reporting

#### (1) Data Collection:

(a) The collection of required program and fiscal data associated with Oregon Project Independence shall be on forms and data systems as approved by the Department.

(b) Each area agency and service provider shall collect data as required by the Department on eligible clients receiving authorized service.

(c) All authorized service data collected on individual clients, supported by Oregon Project Independence, shall contain the client's Social Security Number and date of birth.

(d) For clients under the age of 60, documentation shall be placed in the client's file that the client has been diagnosed as having Alzheimer's Disease or other related disorder. Documentation must come verbally or in writing from the client's physician. The type of "other related disorder" shall also be specified in this documentation.

#### (2) Records:

(a) Each area agency and service provider shall maintain all books, records, documents and accounting procedures which reflect all administrative costs, program support costs, direct service costs, and case management costs expended on Oregon Project Independence. These records shall be retained for not less than three years.

(b) These records shall be made available upon request to representatives from the Department, or to those duly authorized by them.

#### (3) Fiscal and Program Reporting:

(a) Fiscal and program reports shall be completed on forms provided by the Department.

(b) Fiscal and program reports shall be submitted to the Department by the specified due dates.

(c) Fiscal/Program reports shall, at a minimum include:

(A) Current cumulative expenditures;

(B) Cost per unit of authorized service;

(C) Administrative costs;

(D) Program support costs;

(E) Case management costs;

(F) Direct service costs;

(G) The amount of fee for service assessed, billed, expended and collected and other funds received;

(H) Number of unduplicated clients year to date served for each authorized service year to date, and unduplicated case count year to date;

(I) Number of units of service for each authorized service; and

(J) Demographic, social, medical, physical, functional, and financial data on individual clients as required by the Department on the SPD Client Assessment/Planning System (CA/PS).

(4) Confidentiality: The use or disclosure by any party of any information concerning a recipient or client of authorized services described in these rules, for any purpose not directly connected with the administration of the responsibilities of the Department, area agency or service provider is prohibited except with written consent of the recipient, or their legal representative. Disclosure of client or recipient information shall meet Department requirements.

Stat. Auth.: ORS 410.070

Stats. Implemented: ORS 410.470 & ORS 410.480

Hist.: SSD 11-1984, f. 11-30-84, ef. 12-1-84; SSD 6-1987, f. & ef. 7-1-87; SSD 12-1988, f. & cert. ef. 12-2-89; SSD 19-1989(Temp), f. 12-29-89, cert. ef. 1-1-90; SSD 5-1990, f. & cert. ef. 2-1-90; SSD 3-1997, f. 11-28-97, cert. ef. 12-1-97; SDSD 9-2002(Temp), f. & cert. ef. 11-1-02 thru 4-29-03; SPD 11-2003, f. & cert. ef. 5-2-03

## 411-032-0020

### Eligibility and Determination of Services

#### (1) Eligibility:

(a) In order to qualify for services from an area agency or service provider, each client or recipient must:

(A) Be 60 years old or older; or be under 60 years of age and be diagnosed as having Alzheimer's Disease or a related disorder;

(B) Not be receiving financial assistance or Medicaid, except Food Stamps, Qualified Medicare Beneficiary or Supplemental Low Income Medicare Beneficiary Programs; and

(C) Meet the requirements of the Long-Term Care Services Priority Rule, OAR 411, Division 015.

(b) Eligibility determination shall be required before any client may receive services from an area agency or service provider. The documentation required by OAR 411-032-0015(1)(d) must be obtained before a client under the age of 60 may be determined to be eligible.

(c) Eligibility determination shall be the responsibility of the area agency. In those instances when eligibility determination is performed by an agency other than the area agency, the area agency shall have in place a system for evaluating the eligibility determination process, including an independent review by the area agency of a representative sample of cases.

(d) Any person residing in a nursing facility shall not be eligible for authorized services. This shall not restrict the ability to move a client from such institutions to their home to receive care, when judged more appropriate, based on medical, financial, physical, functional, and social considerations.

(e) The Department shall determine the factors which constitute a client being at risk of institutionalization. These factors are currently defined in the Long-Term Care Services Priority Rules, OAR chapter 411, division 015. These factors shall be utilized by each area agency and service provider.

(f) Applicants shall receive written notification of eligibility determination.

#### (2) Determination of Services:

(a) Determination of services shall rest with the area agency. In those instances when determination of services is performed by an agency other than the area agency, the area agency shall have in place a system for evaluating the determination of service process, including an independent review by the area agency of a representative sample of cases.

(b) The determination of services shall be based on each client's financial, physical, functional, medical, and social need for such services.

(c) Determination of services provided under Oregon Project Independence shall be limited to the authorized services allowed by these rules.

(d) The determination of services shall be made:

(A) After eligibility determination; and

(B) At regular intervals but not less than once every twelve months.

(e) Clients shall receive written notification of determination of services:

(A) Notice shall include the maximum monthly hours of service authorized, the hourly and maximum monthly client fee, the service rate, and provider contact information.

(B) Written service notification shall be provided to the client upon initial determination of services, at annual reassessment and when there are changes to the determination of services.

#### (3) Priority of Services:

(a) Eligible clients shall receive authorized services on a priority basis, with highest priorities receiving services first.

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(b) Area Agencies on Aging may establish local priorities for service authorization. This rule shall take precedence over local priorities. Local priorities shall not conflict with this rule.

(c) Priority for authorized services shall be:

(A) Maintaining clients already receiving authorized service as long as their condition indicates the service is needed.

(B) Clients who will immediately be placed in an institution if needed authorized services are not provided and meet the Long-Term Care Services Priority Rules, OAR chapter 411, division 015.

(C) Clients who are probably to be placed in an institution if needed authorized services are not provided.

(4) Appeals Persons for whom services are denied, disallowed, or reduced through eligibility determination or service determination shall be entitled to request review of the decision through the Area Agency on Aging grievance review procedure, set forth in agency policy.

(a) Clients shall continue to receive services until the disposition of the local agency grievance review.

(b) The Area Agency shall provide the applicant with written notification of the grievance review determination decision.

(c) Applicants that disagree with the results of the Area Agency grievance review have a right to an Administrative Review with the Department of Human Services, Seniors and People with Disabilities, pursuant to ORS Chapter 183. This information shall be provided to the applicant in a written notification at the time of the grievance review decision.

(d) Applicants requesting an Administrative Review from the Department shall not be eligible for continued services through Oregon Project Independence.

(5) Fee for Services:

(a) The Department shall establish a fee for service schedule. The schedule shall be applied to each client for all OPI services except Home Delivered Meals and Case Management

(b) A recommended donation shall be established for OPI-funded Home Delivered Meals and implemented in the same manner as for the Older Americans Act meal programs.

(c) A minimum income level and fee for service schedule will be established and reviewed annually by the Department after consulting with the Governor's Commission on Senior Services.

(d) Fees for service will be charged based on a sliding fee schedule to all clients whose annual income exceeds the minimum, as established by the Department.

(e) Area agencies shall develop procedures for assessing, billing, collecting, and expending fees.

(f) The fee for service schedule shall be applied to the local rate specific to the service and the type of provider for the client.

(g) For purposes of these rules, a client's gross annual income shall include:

(A) Salaries from the household;

(B) Interest and dividends from the household;

(C) Pensions, annuities, Social Security, and railroad retirement benefits from the household; and

(D) Any other income from the household.

(h) All medical costs including prescription drugs, which are the responsibility of the household, may be deducted from the client's gross annual income.

(i) Fees for service shall be used to expand services under Oregon Project Independence. Expansion of services shall be limited to services authorized in OAR 411-032-0010(1)(a) as identified in the agency's area plan.

(j) A record of all fees for service will be kept by each area agency and reported monthly to the Department.

(A) Fee for service determination forms shall be a part of each client case record.

(B) Fee for service determination forms shall meet minimum requirements for documentation, as defined by the Department.

(C) The maximum monthly authorized fee shall be recorded on each client's Oregon ACCESS record upon initial service determination and at least annually thereafter, at time of reassessment.

(D) Client's shall receive written notification of the hourly and maximum monthly authorized fee upon initial service determination and whenever there is a change.

(k) Nothing in these rules will prevent any client of Oregon Project Independence, or client's family, from making a donation or contribution. Such donations will also be used to expand services under Oregon Project Independence. Expansion of services shall be limited to services authorized in OAR 411-032-0010(1)(a) as identified in the agency's area plan.

(l) The decision to terminate Oregon Project Independence services for non-payment of assessed fees for service shall be the responsibility of the local area agency.

(A) The Area Agency shall establish a written policy addressing client non-payment of fees to be reviewed and approved in the agency area plan.

(B) Clients shall be given a copy of the agency policy pertaining to client non-payment of fees upon initial eligibility determination.

Stat. Auth.: ORS 410.070

Stats. Implemented: ORS 410.430 & ORS 410.450

Hist.: SSD 11-1984, f. 11-30-84, ef. 12-1-84; SSD 12-1988, f. & cert. ef. 12-2-89; SSD 19-1989(Temp), f. 12-29-89, cert. ef. 1-1-90; SSD 5-1990, f. & cert. ef. 2-1-90; SSD 11-1993, f. 12-30-93, cert. ef. 1-1-94; SSD 3-1997, f. 11-28-97, cert. ef. 12-1-97; SDDS 7-1999, f. 6-30-99, cert. ef. 7-1-99; SDDS 9-2002(Temp), f. & cert. ef. 11-1-02 thru 4-29-03; SPD 11-2003, f. & cert. ef. 5-2-03

## 411-032-0044

### Fee for Service Schedule

(1) Fees start at the federal poverty level net monthly income and increase by approximately \$25 income increments up to 200% of the federal poverty level. Families with net monthly incomes over 200% of the federal poverty level shall pay the full hourly rate of services provided. The Department, after consultation with the Governor's Commission on Senior Services, shall develop and publish a fee schedule for services based on the federal poverty level and distribute the schedule to the area agencies once a year.

(2) Maximum monthly fees shall not be greater than 30% of net monthly income for a family of one, and 40% of net monthly income for families of two or more.

(3) Area agencies and providers shall not be required to make a second attempt to collect Oregon Project Independence fees for service of less than \$5.00 per month.

Stat. Auth.: ORS 410.470

Stats. Implemented: ORS 410.470

Hist.: SSD 15-1985, f. 12-31-85, ef. 1-1-86; SSD 9-1988, f. & cert. ef. 8-1-88; SSD 13-1989, f. & cert. ef. 9-1-89; SSD 19-1989(Temp), f. 12-29-89, cert. ef. 1-1-90; SSD 5-1990, f. & cert. ef. 2-1-90; SSD 11-1990(Temp), f. & cert. ef. 4-27-90; SSD 17-1990, f. & cert. ef. 8-20-90; SSD 11-1991, f. & cert. ef. 6-14-91; SSD 11-1993, f. 12-30-93, cert. ef. 1-1-94; SSD 3-1997, f. 11-28-97, cert. ef. 12-1-97; SDDS 9-2002(Temp), f. & cert. ef. 11-1-02 thru 4-29-03; SPD 11-2003, f. & cert. ef. 5-2-03

## Department of Public Safety Standards and Training Chapter 259

**Adm. Order No.:** DPSST 8-2003

**Filed with Sec. of State:** 4-18-2003

**Certified to be Effective:** 4-18-03

**Notice Publication Date:** 8-1-02

**Rules Amended:** 259-008-0010

**Subject:** Amends the rule to bring medical standards current for police, parole and probation, and corrections officers. It also updates certain medical tests to bring them in line with current medical practices. This filing corrects an error in a subsequent filing, which changed the rules back to their original format.

**Rules Coordinator:** Shawn M. Irish—(503) 378-2100, ext. 2223

### 259-008-0010

#### Minimum Standards for Employment as a Law Enforcement Officer

(1) Citizenship. A person may not be employed as a police, corrections, or parole and probation officer for more than one year unless the person is a citizen of the United States.

(2) Age. No law enforcement unit in this state shall employ as a police officer, corrections officer or parole and probation officer, any person who has not yet attained the age of 21 years.

(3) Fingerprints. On or before the date of employment, each police, corrections, or parole and probation officer shall be fingerprinted on standard applicant fingerprint cards. The hiring agency is responsible for fingerprinting and shall forward two (2) cards to the Oregon State Police Identification Services Section for processing and assignment of identification number.

(a) Applicant's fingerprints will be retained and kept on file with the Oregon State Police Identification Services Section.

(b) The Oregon State Police Identification Services Section will notify the Department and the employing agency of any criminal record disclosed through processing the applicant's fingerprint card.

(c) If any procedural change is made by either the Federal Bureau of Investigation or the Oregon State Police Identification Services Section the Department shall comply with the most current requirements.

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(d) If the fingerprint clearance has not been obtained prior to submission of the application for certification, a criminal history affidavit provided by the Department shall be completed and returned to the Department by the applicant pending fingerprint clearance.

(4) Criminal Records. No police, corrections, or parole and probation officer shall have been convicted:

(a) In this state or any other jurisdiction, of a crime designated under the law where the conviction occurred as being punishable as a felony or as a crime for which a maximum term of imprisonment of more than one (1) year may be imposed;

(b) Of violating any law involving the unlawful use, possession, delivery, or manufacture of a controlled substance, narcotic, or dangerous drug;

(c) In this state of violating any law subject to denial or revocation as identified in OAR 259-008-0070 or has been convicted of violating the statutory counterpart of any of those offenses in any other jurisdiction.

(5) Notification of Conviction

(a) A law enforcement officer, instructor, telecommunicator, or EMD who is convicted of a crime, as identified in OAR 259-008-0070, while employed by a public or private safety agency must notify the agency head within 72 hours of the conviction.

(b) When an agency receives notification of a conviction from its employee, or another source, they must notify the Department within five (5) business days.

(A) The notification to the Department must be in writing and include the specific charges of the conviction, the county and state where the conviction occurred, the investigating agency and the date of the conviction.

(6) Moral Fitness (Moral Character). All law enforcement officers must be of good moral fitness as determined by a thorough background investigation.

(a) For purposes of this standard, lack of good moral fitness means conduct not restricted to those acts that reflect moral turpitude but rather extending to acts and conduct which would cause a reasonable person to have substantial doubts about the individual's honesty, fairness, respect for the rights of others, or for the laws of the state and/or the nation.

(b) The following are indicators of a lack of good moral fitness:

(A) Illegal conduct involving moral turpitude;

(B) Conduct involving dishonesty, fraud, deceit, or misrepresentation;

(C) Intentional deception or fraud or attempted deception or fraud in any application, examination, or other document for securing certification or eligibility for certification;

(D) Conduct that is prejudicial to the administration of justice;

(E) Conduct that adversely reflects on his or her fitness to perform as a law enforcement officer. Examples include but are not limited to: Intoxication while on duty, untruthfulness, unauthorized absences from duty not involving extenuating circumstances, or a history of personal habits off the job which would affect the officer's performance on the job which makes the officer both inefficient and otherwise unfit to render effective service because of the agency's and/or public's loss of confidence in the officer's ability to perform competently.

(c) If reliable evidence is received by the Board or Department that a law enforcement officer lacks good moral fitness, a rebuttable presumption will be raised that the law enforcement officer does not possess the requisite moral fitness to be a law enforcement officer. The burden shall be upon the law enforcement officer to prove good moral fitness.

(7) Education:

(a) Applicants for the position of a law enforcement officer will be required to furnish documentary evidence of one of the following:

(A) High School diploma; or

(B) Successful completion of the General Educational Development (GED) Test.

(i) For the purpose of determining high school graduation level as required by these rules, the applicant must have achieved a score no less than that required by the Oregon Board of Education before issuing an Oregon GED certificate.

(ii) Applicants holding a GED from another state may be required to obtain an Oregon certificate at the discretion of the Department.

(b) Evidence of the above shall consist of official transcripts, diplomas, or GED test report forms. Other documentation may be accepted, at the discretion of the Department.

(c) Reading and Writing Standard. Before beginning basic police training, challenging basic police training, or beginning the police career officer development course, each applicant shall provide evidence to DPSST that the applicant has attained a minimum of a 12th grade reading and writing level in the English language. The hiring agency is responsible

for administering a reading and writing instrument, approved by DPSST, and shall forward the results to DPSST on an application for training (Form F-5) prior to the applicant being admitted to basic police training. Implementation of this rule will take effect within one year from September 1, 2001.

(8) Physical Examination. All law enforcement officers and applicants shall be examined by a licensed physician or surgeon. The medical examination shall be completed not more than 180 days prior to initial offer of employment, nor more than 90 days after initial offer of employment, and shall conform to applicable standards of the Americans with Disabilities Act (ADA). Title 42 USC 12101. Individuals who have had a successfully completed physical examination (while at the same employer) that is less than two years old at the time of DPSST's receipt of a properly completed DPSS Form F-4 are not required by DPSST to be re-examined. If two years or more have passed since the date of the last successfully completed physical examination (while at the same employer), an individual who is selected for a certifiable position in a discipline in which the individual is not yet certified shall complete and pass a new physical examination.

(a) Police, Corrections, and Parole and Probation applicants must meet the following criteria:

(A) Visual Acuity. Corrected vision shall be at least 20/30 (Snellen) in each eye. Due to the demonstrated likelihood of dislodgment or breakage, candidates who are able to wear only glasses with frames shall meet an uncorrected standard not worse than 20/100 (Snellen) in each eye. Those candidates who use soft contact lenses (SCLs) shall have vision correctable to at least 20/30 in each eye, with no uncorrected standard, provided the employing agency will monitor compliance. Replacement glasses or lenses (as appropriate) shall be on the person or readily available at all times during each work shift.

(B) Color Vision. Red or green deficiencies may be acceptable, providing the applicant can read at least nine (9) of the first thirteen (13) plates of the Ishihara Test (24 Plate Edition). Applicants who fail the Ishihara test can meet the color vision standard by demonstrating that they can correctly discriminate colors via a field test conducted by the employer and approved by DPSST.

(C) Depth Perception. Depth Perception shall be sufficient to demonstrate stereopsis adequate to perform the essential tasks of the job. The recommended test is the Random Stereo Test with 60 seconds of arc.

(D) Peripheral Vision. Visual Field Performance shall be 140 degrees in the horizontal meridian combined.

(E) Night Blindness. A history of night blindness should be evaluated to determine applicant's capacity to perform essential tasks at night or in dark or low light settings.

(b) Applicants for the position of police or corrections officer must have hearing in both ears sufficient enough to perform essential tasks without posing a direct threat to themselves or others. The applicant must have no average loss greater than 25 decibels (db) at the 500, 1,000, 2,000 and 3,000-Hertz levels in either ear with no single loss in excess of 40 db.

(c) Applicants for the position of parole and probation officer must have hearing in both ears sufficient to perform essential tasks without posing a direct threat to themselves or others. The applicant must have no average loss greater than 35 decibels (db) at the 500, 1000, 2000, and 3000 Hertz levels in either ear with no single loss in excess of 45 db.

(d) If amplification device(s) is (are) necessary to meet the criteria in (b) or (c) above, or if applicant cannot meet the above criteria and wishes to pursue application, applicant must:

(A) Obtain a hearing evaluation by a licensed audiologist or otorhinolaryngologist (ear, nose, throat) to determine current hearing aid requirement; and

(B) Achieve a Speech Reception Threshold (SRT) of no greater than 25 db for each ear;

(C) Police, corrections and parole and probation officers shall achieve a Speech Discrimination test score of no less than 90% utilizing a standard 50-word presentation at 60 db Hearing Threshold Level (HTL). The Department may require an applicant to have another examination by a licensed audiologist or otorhinolaryngologist (ear, nose, and throat) designated by the Department to verify that the applicant's hearing meets the Board's minimum hearing standard. The verification examination shall be at the expense of the applicant and/or the applicant's employing agency. The equipment utilized for all of these evaluations shall be calibrated annually using current ANSI standards.

(D) Hearing amplification devices used to meet the hearing standard must be the type that protects the applicant from further hearing degradation due to amplification of loud sounds.

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(e) Applicants for the position of police, corrections, or parole and probation officer must be able to use vocal chords and have significant speaking ability to perform speaking-related essential tasks. For police and corrections officers abnormalities of the nose, throat or mouth must not interfere with the applicant's breathing or proper fitting of gas mask or similar device.

(f) Applicants for the position of police, corrections, or parole and probation officer who have a history of organic cardio-vascular disease or a finding during the medical examination of organic cardio-vascular disease shall necessitate further medical evaluation.

(A) Resting blood pressure should be less than or equal to 140 mmHg systolic and 90 mmHg diastolic on three successive readings.

(B) Applicants shall not have a functional and therapeutic cardiac classification greater than the Heart Association's Class A.

(C) Failure to meet guidelines (f), (A) and (B) requires further medical evaluation.

(D) If the applicant has controlled hypertension not exceeding the above standards and is on medication with side effect profiles, which do not interfere with performance of duty, then the condition may not be excludable.

(E) Functional Capacity I patients with cardiac disease may not be excludable, if they have no limitations of physical activity and ordinary physical activity does not cause discomfort and they do not have symptoms of cardiac insufficiency, nor experience angina pain.

(F) Therapeutic Classification A patients with cardiac disease, whose physical activity is restricted, should be evaluated thoroughly.

(G) If further medical examination is required under (df), it shall be at the expense of the applicant or hiring authority.

(g) A current-version DPSST Medical Examination Report (DPSST Form F2), or a medical report completed by a licensed physician containing at a minimum the information on Form F2 and a signed statement by the examining physician that the applicant does not have any condition, physical, mental, or emotional, which, in his/her opinion, suggests further examination: Must be submitted on all law enforcement applicants. This Report will be furnished to the examining physician by the hiring agency. The physician must indicate that the applicant is or is not physically able to perform the duties of a law enforcement officer as prescribed by DPSST.

(h) A copy of the Medical Examination Report must be sent to the Department prior to acceptance into a basic course, or any course where such report is required by the Department.

(i) The Department may require an applicant offered conditional employment to take a subsequent examination by a licensed physician of the Department's choice at the expense of the applicant or the hiring authority.

(j) The Board may waive any physical requirement where, in its judgment, the waiver would not be detrimental to the performance of an officer's duties, including the protection of the public and the safety of co-workers. The applicant may be required to demonstrate the ability to perform the essential functions of the job.

(k) A person or department head requesting a waiver of any physical requirement set forth in section (7) of this rule shall submit the request to the Department in writing, accompanied by supporting documents or pertinent testimony which would justify the action requested. Such supporting documents shall include information pertinent to the waiver request. The Board or Department may require additional documentation or testimony by the person or department head requesting the waiver if clarification is needed. Any expense associated with providing such documentation or testimony shall be borne by the person requesting the waiver or the requesting agency. If the person requesting the waiver does not obtain employment within one (1) year from the date a waiver is granted, the waiver shall be considered void. If the Board grants a waiver, it will be recorded on the certification and any subsequent certification unless removed by the Board upon proof that the condition prompting the waiver no longer exists.

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

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 181.640

Stats. Implemented: ORS 181.640

Hist.: PS 12, f. & ef. 12-19-77; PS 1-1981, f. 9-26-81, ef. 11-2-81; PS 1-1983, f. & ef. 12-15-83; PS 1-1985, f. & ef. 4-24-85; PS 1-1987, f. & ef. 10-26-87; Renumbered from 259-010-0015; PS 1-1990, f. & cert. ef. 2-7-90; PS 2-1995, f. & cert. ef. 9-27-95; PS 2-1996, f. 5-15-96, cert. ef. 5-20-96; PS 4-1997, f. 3-20-97, cert. ef. 3-25-97; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 1-1999, f. & cert. ef. 3-9-99; BPSST 9-2000, f. 11-13-00, cert. ef. 11-15-00; BPSST 3-2001, f. & cert. ef. 8-22-01; BPSST 12-2001(Temp), f. & cert. ef. 10-26-01 thru 4-5-02; BPSST 5-2002(Temp), f. 4-3-02, cert. ef. 4-6-02 thru 8-1-02; BPSST 16-2002, f. & cert. ef. 7-5-2002; BPSST 20-2002, f. & cert. ef. 11-21-02; DPSST 3-2003, f. & cert. ef. 1-22-03; DPSST 6-2003, f. & cert. ef. 4-11-03; DPSST 8-2003, f. & cert. ef. 4-18-03

**Adm. Order No.:** DPSST 9-2003

**Filed with Sec. of State:** 4-22-2003

**Certified to be Effective:** 4-22-03

**Notice Publication Date:** 9-1-02

**Rules Adopted:** 259-008-0067

**Rules Amended:** 259-008-0065

**Subject:** Puts in rule standards for active police officer maintenance of certification. Sets out training subjects, training hours and reporting process.

**Rules Coordinator:** Shawn M. Irish—(503) 378-2100, ext. 2223

## 259-008-0065

### Maintenance of Certification For Active Police Officers

(1)(a) The Board is responsible for setting the standards for active police officer training and the maintenance of certification. The Department is required to uphold those standards, while each agency determines what training will be provided to meet the standards.

(b) It is recommended that agencies provide training time and training opportunities to enable the active police officer to meet the required maintenance training hours.

(2) In order to maintain certification:

(a) All active police officers shall maintain current First Aid/CPR certification.

(b) All active police officers shall complete a total of at least eighty-four (84) hours of agency approved training every three (3) years. The eighty-four (84) hours will include:

(A)(i) Eight (8) CORE hours of training annually, from either the "Firearms" or "Use of Force" subject areas:

(ii) This training must be reported to the Department as twenty-four (24) hours of CORE training, once every three years.

(B)(i) Active police officers who hold a Supervision, Mid-Management or Executive certification, must complete at least twenty-four (24) hours of agency approved Leadership/Professional training, every three years:

(ii) This training must be reported to the Department as twenty-four (24) hours of agency approved Leadership/Professional training, once every three (3) years.

(C)(i) In addition to the CORE (A)(i) (required of all officers) and Leadership/Professional (B)(i) training hours (only required of officers with Supervision Certification and above), the remaining hours must be completed from the category of "General Law Enforcement" training in the recommended, but not limited to, subject areas of Law and Legal, Ethics and Communication, Investigations, Survival Skills, Child Abuse, Sex Abuse, and Elder Abuse:

(ii) These remaining training hours must be reported to the Department as "General Law Enforcement" training, once every three (3) years.

(3)(a) The employing agency shall maintain documentation of required training on each law enforcement officer;

(b) The agency must notify the Department of all police officers training status by submitting a Form F-15 to the Department by December 31st, per an agency schedule developed by DPSST, identifying the training completed during the previous three (3) year reporting period.

(A) Failure to notify the Department of the required training will result in a warning notification letter being sent to the agency head and the officer.

(B) A six (6) month extension will be automatically authorized.

(4) Failure to complete the training and/or submit the completed Form F-15, after the warning notification letter and before the six (6) month extension has expired, shall result in the recall of the active police officer's certification.

(a) A police officer with a recalled certification cannot work in a certified position.

(b) Recertification following a recall may be obtained at the approval of the Department by submitting the following:

(A) The employing agency head request certification, along with an explanation of why the training was not completed; and

(B) Verification that the missed training was completed.

(c) After 2 1/2 years in a recalled status the police officer will be required to complete an Career Officer Development Course before s/he can be recertified.

(d) After over 5 years in a recalled status the police officer will be required to complete basic training in the appropriate discipline.

(5) Agency heads of the employing agency may document "excused leave" in extreme circumstances for not completing the annual require-



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ments but must provide documentation as to the reason and indicate when the missed training was completed.

Stat. Auth.: ORS 181.652, ORS 181.653 & ORS 181.667  
Stats. Implemented: ORS 181.652, ORS 181.653 & ORS 181.667  
Hist.: PS 1-1990, f. & cert. ef. 2-7-90; PS 2-1995, f. & cert. ef. 9-27-95; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 22-2002, f. & cert. ef. 11-18-02; BPSST 9-2003, f. & cert. ef. 4-22-03

## 259-008-0067

### Lapsed Certification

(1) All levels of certification of any police, corrections or parole and probation officer shall be considered lapsed if the officer has not been employed as such for a period of three (3) consecutive months or more.

(2) Upon reemployment as a police, corrections, or parole and probation officer, the person whose certification has lapsed may apply for certification in the manner provided in ORS 181.610 to 181.690.

(3) All levels of certification of any telecommunicator or emergency medical dispatcher shall be considered lapsed if the individual has not been employed as such for a period of twelve (12) consecutive months or more.

(4) Upon reemployment as telecommunicator or emergency medical dispatcher, the person whose certification has lapsed may apply for certification in the manner provided in ORS 181.610 to 181.690.

Stat. Auth.: ORS 181.652, ORS 181.653 & ORS 181.667  
Stats. Implemented: ORS 181.652, ORS 181.653 & ORS 181.667  
Hist.: BPSST 9-2003, f. & cert. ef. 4-22-03

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

**Adm. Order No.:** DMV 3-2003

**Filed with Sec. of State:** 4-21-2003

**Certified to be Effective:** 4-21-03

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

**Rules Amended:** 735-062-0000

**Subject:** This rule establishes who is eligible to be issued either an instructional permit or drivers license. This rule also details what a person must present to DMV in order to be issued an instructional permit or drivers license. A person under 18 years of age is required to have approval of a mother, father or guardian to be issued a driver permit or driver license. The amendment clarifies how DMV interprets the terms mother, father and guardian as used in ORS 807.060(2)(a). DMV only accepts the approval of a biological or adoptive mother, biological or adoptive father or a person appointed by a court as guardian or given guardianship by statute. The main purpose of the rule amendment is to clarify that DMV will not accept approval from a stepparent or grandparent who has not adopted or gained legal custody of the applicant. The amendment of this rule does not change any DMV process. The title of the rule is being amended to clarify what the rule entails.

**Rules Coordinator:** Brenda Trump—(503) 945-5278

## 735-062-0000

### Driver Permits or Driver Licenses

(1) Before the Driver and Motor Vehicle Services Division of the Department of Transportation (DMV) will issue a driver permit or driver license, the person applying for the driver permit or driver license must:

(a) Satisfy all requirements set forth in ORS 807.040, and 807.060(2)(a) if under the age of 18. For purposes of ORS 807.060 and this subsection:

(A) Mother means the biological or adoptive mother of the applicant;  
(B) Father means the biological or adoptive father of the applicant;

and

(C) Guardian means an individual, or the authorized representative of an entity, private or public institution or agency appointed as guardian of the applicant by a court having jurisdiction.

(b) Satisfy all requirements set forth in ORS 807.065 and 807.066 to receive a driver license (provisional) if under 18 years of age;

(c) Present to DMV documentary proof of the person's age and identity as described in OAR 735-062-0020;

(d) Present to DMV documentary proof of the person's residence address as described in OAR 735-062-0030;

(e) Present to DMV proof, as described in OAR 735-016-0070, that the person is domiciled in or a resident of Oregon;

(f) Surrender to DMV all driver permits and driver licenses in the person's possession that have been issued by:

- (A) Another state;
- (B) A Canadian province or territory; or
- (C) A U.S. territory.

(g) In addition to all requirements in subsections (a) through (f) of this section, a person who holds a commercial driver license from another jurisdiction must satisfy all requirements set forth in ORS 807.045 and OAR 735-060-0015.

(2) Upon receipt of an application for a driver license or driver permit, DMV will make an inquiry to the National Driver Register/Problem Driver Pointer System (NDR/PDPS) or the Commercial Driver License Information System (CDLIS) or both to determine if the applicant's driving privileges are suspended, revoked, canceled or otherwise not valid in any other jurisdiction.

(3) DMV may require the applicant to provide a clearance letter in compliance with OAR 735-062-0160, indicating the applicant has valid driving privileges from any jurisdiction in which an inquiry with the National Driver Register/Problem Driver Pointer System (NDR/PDPS) or the Commercial Driver License Information System (CDLIS) or both indicates the applicant's driving privilege is not fully valid.

(4) DMV will not issue driving privileges to a person until his or her driving privilege is reinstated in all jurisdictions, unless the only remaining reinstatement requirement in the other jurisdiction is proof of financial responsibility. Nothing in this section prohibits DMV from issuing a regular Class C driver license to a person whose CDL driving privileges are not valid as long as the person's regular Class C or equivalent driving privileges are valid.

(5) DMV will not issue a driver license or permit to a person with a current, valid Oregon identification card (ID card). To become eligible, the person must surrender the ID card before DMV may issue the Oregon driver license or permit. If the person's ID card is lost or destroyed, the person must make a statement that the card is lost or destroyed and that it will be returned to DMV if found.

(6) A driver license of an applicant with a February 29th birth date expires:

- (a) On February 29th if the expiration year is a leap year; or
- (b) On March 1st if the expiration year is not a leap year.

Stat. Auth.: ORS 184.616, ORS 184.619, ORS 807.040, ORS 807.050, ORS 807.060, ORS 807.120 & ORS 809.310  
Stats. Implemented: ORS 807.040, ORS 807.060 & ORS 807.066  
Hist.: MV 14-1987, f. 9-21-87, ef. 9-27-87; Administrative Renumbering 3-1988, Renumbered from 735-031-0000; MV 6-1990, f. & cert. ef. 4-2-90; MV 14-1992, f. & cert. ef. 10-16-92; MV 16-1992, f. & cert. ef. 12-16-92; DMV 12-2000, f. & cert. ef. 9-21-00; DMV 3-2003, f. & cert. ef. 4-21-03

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**Adm. Order No.:** DMV 4-2003

**Filed with Sec. of State:** 5-14-2003

**Certified to be Effective:** 5-14-03

**Notice Publication Date:** 3-1-03

**Rules Adopted:** 735-018-0000, 735-018-0010, 735-018-0020, 735-018-0030, 735-018-0040, 735-018-0050, 735-018-0060, 735-018-0070, 735-018-0080, 735-018-0090, 735-018-0100, 735-018-0110

**Subject:** These rules specify the procedures and requirements under which a person or organization, may, by electronic means, submit certain information to DMV that is customarily provided on paper forms pursuant to ORS 802.012. Generally, the rules describe the procedures, requirements and processes relating to the conduct of electronic commerce between DMV and its customers. For example, the use of personal identification numbers (PIN), unique identifiers, payment of fees, use of credit cards and debit cards, receipt of transaction, electronic records, etc. OAR 735-018-0100 and 735-018-0110, respectively, specify the procedures and requirements for DMV customers to notify DMV of a change of address, and to authorize DMV customers with vehicles exempt from pollution control equipment (DEQ) requirements under ORS 815.300 to renew vehicle registration by electronic means.

**Rules Coordinator:** Brenda Trump—(503) 945-5278

## 735-018-0000

### Authority and Purpose

(1) OAR chapter 735, division 18 rules are adopted by DMV under the authority of ORS 802.012.

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(2) The purpose of these rules is to:

(a) Specify the procedures and requirements under which a person or organization may, by electronic means, submit information to DMV that is customarily provided on paper forms; and

(b) Promote the development and use of electronic transactions between DMV and its customers while providing service that is efficient, secure, convenient and responsive.

Stat. Auth.: ORS 184.616, ORS 184.619, ORS 802.012 & ORS 803.460

Stats. Implemented: ORS 802.012, ORS 802.560, ORS 803.200, ORS 803.220, ORS 803.360, ORS 803.370, ORS 803.450, ORS 803.460, ORS 807.420 & ORS 807.560

Hist.: DMV 4-2003, f. & cert. ef. 5-14-03

## 735-018-0010

### Definitions

For purposes of OAR chapter 735, division 18:

(1) "DMV" means the Driver and Motor Vehicle Services Division of the Oregon Department of Transportation.

(2) "Electronic record" means a record created, generated, sent, communicated, received or stored by electronic means.

(3) "Electronic signature" means an electronic sound, symbol or process attached to or logically associated with a record and executed or adopted by a person or organization with the intent to sign the record.

(4) "Electronic transaction" means the exchange of an electronic record and, in those transactions where an ink on paper signature would also be required under Oregon law, an electronic signature, between a person or organization and DMV for the purposes of:

(a) Facilitating access to public records or public information;

(b) Purchasing or selling goods or services;

(c) Transferring funds;

(d) Facilitating the submission of an electronic record or electronic signature required or accepted by DMV; or

(e) Creating records upon which DMV or another person or organization will reasonably rely upon, including but not limited to formal communications, notices, certifications and any other record that is issued under a signature.

(f) This section does not apply to informational publications and informal communications.

(5) "Hardcopy" means a document printed on paper.

(6) "Hyperlink" means a connection from one Webpage to another using a HyperText Markup Language (HTML) command.

(7) "Organization" means corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, governmental agency, public corporation or any other legal or commercial entity. "Organization" does not include an individual.

(8) "Person" means an individual.

(9) "Personal Information" means the following information that identifies the individual: driver license, driver permit or identification card number; name; address (excluding five-digit ZIP code); and telephone number.

(10) "PIN" means a personal identification number assigned by DMV to a person or organization to establish a secure means of authenticating the identity of a person or organization when conducting certain specified electronic transactions with DMV.

(11) "PIN transaction" means an electronic transaction that requires the use of a PIN assigned by DMV.

(12) "Record" means a document or information that is customarily printed on paper, which contains information relating to and evidencing the transaction of business between a person or an organization and DMV.

(13) "Unique identifier" means a number, name, symbol or other identifier used singly or in combination by DMV to uniquely identify a person, organization or vehicle to DMV. For example, a driver license number, customer identification number, date of birth, place of birth, mother's maiden name, vehicle license plate number, vehicle identification number, etc.

Stat. Auth.: ORS 184.616, ORS 184.619, ORS 802.012 & ORS 803.460

Stats. Implemented: ORS 802.012, ORS 802.560, ORS 803.200, ORS 803.220, ORS 803.360, ORS 803.370, ORS 803.450, ORS 803.460, ORS 807.420 & ORS 807.560

Hist.: DMV 4-2003, f. & cert. ef. 5-14-03

## 735-018-0020

### General Provisions

An electronic transaction is a transaction conducted between DMV and a person or organization, including but not limited to the submission of documents or information to DMV that meets all of the following requirements:

(1) Is limited to the transactions described under OAR chapter 735, division 18 rules;

(2) Is voluntary, and is made at the sole discretion of the person or organization submitting the information;

(3) Is conducted through DMV's website at [www.oregondmv.com](http://www.oregondmv.com), or an official State of Oregon website that maintains a hyperlink which provides access to DMV's website;

(4) Is subject to the provisions of Oregon's Record Privacy Law (ORS 802.175-802.191) and Oregon's Public Records Law (ORS 192.410-192.505);

(5) Has the same level of legal protection and effect that is given to a hardcopy transaction and may not be denied legal effect, validity or enforceability solely because it is conducted in electronic form;

(6) Is conducted in accordance with:

(a) The provisions of OAR chapter 735, division 18 rules;

(b) All applicable laws and administrative rules; and

(c) Any instructions contained on DMV's website.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 184.616, ORS 184.619, ORS 802.012 & ORS 803.460

Stats. Implemented: ORS 802.012, ORS 802.560, ORS 803.200, ORS 803.220, ORS 803.360, ORS 803.370, ORS 803.450, ORS 803.460, ORS 807.420 & ORS 807.560

Hist.: DMV 4-2003, f. & cert. ef. 5-14-03

## 735-018-0030

### Personal Identification Number (PIN); Unique Identifiers

(1) DMV may, at its discretion, require the use of a PIN or other unique identifier for certain electronic transactions.

(2) If a PIN is required, a person or organization may request a PIN by submitting a request for PIN at DMV's website.

(3) Upon the receipt of a request for PIN, DMV will assign and, at its discretion, mail or e-mail a PIN to the person or organization requesting the PIN.

(4) DMV reserves the right to terminate a PIN issued under this rule, if the PIN is not activated or used at DMV's website within a period of time to be determined by DMV.

(5) A person or organization may request a change of PIN by submitting a request for change of PIN at DMV's website.

(6) Upon the receipt of a request to change a PIN, DMV will assign and, at its discretion, mail or e-mail a PIN to the person or organization requesting the PIN.

(7) At the time a request for PIN or request for change of PIN is submitted to DMV, DMV at its discretion, will e-mail or mail a PIN assigned under this rule to the person or organization's e-mail or physical address that is contained in DMV's records.

Stat. Auth.: ORS 184.616, ORS 184.619, ORS 802.012 & ORS 803.460

Stats. Implemented: ORS 802.012, ORS 802.560, ORS 803.200, ORS 803.220, ORS 803.360, ORS 803.370, ORS 803.450, ORS 803.460, ORS 807.420 & ORS 807.560

Hist.: DMV 4-2003, f. & cert. ef. 5-14-03

## 735-018-0040

### Certifications

Pursuant to ORS 802.012(2), an electronic transaction conducted at DMV's website that includes the electronic submission of any information to DMV necessary to comply with any requirement of the Oregon Vehicle Code, statute, or administrative rule shall:

(1) Constitute a certification, including but not limited to a certification as to the truth and accuracy of the document or information submitted in the electronic record;

(2) Apply whether or not the information submitted is signed by the person or organization that submits the information; and

(3) Apply whether or not the information was electronically submitted as part of an electronic record or in some other form.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 184.616, ORS 184.619, ORS 802.012 & ORS 803.460

Stats. Implemented: ORS 802.012, ORS 802.560, ORS 803.200, ORS 803.220, ORS 803.360, ORS 803.370, ORS 803.450, ORS 803.460, ORS 807.420 & ORS 807.560

Hist.: DMV 4-2003, f. & cert. ef. 5-14-03

## 735-018-0050

### Date and Time Information is Considered Submitted; Received

(1) An electronic record submitted at DMV's website shall be deemed received by DMV on the date and at the time that the record enters DMV's website, or enters a hyperlink or an official State of Oregon website that maintains a hyperlink which provides access to DMV's website.

(2) To be considered received or timely submitted, an electronic record must be received by DMV no later than 12:00 a.m., on the deadline for submitting the record.

Stat. Auth.: ORS 184.616, ORS 184.619, ORS 802.012 & ORS 803.460

Stats. Implemented: ORS 802.012, ORS 802.560, ORS 803.200, ORS 803.220, ORS 803.360, ORS 803.370, ORS 803.450, ORS 803.460, ORS 807.420 & ORS 807.560

Hist.: DMV 4-2003, f. & cert. ef. 5-14-03

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## 735-018-0060

### Signature

For any transaction that is required under Oregon law to be in writing and have a signature, an electronic signature shall have the same legal force and effect as if the person or organization had submitted the transaction in hardcopy with a handwritten signature in ink on paper.

Stat. Auth.: ORS 184.616, ORS 184.619, ORS 802.012 & ORS 803.460  
Stats. Implemented: ORS 802.012, ORS 802.560, ORS 803.200, ORS 803.220, ORS 803.360, ORS 803.370, ORS 803.450, ORS 803.460, ORS 807.420 & ORS 807.560  
Hist.: DMV 4-2003, f. & cert. ef. 5-14-03

## 735-018-0070

### Payment of Fees; Use of Credit Cards; Debit Cards

(1) If an electronic transaction requires the payment of fees to DMV, payment of those fees within the electronic transaction shall be limited to only those credit card(s) or debit card(s) that are approved by DMV and designated on DMV's website.

(2) To pay required fees to DMV within an electronic transaction, a person or organization must submit the following information to DMV:

(a) Credit cardholder or debit cardholder name and billing address, including city, state and ZIP code;

(b) Credit cardholder or debit cardholder phone number and e-mail address;

(c) Credit card or debit card number;

(d) Expiration date of the credit card or debit card;

(e) Shipping name and address, including city, state, and ZIP code; and

(f) Shipping phone number and e-mail address.

Stat. Auth.: ORS 184.616, ORS 184.619, ORS 802.012 & ORS 803.460  
Stats. Implemented: ORS 802.012, ORS 802.560, ORS 803.200, ORS 803.220, ORS 803.360, ORS 803.370, ORS 803.450, ORS 803.460, ORS 807.420 & ORS 807.560  
Hist.: DMV 4-2003, f. & cert. ef. 5-14-03

## 735-018-0080

### Errors; Omissions; Acknowledgement; Receipt of Transaction

(1) An electronic transaction conducted at DMV's website will result in the generation of an acknowledgement, receipt or message including but not limited to one or more of the following:

(a) An error message informing the user of the nature of the problem and that the error is required to be corrected before the form will be electronically sent to DMV and the electronic transaction is completed, if:

(A) An error is made on an electronic form; or

(B) A required data element is left off an electronic form.

(b) An error message informing the user of the nature of the problem and that the electronic transaction cannot be completed, if:

(A) DMV's website is experiencing technical difficulties; or

(B) There is an error in transmission of information.

(c) If the electronic transaction is successfully completed, a receipt or acknowledgement that the electronic transaction has been accepted.

(2) If DMV's website is experiencing technical difficulties or there is an error in the transmission of information; an error message will be sent informing the user of the nature of the problem and that the electronic transaction cannot be completed at that time.

Stat. Auth.: ORS 184.616, ORS 184.619, ORS 802.012 & ORS 803.460  
Stats. Implemented: ORS 802.012, ORS 802.560, ORS 803.200, ORS 803.220, ORS 803.360, ORS 803.370, ORS 803.450, ORS 803.460, ORS 807.420 & ORS 807.560  
Hist.: DMV 4-2003, f. & cert. ef. 5-14-03

## 735-018-0090

### Electronic Records

DMV records pertaining to electronic transactions conducted at DMV's website are subject to all of the requirements for processing and records maintenance as described in OAR chapter 735, division 10.

Stat. Auth.: ORS 184.616, ORS 184.619, ORS 802.012 & ORS 803.460  
Stats. Implemented: ORS 802.012, ORS 802.560, ORS 803.200, ORS 803.220, ORS 803.360, ORS 803.370, ORS 803.450, ORS 803.460, ORS 807.420 & ORS 807.560  
Hist.: DMV 4-2003, f. & cert. ef. 5-14-03

## 735-018-0100

### Notification of Change of Address by Electronic Means

(1) Except as prohibited under section (2) of this rule, a person required to notify DMV of a change of address pursuant ORS 803.220, 807.420 or 807.560 and OAR 735-010-0070, may, in lieu of submitting a hardcopy Change of Address Notice For DMV Records (**DMV Form 735-6438**), notify DMV electronically of a change of address by submitting a notice of a change of address at DMV's website.

(2) An electronic notice of a change of address by an organization as defined in OAR 735-018-0030 is expressly prohibited.

(3) This rule does not apply to notice of a change of name or any other provision otherwise required by ORS 803.220, 807.420 or 807.560.

[ED. NOTE: Forms referenced are available from the agency.]  
Stat. Auth.: ORS 184.616, ORS 184.619, ORS 802.012 & ORS 803.460  
Stats. Implemented: ORS 802.012, ORS 802.560, ORS 803.200, ORS 803.220, ORS 803.360, ORS 803.370, ORS 803.450, ORS 803.460, ORS 807.420 & ORS 807.560  
Hist.: DMV 4-2003, f. & cert. ef. 5-14-03

## 735-018-0110

### Renewal of Vehicle Registration by Electronic Means

(1) A person or organization may renew, by means of an electronic transaction at DMV's website, a vehicle registration pursuant to ORS 803.360, 803.370, 803.450, 803.455, 803.460, 803.465 and 803.473, by submitting:

(a) A completed Online Registration Renewal Transaction; and

(b) The fee required to be paid for renewal of vehicle registration under ORS 803.455 under the method prescribed in OAR 735-018-0070.

(2) In addition to the certifications described in OAR 735-018-0040, a renewal of vehicle registration submitted by means of an electronic transaction shall constitute a certification of all of the following:

(a) The motor vehicle for which the person is applying for registration:

(A) Is, at the time of registration renewal, covered by the insurance policy indicated on the registration renewal application;

(B) Is not subject to vehicle pollution control requirements as described in ORS 803.350, 803.465, and 815.295;

(C) Is not subject to weight-mile tax; and

(D) Is not a vehicle that qualifies for special registration, for example, a tow vehicle, farm vehicle, mobile home toter, or a vehicle owned or operated by a charitable/nonprofit.

(b) The applicant for vehicle registration renewal:

(A) Is a resident of or domiciled in Oregon, or is otherwise eligible, or required to register the vehicle in question pursuant to ORS 803.200 and 803.360;

(B) Understands that it is a crime under ORS 803.375 to knowingly make a false statement on an application for vehicle registration; and

(C) If required, has an in-house drug and alcohol testing program that meets the federal requirements; or is member of a consortium that provides testing that meets the federal requirements, or is exempt from the preceding requirements described in this paragraph.

(c) Proof of compliance with financial responsibility requirements pursuant to ORS 803.460.

Stat. Auth.: ORS 184.616, ORS 184.619, ORS 802.012 & ORS 803.460  
Stats. Implemented: ORS 802.012, ORS 802.560, ORS 803.200, ORS 803.220, ORS 803.360, ORS 803.370, ORS 803.450, ORS 803.460, ORS 807.420 & ORS 807.560  
Hist.: DMV 4-2003, f. & cert. ef. 5-14-03

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**Adm. Order No.:** DMV 5-2003(Temp)

**Filed with Sec. of State:** 5-14-2003

**Certified to be Effective:** 7-1-03 thru 12-27-03

**Notice Publication Date:**

**Rules Amended:** 735-032-0010

**Subject:** ORS 803.570 requires DMV to establish, by rule, the plate manufacturing fee charged for a registration plate or pair of registration plates. The fee amount established by DMV must be calculated by taking the costs to manufacture a plate or plates, and rounding the fee amount(s) charged DMV customers to the nearest higher half-dollar. DMV has established a separate fee for a single registration plate and a pair of registration plates because of the different costs to manufacture a single plate versus a pair of plates. The rule amendment is needed to reduce the manufacturing fee charged to DMV customers because the cost to produce registration plates has decreased. As amended, OAR 735-032-0010 will establish the manufacturing fee at \$1.50 for a single plate and \$2.50 for a pair of plates. The rule previously established the fee at \$2.00 and \$3.00 for a single plate and pair of plates respectively.

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—(503) 945-5278

## 735-032-0010

### Plate Manufacturing Fee

(1) As provided in ORS 803.570 the Driver and Motor Vehicle Services Division of the Department of Transportation shall charge a fee to

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cover the cost of manufacturing a registration plate(s). This fee shall be charged each time a plate(s) is issued, except as otherwise provided by law.

(2) The fee shall be:

- (a) \$1.50 if a single plate is issued; or
- (b) \$2.50 if two plates are issued.

Stat. Auth.: ORS 184.616 & ORS 803.570

Stats. Implemented: ORS 803.570

Hist.: MV 29-1986, f. 12-31-86, ef. 1-1-87; Administrative Renumbering 3-1988, Renumbered from 735-100-0310; MV 21-1988, f. 6-29-88, cert. ef. 7-1-88; DMV 4-1997, f. 1-24-97, cert. ef. 4-1-97; DMV 5-2003(Temp), f. 5-14-03, cert. ef. 7-1-03 thru 12-27-03

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**Adm. Order No.:** DMV 6-2003

**Filed with Sec. of State:** 5-14-2003

**Certified to be Effective:** 6-1-03

**Notice Publication Date:** 3-1-03

**Rules Amended:** 735-062-0060

**Rules Repealed:** 735-062-0060(T)

**Subject:** This rule establishes the requirement for a vision check every eight years for a person 50 years of age or older. The amendments resolve conflicts with OAR 735-062-0050 and ORS 807.310 by: clarifying that a person whose eyesight does not meet DMV vision standards will not be issued a driver license renewal under this rule; clarifying that a temporary driver permit can only be issued if the vision screening shows a person's visual acuity is between 20/40 and 20/70; and reducing the number of days the permit is valid from 60 days to 30 days. Other minor housekeeping amendments are made.

**Rules Coordinator:** Brenda Trump—(503) 945-5278

## 735-062-0060

### Periodic Check of Driver's Eyesight

(1) All drivers 50 years of age and older must have their eyesight checked by the Driver and Motor Vehicle Services Division of the Department of Transportation (DMV) once every eight years.

(2) A driver's age is the age the person will be on the date of the expiration of the license to be renewed. A driver may be required to have a vision screening at 49 years of age if the driver's license will expire on his or her 50th birthday.

(3) The eyesight check must include those items listed in OAR 735-062-0050.

(4) If a person's eyesight meets the eyesight check standard indicated in OAR 735-062-0050, and if the driver complies with all other driver license renewal requirements, DMV will renew the person's license. If the visual acuity of the person's best eye is worse than 20/40 and no worse than 20/70, DMV will restrict the person to daylight driving only, unless, in the written opinion of a licensed vision specialist (ophthalmologist, oculist or optometrist), the person's driving should not be restricted to daylight driving only. To obtain unrestricted driving privileges, the person must submit a completed Certificate of Vision form (DMV Form 735-24), that indicates it is the opinion of the vision specialist that the person's driving should not be restricted to daylight driving only.

(5) To allow a person to obtain the written opinion of a licensed vision specialist as provided in section (4) of this rule, DMV will issue upon request, a Temporary Driver Permit, which is valid for 30 days, when DMV's vision screening tests show a person's visual acuity level in the best eye is worse than 20/40 and no worse than 20/70 as follows:

(a) If the person's current driver license is due to expire within 30 days, DMV will issue a Temporary Driver Permit that is valid beginning on the date of expiration of the person's driver license;

(b) If the person's driver license is already expired and has been expired for less than one year, DMV will issue a Temporary Driver Permit that is valid beginning on the date it is issued; and

(c) The Temporary Driver Permit restricts the person's driving privileges to driving during daylight hours only.

(6) Drivers who are temporarily out-of-state and unable to go to a DMV office to have their eyesight checked when required to do so may get their eyesight checked in the state where they are located. A vision examination form Certificate of Vision, DMV Form 735-24 will be provided to the person by DMV. The form must be completed by a licensed ophthalmologist, oculist, or optometrist and be submitted to DMV along with the driver license renewal application.

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

Stat. Auth.: ORS 184.616, ORS 184.619, ORS 807.070, ORS 807.120, ORS 807.150

Stats. Implemented: ORS 807.120, ORS 807.150, ORS 807.310

Hist.: MV 13-1985, f. 10-8-85, ef. 1-1-86; MV 15-1987, f. 9-21-87, ef. 9-27-87; Administrative Renumbering 3-1988, Renumbered from 735-031-0047; DMV 12-2000, f. &

cert. ef. 9-21-00; DMV 2-2003(Temp), f. & cert. ef. 3-20-03 thru 9-15-03; DMV 6-2003, f. 5-14-03, cert. ef. 6-1-03

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**Adm. Order No.:** DMV 7-2003(Temp)

**Filed with Sec. of State:** 5-14-2003

**Certified to be Effective:** 5-15-03 thru 11-10-03

**Notice Publication Date:**

**Rules Amended:** 735-072-0023

**Subject:** 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 amendment of this rule is to clarify that the one-year suspension 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 the rule in June 2002, the current rule is silent on whether the suspension imposed under section (9) continues past the person's 18th birthday under the Provisional Driver Improvement Program. Section (10) of the rule is amended to refer to all of the sections that describe a suspension — (6), (7) and (9) — rather than section (8) that makes the suspensions in sections (6) and (7) retroactive. DMV will apply the amendment of the rule retroactively to be consistent with DMV's intent and current practices.

**Rules Coordinator:** Brenda Trump—(503) 945-5278

## 735-072-0023

### Provisional Driver Improvement Program

(1) Drivers who have reached 14 years of age but who have not yet reached 18 years of age are subject to the Provisional Driver Improvement Program. The Provisional Driver Improvement Program is designed to have a quick and immediate impact on young drivers who are convicted of traffic offenses or involved in preventable accidents. This rule applies to driver improvement violations and preventable accidents that occur when the driver is 14, 15, 16 or 17 years of age, and whose record review date occurs before the person has reached 18 years of age.

(2) On the record review date, DMV will review the person's driving record and restrict the driving privileges of any provisional driver who has:

(a) Two driver improvement violations; or

(b) Two preventable accidents; or

(c) A combination of one driver improvement violation and one preventable accident.

(3) The following apply to provisional restrictions:

(a) DMV will restrict the license or instruction permit of a provisional driver to drive only to and from or for employment, with no passengers except their parent, stepparent or guardian;

(b) DMV will impose the restriction for a period of 90 days regardless of whether the driver becomes 18 years of age during the restriction period. DMV will notify the provisional driver by letter that the restriction will begin five days from the date of the letter. During the 90-day restriction period, the provisional driver must carry the restriction letter at all times while the person is driving a motor vehicle;

(c) A person who violates the Provisional Driver Improvement Program restriction, can be cited under ORS 807.010, operating in violation of license restrictions, which is a Class B traffic violation; and

(d) DMV will delay imposition of a restriction to driving privileges and place a pending restriction code on the person's driving record of any provisional driver:

(A) Whose driving privileges are cancelled, suspended or revoked until DMV grants driving privileges or fully reinstates driving privileges; or

(B) Who has not been granted driving privileges until DMV grants driving privileges in the form of a provisional driver license or instruction permit;

(C) Unless that provisional driver gets another driver improvement violation or preventable accident while under the age of 18. In that case, DMV will suspend the driving privileges or right to apply for driving privileges as set forth in subsection (6) of this rule. This suspension will supercede the pending restriction and the pending restriction code will be removed from the person's driving record.

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(4) DMV may offer an interview with a DMV employee to a provisional driver whose driving privileges are restricted. The purpose of the interview is to re-evaluate the person's driving privilege based on a review of performance since the date of the incident that caused the restriction. Actions DMV may take after re-evaluating the person's performance include but are not limited to:

(a) Lessening or increasing the severity or duration of the restriction;

(b) Requiring the completion, within 90 days of the interview, of a driver improvement course;

(c) Requiring the person to complete and pass all or some of DMV's driver license examinations (knowledge test, vision test and drive test) within 60 days from the date of the interview directing the person to complete the examination and to notify DMV of the completion. If the person fails any licensing examination, DMV will suspend the person's driving privileges or right to apply for driving privileges under ORS 809.410(13).

(5) DMV will suspend driving privileges or the right to apply for driving privileges if a provisional driver has an interview with a DMV employee and does not comply with any requirement imposed by DMV. This suspension will continue until the provisional driver complies with the requirement imposed by DMV or for five years from the effective date of the suspension, whichever is earlier.

(6) DMV will suspend for six months the driving privileges or right to apply for driving privileges of any provisional driver who has:

(a) Three driver improvement violations;

(b) Three preventable accidents; or

(c) A combination of driver improvement violations and preventable accidents that total three.

(7) For each subsequent driver improvement violation or preventable accident, DMV will suspend for six months the driving privileges or right to apply for driving privileges of a provisional driver, regardless of a previous or current Driver Improvement Program suspension(s), who has:

(a) Four or more driver improvement violations;

(b) Four or more preventable accidents; or

(c) A combination of driver improvement violations and preventable accidents that total four or more.

(8) The suspension period under sections (6) and (7) of this rule will be for six months. This suspension period applies retroactively to any suspension imposed after January 1, 2002 under subsection (6) of this rule (effective as a temporary rule 1-1-02). DMV will reduce to six months the suspension of any provisional driver who was suspended for one year under temporary OAR 735-072-0023(6) in effect January 1, 2002 until June 29, 2002.

(9) DMV will suspend for one year the driving privileges or the right to apply for driving privileges of a provisional driver convicted of any offense listed in ORS 809.600(1). This suspension is for Provisional Driver Improvement Program purposes and is in addition to any suspension or revocation imposed because of the specific conviction.

(10) The suspension period for those suspensions imposed under sections (6), (7) and (9) of this rule will be imposed for the full suspension period, regardless of whether the provisional driver becomes 18 years of age during the suspension period. A suspension of driving privileges or the right to apply for driving privileges under this rule shall run concurrently with any other suspension, revocation, or cancellation in effect at the time the suspension begins. This section is applicable to suspensions imposed on or after June 30, 2002.

Stat. Auth.: ORS 184.616, ORS 184.619 & 809.480

Stats. Implemented: ORS 809.480

Hist.: DMV 29-2001(Temp), f. 12-14-01 cert. ef. 1-1-02 thru 6-29-02; DMV 12-2002, f. 6-24-02, cert. ef. 6-30-02; DMV 7-2003(Temp), f. 5-14-03, cert. ef. 5-15-03 thru 11-10-03

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**Adm. Order No.:** DMV 8-2003

**Filed with Sec. of State:** 5-14-2003

**Certified to be Effective:** 6-1-03

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

**Rules Adopted:** 735-074-0045, 735-074-0050, 735-074-0060, 735-074-0070, 735-074-0080, 735-074-0090, 735-074-0100, 735-074-0110, 735-074-0120, 735-074-0130, 735-074-0140, 735-074-0150, 735-074-0160, 735-074-0190, 735-074-0200, 735-074-0210, 735-074-0220, 735-076-0005

**Rules Amended:** 735-076-0000, 735-076-0010, 735-076-0020, 735-076-0030, 735-076-0040, 735-076-0050, 735-076-0060

**Rules Repealed:** 735-074-0000, 735-074-0030, 735-074-0040

**Rules Ren. & Amended:** 735-074-0010 to 735-074-0170, 735-074-0020 to 735-074-0180

**Subject:** This rulemaking deals with the revision and expansion of the Medical Reporting Program and the Driver Reexamination Program. The changes broaden the mandatory reporting requirements, establish criteria for the receipt and assessment of mandatory reports; establish criteria for the receipt and assessment of voluntary reports related to both mental or physical conditions that may effect driving and observed bad driving behavior; establish procedures to be followed when a mandatory or voluntary report is received; and sets forth guidelines for the suspension, cancellation and reinstatement of driving privileges and the reexamination of qualifications for driving privileges.

**Rules Coordinator:** Brenda Trump—(503) 945-5278

## 735-074-0045

### Implementation of Mandatory Reporting Rules

DMV will implement the requirements of ORS 807.710 in four phases as follows:

(1) Starting June 1, 2003 physicians and health care providers whose primary practice is in Lane, Douglas, Josephine, Jackson, Curry or Coos county, and who are required to report under OAR 735-074-0130, must comply with the reporting requirements of OAR 735-074-0050 through 735-074-0130 and not the reporting requirements of OAR 735-074-0005.

(2) Starting December 1, 2003 physicians and health care providers whose primary practice is in Klamath, Lake, Crook, Deschutes, Jefferson, Wasco or Hood River county, and who are required to report under OAR 735-074-0130, must comply with the reporting requirements of OAR 735-074-0050 through 735-074-00130, and not the reporting requirements of OAR 735-074-0005.

(3) Starting March 1, 2004 physicians and health care providers whose primary practice is in Marion, Polk, Linn, Benton, Lincoln or Tillamook county, and who are required to report under OAR 735-074-0130, must comply with the reporting requirements of OAR 735-074-0050 through 735-074-0130, and not the reporting requirements of OAR 735-074-0005.

(4) Beginning June 1, 2004 all physicians and health care providers who are practicing in any Oregon county and are required to report under OAR 735-074-0130 must comply with the reporting requirements of OAR 735-074-0050 through 735-074-0130.

Stat. Auth.: ORS 184.616, 184.619 & 807.710

Stat. Implemented: ORS 807.710

Hist.: DMV 8-2003, f. 5-14-03, cert. ef. 6-1-03

## 735-074-0050

### Policy and Objective

(1) It is the policy of DMV to promote safety for all persons who travel or otherwise use the public highways of this state.

(2) The underlying policy of the Department's rules on medically at-risk drivers is to preserve the independence, dignity, and self-esteem that result from providing one's own mobility, so long as it is possible to do so without risk to oneself or to others.

(3) It is therefore an objective of these rules to establish a program for the mandatory and voluntary reporting to DMV of those drivers who have functional and cognitive impairments that may affect the person's driving ability.

Stat. Auth.: ORS 184.616, 184.619 & 807.710

Stat. Implemented: ORS 807.710

Hist.: DMV 8-2003, f. 5-14-03, cert. ef. 6-1-03

## 735-074-0060

### Purpose

(1) DMV recognizes that some persons have, or may develop, cognitive or functional impairments that affect driving ability. DMV acknowledges that family members, police officers, health care providers, physicians, relatives, and friends are often in the best position to recognize when a person's impairment may affect his or her ability to safely drive.

(2) The purpose of Division 74 rules is to prevent injury or death by:

(a) Establishing requirements for the mandatory reporting by physicians and health care providers of those persons with severe and uncontrollable cognitive or functional impairments affecting a person's ability to safely operate a motor vehicle; and

(b) Establishing criteria for the receipt of voluntary reports concerning drivers who may have a mental or physical condition affecting their ability to safely operate a motor vehicle.

(3) Division 74 rules designate:

# ADMINISTRATIVE RULES

(a) Those physicians and health care providers required to report and the cognitive or functional impairments that must be reported to DMV under ORS 807.710;

- (b) The procedures for making a mandatory report to DMV;
- (c) The criteria for the receipt of voluntary reports; and
- (d) The procedures followed by DMV when it receives a report.

Stat. Auth.: ORS 184.616, 184.619 & 807.710

Stat. Implemented: ORS 807.710

Hist.: DMV 8-2003, f. 5-14-03, cert. ef. 6-1-03

## 735-074-0070

### Authority to Obtain Medical Information and DMV Use of Medical Information

(1) DMV is authorized by law, ORS 807.710, to receive protected health information from covered health entities for the purpose of preventing injury which may be caused by drivers who are unable to safely operate a motor vehicle because of severe and uncontrollable cognitive or functional impairments. DMV is the state agency responsible for public health matters relating to the monitoring of drivers who may be ineligible for driving privileges because of a mental or physical disease or disability resulting in a cognitive or functional impairment that affects the driver's ability to safely operate a motor vehicle.

(2) DMV will use the medical information provided by physicians and health care providers only to determine whether or not a person can safely operate a motor vehicle and is qualified for driving privileges, and for taking any action deemed necessary by DMV. The protected health information required to be reported by these rules is the minimum necessary to accomplish the purposes of ORS 807.060, 807.090, 807.350, 807.710 and 809.410.

Stat. Auth.: ORS 184.616, 184.619 & 807.710

Stat. Implemented: ORS 807.710

Hist.: DMV 8-2003, f. 5-14-03, cert. ef. 6-1-03

## 735-074-0080

### Definitions

(1) "DMV" means the Driver and Motor Vehicle Services Division of the Oregon Department of Transportation.

(2) A "health care provider" is a person licensed, certified or otherwise authorized or permitted by law to administer health care in the State of Oregon. For purposes of these rules, the term health care provider is limited to: a chiropractic physician, naturopathic physician, nurse practitioner, occupational therapist, physical therapist, optometrist, physician assistant and podiatric physician or surgeon.

(3) "Immediate suspension or cancellation" means the suspension or cancellation of driving privileges or the right to apply for driving privileges before the person is given an opportunity for a hearing to contest the suspension or cancellation.

(4) A "physician" is a doctor of medicine or osteopathy licensed to practice medicine in the state of Oregon by the Board of Medical Examiners.

(5) A "primary care provider" is a physician or health care provider who is responsible for supervising, coordinating and providing a person's initial and ongoing health care. A primary care provider initiates referrals for health care outside of his or her scope of practice, consultations and specialist care to assure continuity of a person's medically appropriate health care.

(6) "Primary and secondary driving controls" mean the steering wheel, gas pedal, brake, clutch (if applicable), turn signal controls, headlight controls, windshield wiper controls, defrost control and horn of a motor vehicle.

(7) "Severe" means that the impairment substantially limits a person's ability to perform activities of daily living, including driving, because it is not controlled or compensated for by medication, therapy, surgery or adaptive devices. Severe does not include a temporary impairment for which the person is being treated by a physician or health care provider and which is not expected to last more than six months.

(8) The "State Health Office" is the Public Health Office of the Oregon Department of Human Services.

(9) The "State Health Officer" is a physician appointed as the Public Health Officer who is responsible for the health programs of the Oregon Department of Human Services or his/her designee.

(10) "Uncontrollable" means the impairment cannot be controlled or compensated for by medication, therapy, surgery, or adaptive devices.

Stat. Auth.: ORS 184.616, 184.619 & 807.710

Stat. Implemented: ORS 807.710

Hist.: DMV 8-2003, f. 5-14-03, cert. ef. 6-1-03

## 735-074-0090

### Physicians and Health Care Providers Required to Report to DMV

(1) If providing health care services to a person meeting the criteria set forth in OAR 735-074-0100 or 735-074-0110, the following physicians and health care providers must submit a report to DMV as described in OAR 735-074-0120:

(a) The person's primary care provider.

(b) A physician or health care provider providing specialized or emergency health care services to a person who does not have a primary care provider.

(2) If a physician or health care provider is providing health care services based on a referral from the person's primary care provider, and the health care services relate to a cognitive or functional impairment meeting the criteria set forth in OAR 735-074-0110, the physician or health care provider does not need to submit a report to DMV if a finding, test results and/or treatment report is sent to the person's primary care provider. Upon receipt of findings, test results and/or a treatment report, the primary care provider must submit a report to DMV if the cognitive or functional impairment meets the criteria set forth in OAR 735-074-0110.

(3) An ophthalmologist or optometrist providing health care services to a person who does not meet the DMV vision standards set forth in OAR 735-062-0050 with corrective lenses or devices must:

(a) Submit a report to DMV; or

(b) Provide the findings or test results to the person's primary care provider. Upon receipt of findings from the ophthalmologist or optometrist, the primary care provider must submit a report to DMV.

Stat. Auth.: ORS 184.616, 184.619 & 807.710

Stat. Implemented: ORS 807.710

Hist.: DMV 8-2003, f. 5-14-03, cert. ef. 6-1-03

## 735-074-0100

### Report of Visual Acuity or Field of Vision not Meeting DMV Standards

(1) A physician or health care provider must submit a report to DMV if providing health care services to a person whose vision does not meet the standards established in OAR 735-062-0050(2).

(2) Notwithstanding section (1) of this rule, a report is not required if by use of corrective lenses the person's vision meets DMV vision standards under OAR 735-062-0050 and a use of corrective lenses restriction is on the person's driver license. For purposes of this rule, corrective lenses do not include bioptic or telescopic lenses.

Stat. Auth.: ORS 184.616, 184.619 & 807.710

Stat. Implemented: ORS 807.710

Hist.: DMV 8-2003, f. 5-14-03, cert. ef. 6-1-03

## 735-074-0110

### Severe and Uncontrollable Impairments that must be Reported to DMV

As required by OAR 735-074-0090, a physician or health care provider must submit a report, as described in OAR 735-074-0120, to DMV when providing health care services to a person, over 14 years of age, and who has one or more of the following cognitive or functional impairments which is severe and uncontrollable:

(1) Functional impairments include **sensory impairments** affecting peripheral sensation of extremities, including but not limited to: tingling and numbness and loss of position sense in extremities affecting the ability to feel, grasp, manipulate or release objects or use foot controls effectively.

(2) Functional impairments include **motor impairments** affecting the following areas:

(a) **Strength**, including but not limited to:

(A) The inability to consistently maintain a firm grip on objects;

(B) The inability to apply consistent pressure to objects with legs and feet;

(C) Weakness or paralysis of muscles affecting the ability to maintain sitting balance; or

(D) Weakness or paralysis in extremities affecting the ability to feel, grasp, manipulate or release objects or use foot controls effectively.

(b) **Flexibility**, including but not limited to: rigidity and/or limited range of mobility in neck, torso, arms, legs or joints.

(c) **Motor planning and coordination**, including but not limited to:

(A) Difficulty and slowness in initiating movement;

(B) Vertigo, dizziness, loss of balance or other motor planning conditions;

(C) Involuntary muscle movements; or

(D) Loss of muscle control.

(3) **Cognitive impairments** affecting the following areas:

(a) **Attention**, including but not limited to:

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- (A) Decreased awareness;
  - (B) Reduction in the ability to efficiently switch attention between multiple objects; or
  - (C) Reduced processing speed.
  - (b) **Judgment and problem solving**, including but not limited to:
    - (A) Reduced processing speed;
    - (B) An inability to understand a cause and effect relationship; or
    - (C) A deficit in decision making ability.
  - (c) **Reaction time**, including but not limited to a delayed reaction time.
  - (d) **Planning and sequencing**, including but not limited to:
    - (A) A deficit in the ability to anticipate and/or react to changes in the environment; or
    - (B) Problems with sequencing activities.
  - (e) **Impulsivity**, including but not limited to:
    - (A) Lack of emotional control; or
    - (B) Lack of decision making skills.
  - (f) **Visuospatial**, including but not limited to problems determining spatial relationships.
    - (g) **Memory**, including but not limited to:
      - (A) Problems with confusion and/or memory loss; or
      - (B) A decreased working memory capacity.
    - (h) **Loss of consciousness or control**.
- Stat. Auth.: ORS 184.616, 184.619 & 807.710  
Stat. Implemented: ORS 807.710  
Hist.: DMV 8-2003, f. 5-14-03, cert. ef. 6-1-03

## 735-074-0120

### The Mandatory Report to DMV

(1) To report a functional or cognitive impairment as required by OAR 735-074-0110, the reporting physician or health care provider must complete and submit to DMV, a *Mandatory Impairment Referral*, DMV Form 7230.

(2) To report visual acuity or field of vision not meeting DMV standards as required by OAR 735-074-0100, the reporting physician or health care provider must complete and submit to DMV, a *Mandatory Impairment Referral*, DMV Form 7230.

(3) The form must contain the following information:

- (a) The name, address, date of birth, sex, and Oregon driver license or identification card number (if known) of the person being reported;
- (b) The functional or cognitive impairment(s) being reported, as described in OAR 735-074-0100 or 735-074-0110;
- (c) A description of how the person reported is affected by the impairment;
- (d) Any underlying medical diagnosis or condition that may be applicable;
- (e) If applicable, the date of the person's last episode of loss of consciousness or control, date of cerebrovascular accident (CVA), cardiac event or alcohol/drug/inhalant use or relapse;
- (f) If applicable, medication prescribed that may interfere with safe driving behaviors and/or medication prescribed to treat the impairment(s) reported; and
- (g) The name, address, phone number and license or certification number of the reporting physician or health care provider.

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

Stat. Auth.: ORS 184.616, 184.619 & 807.710

Stat. Implemented: ORS 807.710

Hist.: DMV 8-2003, f. 5-14-03, cert. ef. 6-1-03

## 735-074-0130

### Standards for Identifying How Impairments Affect Driving

DMV determines that severe functional or cognitive impairments that are not correctable or controllable by medication, therapy, surgery or adaptive devices adversely affect a person's ability to safely operate a motor vehicle in the following manner:

(1) **Sensory impairments:** Peripheral sensation of extremities causing tingling or numbness in extremities results in:

- (a) The inability to firmly grasp, manipulate, operate and release primary and secondary driving controls resulting in momentary loss of control of the vehicle, in improper or delayed signal to other drivers that the vehicle is turning, changing lanes or stopping, or difficulty stopping the vehicle;
- (b) Difficulty gripping the steering wheel resulting in loss of ability to control the vehicle's lane position and turning motion;
- (c) Difficulty using foot controls effectively resulting in improper or delayed signal to other drivers that the vehicle is slowing or stopping, or difficulty stopping the vehicle.

## (2) Motor impairments:

### (a) Strength:

(A) The inability to consistently maintain a firm grip on objects results in:

(i) Difficulty firmly gripping and turning a steering wheel resulting in loss of ability to safely control the vehicle's lane position and turning motion; and

(ii) A diminished capacity to operate primary and secondary driving controls resulting in reduced control over the vehicle and in improper or delayed signal to other drivers that the vehicle is turning, changing lanes or stopping, or inability to adjust highbeam headlights when necessary.

(B) The inability to apply consistent pressure to objects with legs or feet results in the inability to apply consistent pressure to the brake and gas pedals, resulting in difficulty or inability to maintain consistent speed or stop the vehicle.

(C) Weakness or paralysis of muscles affecting the ability to maintain sitting balance results in the danger of falling to one side during turns or other sudden motions resulting in the loss of vehicular control.

(D) Weakness or paralysis in extremities affecting the ability to feel, reach, grasp, manipulate or release objects or use foot controls effectively results in the inability to reach, grasp and operate primary and secondary driving controls resulting in difficulty controlling, turning or stopping a vehicle; failure to, or delay in, use of appropriate signals for turning, changing lanes or stopping; or difficulty maintaining lane position, turning and a consistent speed.

(b) **Flexibility:** Rigidity and/or limited range of mobility in neck, torso, arms, legs or joints results in:

(A) The inability to reach, grasp and operate primary and secondary driving controls resulting in difficulty controlling, turning or stopping a vehicle; failure to, or delay in, use of appropriate signals for turning, changing lanes or stopping; or difficulty maintaining lane position, turning and a consistent speed; and

(B) Difficulty turning the head to check the blind spot prior to a lane change, and to observe vehicles or pedestrians entering the roadway or when merging with traffic.

### (c) Motor planning and coordination:

(A) Difficulty and slowness in initiating movement results in:

(i) The inability to simultaneously operate primary and secondary controls resulting in difficulty controlling, turning or stopping a vehicle; failure to, or delay in, use of appropriate signals for turning, changing lanes or stopping; or difficulty maintaining lane position or consistent speed, and difficulty performing turning maneuvers;

(ii) Delay in responding to the position of other vehicles that are changing lanes, are in the oncoming lane of traffic or are entering the roadway; and

(iii) Delay in responding to changing traffic control devices or changing traffic conditions.

(B) Vertigo, dizziness, loss of balance or other motor planning conditions results in:

(i) Difficulty maintaining lane position and control of the vehicle; and

(ii) Improper braking and/or accelerating behavior in response to changing traffic conditions.

(C) Involuntary muscle movements results in:

(i) The inability to coordinate the fine motor movements needed to operate primary and secondary driving controls resulting in difficulty controlling, turning or stopping a vehicle; failure to, or delay in, use of appropriate signals for turning, changing lanes or stopping; or difficulty maintaining lane position or consistent speed, and difficulty performing turning maneuvers; and

(ii) The inadvertent activation of the brake or gas pedal resulting in inconsistent speed or improper braking of the vehicle.

(D) Loss of muscle control results in:

(i) Loss of ability to use arms and/or legs in operating primary and secondary driving controls resulting in difficulty controlling, turning or stopping a vehicle; delayed use or failure to use appropriate signals for turning, changing lanes or stopping; or difficulty maintaining lane position or consistent speed, and difficulty performing turning maneuvers; and

(ii) The inability to maintain safe control of a vehicle for prolonged distances.

### (3) Cognitive impairments:

#### (a) Attention:

(A) Decreased awareness results in:

(i) Distraction or disorientation while driving;

(ii) Difficulty maintaining control of a vehicle for prolonged distances;

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(iii) Delay in timely response to traffic control devices or directives;  
(iv) Delay in timely response to changes in traffic conditions, traffic hazards and emergencies; and  
(v) Delay in observing and responding to the position of other vehicles that are changing lanes, are in the oncoming lane of traffic or entering the roadway.

(B) A reduction in the ability to efficiently switch attention between multiple objects results in:

(i) Delay in observing and reacting to road hazards, vehicles changing lanes or vehicles entering the roadway; and

(ii) The inability to simultaneously manipulate vehicle controls and watch the roadway.

(C) Reduced processing speed results in:

(i) Delay in timely response to changes in traffic conditions, and traffic hazards and emergencies;

(ii) Delay in observing and reacting to road hazards, vehicles changing lanes or vehicles entering the roadway; and

(iii) Delay in timely response to traffic control devices or directives.

(b) **Judgment and problem solving:**

(A) Reduced processing speed results in:

(i) Delay in timely response to changes in traffic conditions, and traffic hazards and emergencies;

(ii) Delay in observing and reacting to road hazards, vehicles changing lanes or vehicles entering the roadway; and

(iii) Delay in timely response to traffic control devices or directives.

(B) An inability to understand the cause and effect relationship results in:

(i) The inability to anticipate the probable outcome in various driving situations resulting in delayed or no response to changes in traffic conditions, traffic hazard and emergencies, vehicles changing lanes, or vehicles, pedestrians or bicycles enter the roadway; and

(ii) Improper or delayed signal to other drivers that the vehicle is turning, changing lanes or stopping.

(C) A deficit in decision-making ability results in:

(i) Delay in timely response to traffic control devices or directives; and

(ii) Delay in timely response to changes in traffic conditions, and traffic hazards and emergencies.

(c) **Delayed reaction time** results in:

(A) Delay in observing and reacting to road hazard, vehicles changing lanes or vehicles, pedestrians or bicycles entering the roadway; and

(B) Delay in timely response to changes in traffic conditions, and traffic hazards and emergencies.

(d) **Planning and sequencing:**

(A) A deficit in the ability to anticipate and/or react to changes in the environment results in:

(i) Delay in observing and reacting to road hazard, vehicles changing lanes or vehicles, pedestrians or bicycles entering the roadway; and

(ii) Delay in timely response to changes in traffic conditions, and traffic hazards and emergencies.

(B) Problems with sequencing activities results in:

(i) Difficulty planning and safely maneuvering a driving route;

(ii) Frequently becoming lost, confused and unable to find the way from one location to another while driving resulting in panic and sudden, irrational changes in direction or loss of control of the vehicle.

(e) **Impulsivity:**

(A) Lack of emotional control results in inappropriate emotional outbursts that can cause road rage and results in aggressive driving behaviors such as speeding, following too closely, not checking the intersection before entering when a light changes to green and cutting in and out of traffic.

(B) Lack of decision making skills results in:

(i) Delay in timely response to traffic control devices or directives;

(ii) Difficulty planning driving routes resulting in rapid lane changes, or unsignaled or dangerous turns; and

(iii) Delay in observing and reacting to road hazard, vehicles changing lanes or vehicles, pedestrians or bicycles entering the roadway.

(f) **Visuospatial:** Problems determining spatial relationships result in:

(A) Difficulty maintaining lane position, merging with traffic or changing lanes;

(B) Difficulty observing and delay in responding to the position of other vehicles driving on the roadway, the position of roadway curbs, and the position of parked vehicles alongside the roadway; and

(C) Difficulty positioning a vehicle while turning, maneuvering curves or parking.

(g) **Memory:**

(A) Problems with confusion and/or memory loss result in:

(i) Frequently becoming lost, confused and unable to find the way from one location to another while driving resulting in panic and sudden, irrational changes in direction or loss of control of the vehicle;

(ii) Failure or delay in observing and responding to traffic control devices and directives;

(iii) The inability to consistently perform safe driving techniques;

(iv) A lack of attention to other traffic;

(v) Abrupt lane changes without looking for other traffic;

(vi) Turning in front of an oncoming vehicle; and

(vii) Drifting in and out of traffic lane.

(B) A decreased working memory capacity results in:

(i) Frustration and confusion causing abrupt, unplanned or unsignaled turning, lane changes or stopping;

(ii) The necessity for instruction from a passenger on proper driving techniques; and

(iii) Lack of attention to other traffic.

(h) **Loss of consciousness or control** while driving results in loss of vehicle control.

Stat. Auth.: ORS 184.616, 184.619 & 807.710

Stat. Implemented: ORS 807.710

Hist.: DMV 8-2003, f. 5-14-03, cert. ef. 6-1-03

## 735-074-0140

### DMV Response to Mandatory Report — Suspension, Opportunity to Re-Test, Reinstatement

(1) DMV will review a report received under OAR 735-074-0005 to determine if sufficient information has been provided. If the report does not contain sufficient information, it may be returned to the reporting physician or health care provider for completion. If DMV is unable to determine from the report whether the person is able to safely operate a motor vehicle, the report will be submitted to the State Health Office for review.

(2) DMV will review a report received under OAR 735-074-0120 to determine if sufficient information has been provided. If the report does not contain the information required by OAR 735-074-0120 it may be returned to the reporting physician or health care provider for completion. If DMV is unable to determine from the report whether the person is able to safely operate a motor vehicle, the report will be submitted to the State Health Office for review.

(3) DMV will suspend driving privileges or the right to apply for driving privileges under ORS 809.410(16), if it is determined from the report submitted under OAR 735-074-0005 the person has a disorder characterized by momentary or prolonged lapses of consciousness or control that is, or may become, chronic that renders it unsafe for the person to operate a motor vehicle. Driving privileges or the right to apply for driving privileges may be immediately suspended if DMV has reason to believe the person may endanger people or property if not immediately suspended.

(4) Using the standards set forth in OAR 735-074-0130, or upon recommendation of the State Health Officer, DMV will suspend driving privileges or the right to apply for driving privileges under ORS 809.410(16), if it is determined from the report submitted under 735-074-0120 that the person has a functional or cognitive impairment that renders it unsafe for the person to operate a motor vehicle. Driving privileges or the right to apply for driving privileges will be immediately suspended if DMV has reason to believe the person may endanger people or property if not immediately suspended.

(5) If DMV receives a report that indicates that a person's vision does not meet the vision standards set forth in OAR 735-062-0050, DMV will immediately suspend the person's driving privileges or right to apply for driving privileges under ORS 809.410(16). To be eligible for reinstatement of driving privileges the person must: submit proof from a licensed optometrist or physician who specializes in the diagnosis and treatment of eye diseases that the person's vision, with or without corrective lenses, meets the vision standards set forth in OAR 735-062-0050, and pass a knowledge and drive test. Proof that vision meets DMV standards is only valid for six months from the date DMV receives the *Certificate of Vision* form and the person must pass the knowledge and drive test within this time period for reinstatement of driving privileges.

(6) A person whose driving privileges and right to apply for driving privileges are suspended because of a functional impairment may request to be tested by DMV to demonstrate that notwithstanding the impairment, the person is qualified to safely operate a motor vehicle. If the request is granted, DMV will administer a vision screening under OAR 735-062-0050, a knowledge test under OAR 735-062-0040 and a DMV drive test under OAR 735-062-0070. DMV will deny the request if it has reason to believe



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the person is unable to safely operate a motor vehicle during a drive test. If the request is denied, DMV may give the person tests if the person:

(a) Obtains a *Certificate of Medical Eligibility for Testing* from the State Health Officer authorizing testing;

(b) Submits proof of successful completion of a driver rehabilitation program conducted by a rehabilitation specialist;

(c) Submits proof of successful completion of a driver training course conducted by an ODOT certified commercial driver training school; or

(d) Submits proof that the person's motor vehicle is equipped with an appropriate adaptive device(s), such as hand controls, and provides documentation that the person knows how to use and has practiced with the adaptive device(s).

(7) A person whose driving privileges and right to apply for driving privileges are suspended because of a report submitted under OAR 735-074-0005 or a cognitive impairment or a cognitive impairment in conjunction with a functional impairment reported under OAR 735-074-0110 may request to be tested by DMV to demonstrate that notwithstanding the disorder or the impairment, the person is qualified to safely operate a motor vehicle. Before DMV will grant the request to be tested, the person must obtain a *Certificate of Medical Eligibility for Testing* from the State Health Officer authorizing testing. If testing is authorized, the person must pass a vision screening under OAR 735-062-0050, a knowledge test under OAR 735-062-0040 and a DMV drive test under OAR 735-062-0070.

(8) The following apply to a request for testing under sections (6) and (7) of this rule:

(a) The request must be made by contacting DMV headquarters; and

(b) For a disorder reported under OAR 735-074-0005, DMV may require the person to complete a *Certificate of Medical Eligibility* form before the person can obtain a *Certificate of Medical Eligibility for Testing* from the State Health Officer. If testing is authorized by the State Health Officer, that testing must be completed within six months of the date DMV receives the State Health Officer's authorization.

(c) For a cognitive impairment or a cognitive impairment in conjunction with a functional impairment, testing must be completed within six months of the date of the DMV receives the State Health Officer's authorization.

(9) DMV may issue a no-fee identification card if a person whose driving privileges are suspended pursuant to this rule, voluntarily surrenders his or her valid driver license or driver permit.

(10) DMV will notify the reporting physician or health care provider if the person's driving privileges are reinstated.

(11) If the person reinstates his or her driving privileges, DMV may require the person to provide periodic medical information based on the recommendation of the State Health Officer or obtain periodic vision exams based on the recommendation of the person's vision specialist. DMV may send the *Mandatory Impairment Referral* and case file to the State Health Officer for review on those with functional impairments who are reinstated for determination of whether the person should be medically recertified at a later date. The State Health Officer will include a determination if medical re-certification is needed on cognitive impairments at the time a determination on testing is made. If periodic medical information is required, DMV will send the person a *Mandatory Impairment Recertification* form and require the person to obtain information from his or her physician, nurse practitioner or physician assistant and return that to DMV within 30 days of the date on the requirement letter. If a periodic vision exam must be obtained, DMV will send the person a *Certificate of Vision* form which must be completed by the person's vision specialist and returned to DMV within 30 days of the date on the requirement letter.

(12) A person may be required to successfully complete DMV testing or may have driving privileges suspended based on information contained in the *Mandatory Impairment Recertification* form or periodic vision information report submitted under section (11) of this rule(s).

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

Stat. Auth.: ORS 184.616, ORS 184.619, ORS 807.340, ORS 807.710 & ORS 809.410

Stat. Implemented: ORS 807.340 & ORS 807.710

Hist.: DMV 8-2003, f. 5-14-03, cert. ef. 6-1-03

## 735-074-0150

### Voluntary Reporting of Mental or Physical Conditions or Impairments

(1) DMV receives voluntary reports regarding a person's mental or physical condition or impairment that the reporter believes may affect the person's ability to operate a motor vehicle. This information can be provided by many sources, including, but not limited to a police officer, physician or other health care provider, a court, a DMV employee, a family member of the person being reported, or a member of the public. The information

may be reported to DMV in many forms including, but not limited to a DMV referral form, a police report, an accident report, or a letter or memo.

(2) In order for DMV to process a voluntary report it must contain:

(a) The name of the person making the report, including a signature if the report is from a family member or member of the general public;

(b) The name and date of birth of the person being reported or a description of the person being reported that is sufficient for DMV to identify the reported person from its records; and

(c) Sufficient information for DMV to determine whether further action is necessary.

(3) All written documentation voluntarily submitted under this rule, including the name of the person submitting the documentation, will be kept confidential and not released to any person unless:

(a) DMV determines the documentation, or any portion thereof, must be released pursuant to the Public Records Law, ORS 192.410 to 192.505, or the Attorney General or a court orders disclosure in accordance with the Public Records Law; or

(b) The documentation is determined by DMV to be necessary evidence in an administrative proceeding involving the suspension or cancellation of the person's driving privileges or right to apply for driving privileges.

(4) DMV will attempt to obtain more information if DMV has reason to believe there is inaccurate information in the report before taking further action on the report.

Stat. Auth.: ORS 184.616, ORS 184.619, ORS 807.340 & ORS 809.410

Stat. Implemented: ORS 807.340

Hist.: DMV 8-2003, f. 5-14-03, cert. ef. 6-1-03

## 735-074-0160

### DMV Response to Voluntary Report of Mental or Physical Conditions or Impairments

DMV will review a voluntary report received to determine the appropriate action to take, which may include the following:

(1) DMV may require the person reported to obtain a *Certificate of Medical Eligibility* in order to determine if the person is ineligible for driving privileges because of a mental or physical condition affecting the ability to safely operate a motor vehicle.

(2) DMV may require the person reported to re-establish eligibility by taking an examination under ORS 807.070 in order to determine if the person remains qualified for driving privileges.

(3) DMV may suspend driving privileges or the right to apply for driving privileges if DMV determines from the report that the reported person has a mental or physical condition that makes it unsafe for the person to operate a motor vehicle. Driving privileges may be immediately suspended if DMV has reason to believe the person may endanger people or property if not immediately suspended.

(4) DMV may require the person to provide periodic medical information based on the recommendation of the State Health Officer. If periodic medical information is required, DMV will send the person a *Certificate of Medical Eligibility* form and require the person to obtain information from his or her physician, nurse practitioner or physician assistant and return that to DMV within 30 days of the date on the requirement letter.

(5) DMV may require the person to obtain periodic vision exams based on the recommendation of the person's vision specialist or of the State Health Officer. If periodic vision exams are required, DMV will send the person a *Certificate of Vision* form which must be completed by the person's vision specialist and returned to DMV within 30 days of the date on the requirement letter.

(6) A person may be required to successfully complete DMV testing or may have driving privileges suspended based on information in the *Certificate of Medical Eligibility* form or *Certificate of Vision* form submitted under section (4) or section (5) of this rule.

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

Stat. Auth.: ORS 184.616, ORS 184.619, ORS 807.340 & ORS 809.410

Stat. Implemented: ORS 807.340

Hist.: DMV 8-2003, f. 5-14-03, cert. ef. 6-1-03

## 735-074-0170

### When a Certificate of Medical Eligibility may be Required

(1) A person may be required to obtain a *Certificate of Medical Eligibility* under ORS 807.090(1)(b) if:

(a) DMV receives a report under OAR 735-074-0005 and DMV determines that the person may have a disorder or impairment that affects the person's ability to safely operate a motor vehicle;

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(b) DMV receives a voluntary report as described in OAR 735-074-0150 that indicates a person has, or may have, a mental or physical condition that makes it unsafe for the person to drive a motor vehicle;

(c) The Health Services or Senior and People with Disabilities Services of the Department of Human Services, a court or a licensed physician, nurse practitioner or physician assistant, who is not required to file a report under OAR 735-074-0005 or 735-074-0110, recommends a medical examination to determine the person's ability to safely operate a motor vehicle;

(d) A person reports on an application for a driver license, driver permit or indorsement that the person has a mental or physical condition that may make it unsafe for the person to drive a motor vehicle; or

(e) DMV determines a medical clearance is required.

(2) When DMV determines a *Certificate of Medical Eligibility* is required, DMV will send the person a *Certificate of Medical Eligibility* form and a letter explaining that the form must be completed and returned to DMV.

(3) In determining whether to issue a *Certificate of Medical Eligibility* the State Health Officer may request additional information from the person and/or a physician, nurse practitioner, or physician assistant. In this case, DMV may send another letter to the person requesting the additional information that is required.

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

Stat. Auth.: ORS 184.616, ORS 184.619 & ORS 807.090

Stat. Implemented: ORS 807.090

Hist.: MV 19-1987, f. 9-21-87, ef. 9-27-87; Administrative Renumbering 3-1988, Renumbered from 735-031-0405; MV 37-1989, f. & cert. ef. 10-3-89; MV 14-1993, f. 10-22-93, cert. ef. 11-4-93; DMV 14-2002, f. 8-14-02 cert. ef. 9-1-02; DMV 24-2002, f. 12-13-02 cert. ef. 1-1-03; DMV 8-2003, f. 5-14-03, cert. ef. 6-1-03, Renumbered from 735-074-0010

## 735-074-0180

### When a Suspension or Cancellation of Driving Privilege Occurs

(1) DMV may issue an immediate suspension of driving privileges in the following situations:

(a) As set forth in OAR 735-074-0140, if DMV has reason to believe from the information provided in a mandatory report submitted under OAR 735-074-0005 or 735-074-0120 that the person may endanger people or property if not immediately suspended;

(b) If DMV determines from a report as described in OAR 735-074-0150 that the person has a mental or physical condition that makes it unsafe for the person to operate a motor vehicle and DMV has reason to believe the person may endanger people or property if not immediately suspended;

(c) If based upon information included in a police accident report or other law enforcement report, DMV has reason to believe that a person may endanger people or property due to the possibility of a sudden loss of consciousness or control;

(d) The State Health Officer, upon review of medical information on a driver, recommends an immediate suspension;

(e) Information contained in a required *Mandatory Medical Recertification* form submitted as required under OAR 735-074-0140 indicates that the person has a mental or physical condition that makes it unsafe for the person to operate a motor vehicle and DMV has reason to believe the person may endanger people or property if not immediately suspended; or

(f) Information contained in a required *Certificate of Vision* form submitted as required under OAR 735-074-0140 indicates the person's vision does not meet minimum vision standards under OAR 735-062-0050 and DMV has reason to believe the person may endanger people or property if not immediately suspended.

(2) DMV will suspend driving privileges in the following situations:

(a) DMV will suspend the person's driving privilege under ORS 809.410(14) for failure to obtain a medical clearance if the *Certificate of Medical Eligibility* form is not completed by the person and the person's physician, nurse practitioner, or physician assistant, submitted to and received by DMV within 30-days of the date on the letter sent from DMV. In applicable cases, an additional questionnaire regarding alcohol, drug and/or inhalant use must be completed and received by DMV for the *Certificate of Medical Eligibility* form to be considered complete. DMV may grant an extension if the person can show that an appointment with their physician, nurse practitioner or physician assistant was requested in a timely manner, but the earliest appointment available exceeded the 30 days. DMV may grant an extension (not to exceed four months) if the person is seriously ill or injured and the person's physician, nurse practitioner or physician assistant must recommend an extension in writing. DMV may grant a 30-day extension to a person who is out of state if a written request is received from the person;

(b) If the State Health Officer has requested additional information for determining whether to issue a *Certificate of Medical Eligibility* and the required additional information is not mailed or faxed to DMV within 30 days from the date of the letter requesting additional information. DMV may grant an extension if the required additional information is from a physician, nurse practitioner, or physician assistant, and the person can show that an appointment was requested in a timely manner, but the earliest appointment available exceeded the 30 days;

(c) If the State Health Officer does not issue a *Certificate of Eligibility* to a person required to obtain the certificate under ORS 807.090;

(d) If the person fails to submit a *Mandatory Medical Recertification* form as required under OAR 735-074-0140, unless an extension, as described in subsection (a) of this section, is granted by DMV; or

(e) If the person fails to submit a *Certificate of Vision* form when the person is required to obtain a periodic vision exam under OAR 735-074-0140, unless an extension, as described in subsection (a) of this section, is granted by DMV.

(3) DMV will immediately cancel a person's driving privileges if DMV has reason to believe that the person may endanger people or property if not immediately suspended. If DMV has reason to believe a person is unable to safely operate a motor vehicle and may endanger people or property, DMV may immediately cancel driving privileges pursuant to ORS 807.350 and OAR 735-070-0010, 735-070-0020 and 735-074-0220 if:

(a) The person does not meet minimum vision standards set forth in OAR 735-062-0050;

(b) DMV determines the person no longer meets the qualifications for a driver license, permit or indorsement because of a physical or mental disability or disease; a condition which brings about loss of consciousness or control that is chronic or may become chronic; or a problem condition involving alcohol, inhalants or controlled substances; or

(c) The person is denied a drive test by DMV or the State Health Officer because of a physical or mental condition that affects the person's ability to safely operate a motor vehicle.

(4) DMV may cancel driving privileges pursuant to ORS 807.350 and OAR 735-070-0010, 735-070-0020 and 735-074-0220 if:

(a) The person's vision does not meet the minimum vision standards set forth in OAR 735-062-0050;

(b) DMV determines the person no longer meets the qualifications for a driver license, driver permit or indorsement because of a physical or mental disability or disease; a condition which brings about loss of consciousness or control that is chronic or may become chronic; or a problem condition involving alcohol, inhalants or controlled substances; or

(c) The person is denied a drive test by DMV or the State Health Officer because of a physical or mental condition that affects the person's ability to safely operate a motor vehicle.

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

Stat. Auth.: ORS 184.616, ORS 184.619, ORS 807.340, ORS 807.350 & ORS 809.410

Stat. Implemented: ORS 807.350 & ORS 809.410

Hist.: MV 19-1987, f. 9-21-87, ef. 9-27-87; Administrative Renumbering 3-1988, Renumbered from 735-031-0410; MV 14-1993, f. 10-22-93, cert. ef. 11-4-93; DMV 14-2002, f. 8-14-02 cert. ef. 9-1-02; DMV 24-2002, f. 12-13-02 cert. ef. 1-1-03; DMV 8-2003, f. 5-14-03, cert. ef. 6-1-03, Renumbered from 735-074-0020

## 735-074-0190

### Tests Required

Tests required under these rules may include one or more of the following:

- (1) A knowledge test for the class of license and indorsement(s) held;
- (2) A vision screening;
- (3) A drive test for the class of license held including any indorsement(s); or

(4) Any other examination or test that DMV determines may be necessary in establishing eligibility or fitness to operate a motor vehicle (e.g., special drive test for basic needs license).

Stat. Auth.: ORS 184.616, ORS 184.619, ORS 807.340,

Stat. Implemented: ORS 807.070 & ORS 807.340

Hist.: DMV 8-2003, f. 5-14-03, cert. ef. 6-1-03

## 735-074-0200

### Testing Process

(1) The driver must re-test in the driver's current license class, unless the driver voluntarily chooses to test for a lower class of license.

(2) Before DMV may conduct a behind-the-wheel test, the person must successfully complete all other required tests.

(3) The waiting periods between knowledge or behind-the-wheel tests are listed in OAR 735-062-0040 and 735-062-0070, respectively.

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(4) As set forth in OAR 735-062-0073, DMV may refuse to conduct or continue a drive test if a DMV employee reasonably believes that the person is likely to endanger persons or property while being tested. Further testing may be denied and driving privileges cancelled if DMV determines the person is likely to endanger persons or property during subsequent testing.

Stat. Auth.: ORS 184.616, ORS 184.619, ORS 807.340,  
Stat. Implemented: ORS 807.070 & ORS 807.340  
Hist.: DMV 8-2003, f. 5-14-03, cert. ef. 6-1-03

## 735-074-0210

### Restricted Licenses

(1) DMV may issue a restricted license to a person who passes the required examinations when DMV determines a restriction on the license is necessary to insure the safe operation of a motor vehicle by the person. These restrictions may include but are not limited to the following:

- (a) Daylight driving only;
- (b) Driving only on a certain, restricted route;
- (c) Driving only during certain hours of the day; or
- (d) Driving only with certain vehicle equipment or adaptive devices.

(2) A person whose driving privileges or right to apply for driving privileges are suspended under Division 74 rules may obtain a 60-day restricted license for the express purpose of taking driving lessons. DMV must determine that driving lessons may help the person regain driving privileges before issuing a restricted license for lessons. DMV may make this determination based on the person's performance on a DMV drive test, medical information that indicates the person needs to learn how to use an adaptive device or technique or other information that indicates the person would benefit from driving lessons. The suspension will be rescinded for the 60-day period of the restricted license. The lessons must be provided by a commercial driving instructor or other licensed driver approved by DMV as an instructor for the purpose of providing driving instruction. The restricted license will only allow the person to drive with an instructor during instruction. No other driving, under any circumstances, will be allowed by the restricted license. The person must pass a DMV vision screening or submit a *Certificate of Vision* showing that the person's vision does meet DMV standards and pass a DMV knowledge test before DMV will issue a restricted license to take lessons. A restricted license issued under this section shall include a notification that at the end of the 60-day period the suspension will be reinstated without further notice if the person has not successfully passed a driving test given by a DMV employee.

(3) If, at the end of the 60-day restricted license period under section (2) of this rule, the person has not successfully completed a driving test given by a DMV employee, DMV will reinstate the suspension of the person's driving privileges and right to apply for driving privileges. When a suspension is reinstated under this section, DMV is not required to provide the person with further notice or an opportunity for a contested case hearing.

Stat. Auth.: ORS 184.616, ORS 184.619 & ORS 807.120  
Stat. Implemented: ORS 807.120  
Hist.: DMV 8-2003, f. 5-14-03, cert. ef. 6-1-03

## 735-074-0220

### Hearing Request for Suspension or Cancellation of Driving Privileges Under Division 74 and Division 76 Rules

A person issued a notice of suspension or cancellation under these rules has the right to request a contested case hearing. The following apply to a hearing request:

(1) Except as provided in section (2) of this rule, a person issued a notice of suspension or cancellation under these rules must request a hearing within 20 days from the date on the notice. Except as provided in section (2) of this rule, the suspension or cancellation shall not go into effect pending the outcome of the hearing.

(2) A person issued a notice of an immediate suspension or an immediate cancellation must request a hearing within 90 days from the date on the notice. The suspension or cancellation shall remain in effect and will not be rescinded or stayed by DMV pending the outcome of the hearing.

(3) A hearing request must be in writing and must include:

- (a) The person's full name;
- (b) The person's complete mailing address;
- (c) The person's Oregon driver license number; and
- (d) A brief statement of the issues the person proposes to raise at the hearing.

(4) A hearing request should also include:

- (a) The person's date of birth;
- (b) The telephone number where the person can be reached between 8 a.m. and 5 p.m.; and

(c) The dates and times the person or the person's attorney cannot appear at a hearing.

(5) The hearing officer must give DMV sufficient opportunity to obtain and present in the contested case hearing any testimony or documents deemed necessary by the agency to respond to evidence offered by the person on any factual or legal defense.

(6) In order for a request for hearing to be timely, the request must be postmarked or received by DMV within the time periods established in sections (1) and (2) of this rule. If the request for hearing is not timely received, the person waives his or her right to a hearing, except as provided in OAR 137-003-0528. The time periods will be computed as set forth in OAR 137-003-0520(8).

(7) To be received by DMV, the hearing request must be:

(a) Personally delivered to DMV Headquarters, 1905 Lana Avenue NE, Salem, OR;

(b) Delivered by mail to DMV Headquarters, Hearing Case Management, 1905 Lana Avenue NE, Salem OR 97314; or

(c) Received by facsimile machine at FAX number (503) 945-5521.

Stat. Auth.: ORS 184.616, ORS 184.619, ORS 809.440

Stat. Implemented: ORS 809.440

Hist.: DMV 8-2003, f. 5-14-03, cert. ef. 6-1-03

## 735-076-0000

### Purpose of the Driver Re-Examination Program

The Driver and Motor Vehicle Services Division of the Department of Transportation (DMV) may receive information that indicates a person may no longer be qualified to hold a driver license, driver permit or endorsement or may no longer be able to drive safely. This information may come from many sources, including a report of a person's driving behavior witnessed by the reporter, a report from a family member, friend or neighbor, a report from a police officer or a court, or a review of the person's driving record. These rules provide procedures for reexamination of a driver to determine whether he or she is still qualified to hold a license and safely operate a motor vehicle.

Stat. Auth.: ORS 184.616, ORS 184.619, ORS 807.340 & ORS 809.410

Stat. Implemented: ORS 807.340

Hist.: MV 19-1987, f. 9-21-87, ef. 9-27-87; Administrative Renumbering 3-1988, Renumbered from 735-031-0440; DMV 8-2003, f. 5-14-03, cert. ef. 6-1-03

## 735-076-0005

### Reporting Requirements

(1) In order for DMV to process a report that indicates a person may no longer be qualified for driving privileges or may no longer be able to safely operate a motor vehicle, it must contain:

(a) The name of the person making the report, including a signature if the report is from a family member or member of the general public;

(b) The name and date of birth of the person being reported or a description of the person sufficient for DMV to identify the reported person from its records; and

(c) Sufficient information to give DMV reason to believe the person may no longer be qualified to hold a driver license, driver permit, or endorsement or may no longer be able to drive safely.

(2) All written documentation voluntarily submitted under this rule, including the name of the person submitting the documentation, will be kept confidential and not released to any person unless:

(a) DMV determines the documentation, or any portion thereof, must be released pursuant to the Public Records Law, ORS 192.410 to 192.505, or the Attorney General or a court orders disclosure in accordance with the Public Records Law; or

(b) The documentation is determined by DMV to be necessary evidence in an administrative proceeding involving the suspension or cancellation of the person's driving privileges or right to apply for driving privileges.

(3) DMV will attempt to obtain more information if DMV has reason to believe there is inaccurate information in the report before taking further action on the report.

(4) Reports that indicate a person is unqualified for driving privileges or is unable to safely operate a vehicle because of a mental or physical condition or impairment will be processed pursuant to the procedures set forth in Oregon Administrative Rules chapter 735, division 74.

Stat. Auth.: ORS 184.616, ORS 184.619, ORS 807.340 & ORS 809.410

Stat. Implemented: ORS 807.340

Hist.: DMV 8-2003, f. 5-14-03, cert. ef. 6-1-03

## 735-076-0010

### When Reexamination is Required and Notice of Reexamination

(1) The Driver and Motor Vehicle Services Division of the Department of Transportation (DMV) shall request that a driver be reex-

# ADMINISTRATIVE RULES

amed when DMV has reason to believe that a driver may not be qualified to hold a driver license, driver permit, or indorsement, or may no longer be able to drive safely.

(2) When DMV has reason to believe a driver may not be qualified to hold a driver license, driver permit, or indorsement or may no longer be able to drive safely, DMV will send a letter to the driver requiring the driver to reestablish the person's eligibility by successfully completing examinations under ORS 807.070.

(3) The driver must successfully complete the examinations within 60 days of the date of the request letter. DMV may grant an extension, not to exceed 120 additional days, if:

(a) The person is seriously ill or injured and a physician requests an extension in writing; or

(b) The person is temporarily out of state and a written request is received from the person.

Stat. Auth.: ORS 184.616, 184.619, 807.340, 809.410

Stats. Implemented: ORS 807.340

Hist.: MV 19-1987, f. 9-21-87, ef. 9-27-87; Administrative Renumbering 3-1988, Renumbered from 735-031-0450; DMV 8-2003, f. 5-14-03, cert. ef. 6-1-03

## 735-076-0020

### Suspension of Driving Privileges

(1) DMV will suspend driving privileges or the right to apply for driving privileges under ORS 809.410(13) if the person fails to successfully complete the required tests within 60 days of the date of the request letter, or within the time period granted if an extension is granted under OAR 735-076-0010(3).

(2) DMV will suspend a person's right to apply for driving privileges when a person voluntarily surrenders a license to DMV based upon the person's recognition that the person is no longer competent to drive and the person has failed to take or pass required examinations.

Stat. Auth.: ORS 184.616, ORS 814.619, ORS 807.340 & ORS 809.410(13)

Stats. Implemented: ORS 807.340

Hist.: MV 19-1987, f. 9-21-87, ef. 9-27-87; Administrative Renumbering 3-1988, Renumbered from 735-031-0460; MV 17-1992, f. 12-16-92, cert. ef. 1-1-93; DMV 16-2001, f. & cert. ef. 9-21-01; DMV 8-2003, f. 5-14-03, cert. ef. 6-1-03

## 735-076-0030

### Tests Required

Reexamination tests may include one or more of the following:

(1) A knowledge test for the class of license and indorsement(s) held;

(2) A vision screening; and

(3) A drive test for the class of license held including indorsement(s).

(4) Any other examination or test that DMV determines may be necessary in establishing eligibility or fitness to operate a motor vehicle (e.g., special drive test for a limited route license).

Stat. Auth.: ORS 807.340 & ORS 809.410

Stats. Implemented: ORS 807.340

Hist.: MV 19-1987, f. 9-21-87, ef. 9-27-87; Administrative Renumbering 3-1988, Renumbered from 735-031-0470; DMV 8-2003, f. 5-14-03, cert. ef. 6-1-03

## 735-076-0040

### Reexamination Testing Process

(1) The driver must re-test in the driver's current license class, unless the driver voluntarily chooses to test for a lower class of license.

(2) Before DMV may conduct a behind-the-wheel test, the person must successfully complete all other required tests.

(3) If during a reexamination, the person is unable to pass the DMV vision screening, DMV will require the person to have a vision specialist (a licensed physician who specializes in the diagnosis and treatment of diseases of the eye or a licensed optometrist) complete a *Certificate of Vision* form. DMV will only provide a drive test if the completed form from the vision specialist indicates that the person's vision does meet DMV's standards as set forth in OAR 735-062-0050.

(4) The waiting periods between knowledge or behind-the-wheel tests are listed in OAR 735-062-0040 and 735-062-0070, respectively.

(5) As set forth in OAR 735-062-0073, DMV may refuse to continue a drive test if a DMV employee reasonably believes that the person is likely to endanger persons or property while being tested, and further testing may be denied and driving privileges cancelled if DMV determines the person is likely to endanger persons or property during subsequent testing.

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

Stat. Auth.: ORS 184.616, ORS 807.340 & ORS 809.410

Stats. Implemented: ORS 807.340

Hist.: MV 19-1987, f. 9-21-87, ef. 9-27-87; Administrative Renumbering 3-1988, Renumbered from 735-031-0480; DMV 3-2002, f. & cert. ef. 3-14-02; DMV 8-2003, f. 5-14-03, cert. ef. 6-1-03

## 735-076-0050

### Restricted License

(1) DMV may issue a restricted license to a person who passes the required examinations when DMV determines a restriction on the license is necessary to insure the safe operation of a motor vehicle by the person. These restrictions may include but are not limited to the following:

(a) Daylight driving only;

(b) Driving only on a certain, restricted route;

(c) Driving only during certain hours of the day; or

(d) Driving only with certain vehicle equipment or adaptive devices.

(2) A person whose driving privileges or right to apply for driving privileges are suspended under Division 76 rules may obtain a 60-day restricted license for the express purpose of taking driving lessons. DMV must determine that driving lessons may help the person regain driving privileges before issuing a restricted license for lessons. DMV may make this determination based on the person's performance on a DMV drive test, medical information that indicates the person needs to learn how to use an adaptive device or technique or other information that indicates the person would benefit from driving lessons. The suspension will be rescinded for the 60-day period of the restricted license. The lessons must be provided by a commercial driving instructor or other licensed driver approved by DMV as an instructor for the purpose of providing driving instruction. The restricted license will only allow the person to drive with an instructor during instruction. No other driving, under any circumstances, will be allowed by the restricted license. The person must pass a DMV vision screening or submit a *Certificate of Vision* showing that the person's vision does meet DMV standards and pass a DMV knowledge test before DMV will issue a restricted license to take lessons. A restricted license issued under this section shall include a notification that at the end of the 60-day period the suspension will be reinstated without further notice if the person has not successfully passed a driving test given by a DMV employee.

(3) If, at the end of the 60-day restricted license period under section (2) of this rule, the person has not successfully completed a driving test given by a DMV employee, DMV will reinstate the suspension of the person's driving privileges and right to apply for driving privileges. When a suspension is reinstated under this section, DMV is not required to provide the person with further notice or an opportunity for a contested case hearing.

Stat. Auth.: ORS 184.616, ORS 184.619, ORS 807.340 & ORS 809.410

Stats. Implemented: ORS 807.340

Hist.: MV 19-1987, f. 9-21-87, ef. 9-27-87; Administrative Renumbering 3-1988, Renumbered from 735-031-0490; DMV 8-2003, f. 5-14-03, cert. ef. 6-1-03

## 735-076-0060

### Hearing Provisions

A person issued a notice of suspension or cancellation under these rules has the right to request a contested case hearing. To request a hearing, the person must submit a hearing request that meets the requirements of OAR 735-074-0220.

Stat. Auth.: ORS 184.616, ORS 184.619, ORS 807.340 & ORS 809.410

Stats. Implemented: ORS 807.340

Hist.: MV 19-1987, f. 9-21-87, ef. 9-27-87; Administrative Renumbering 3-1988, Renumbered from 735-031-0495; DMV 8-2003, f. 5-14-03, cert. ef. 6-1-03

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## Department of Transportation, Motor Carrier Transportation Division Chapter 740

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

**Filed with Sec. of State:** 4-21-2003

**Certified to be Effective:** 4-21-03

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

**Rules Amended:** 740-100-0010, 740-100-0070, 740-100-0080, 740-100-0090, 740-110-0010

**Subject:** These rules cover the annual adoption of federal motor carrier safety and hazardous materials transportation regulations. In addition, these rules cover the adoption of international standards related to driver, vehicle and hazardous materials out-of-service violations. The amendments ensure Oregon's motor carrier safety; hazardous materials; and driver, vehicle and hazardous materials out-of-service requirements are current with national and international standards. Other changes redefine intrastate driver hours-of-service exclusions to reflect current practice, update passenger carrying vehi-

# ADMINISTRATIVE RULES

cles subject to external identification requirements and reformat a subsection.

**Rules Coordinator:** Brenda Trump—(503) 945-5278

## 740-100-0010

### Adoption of Federal Safety Regulations

(1) Except as provided in section (3) of this rule, the rules and regulations adopted by the United States Department of Transportation contained in Title 49, Code of Federal Regulations (CFR), Parts 382 (Controlled Substances and Alcohol Use and Testing), 383 (Commercial Driver's License Standards Requirements and Penalties), 385 (Safety Fitness Procedures), 387 (Minimum Levels of Financial Responsibility for Motor Carriers), 390 (Federal Motor Carrier Safety Regulations: General), 391 (Qualification of Drivers), 392 (Driving of Motor Vehicles), 393 (Parts and Accessories Necessary for Safe Operation), 395 (Hours of Service of Drivers), 396 (Inspection, Repair, and Maintenance), 398 (Transportation of Migrant Workers), 399 (Employee Safety and Health Standards), and all amendments thereto in effect April 1, 2003, are adopted and prescribed by the Department of Transportation (ODOT) to be observed by carriers conducting operations in interstate commerce, subject to ORS Chapter 825.

(2) The provisions of section (1) of this rule as adopted are prescribed by the Department to be observed by carriers conducting operations in intrastate commerce, subject to ORS Chapter 825, except:

(a) The provisions of Part 387 shall apply to intrastate motor carriers only when transporting hazardous materials, hazardous substances or hazardous wastes;

(b) With reference to Part 390.21, external identification requirements do not apply to vehicles with a gross combination weight rating of 26,000 pounds or less and operated exclusively in intrastate private carriage, except those vehicles transporting hazardous materials of a type or quantity requiring placarding or passenger vehicles with a seating capacity of more than 15 passengers including the driver;

(c) The rules in Part 391 (except Part 391.15, Disqualification of Drivers) do not apply to a driver who is employed by a private carrier and does not transport hazardous materials of a type or quantity requiring the vehicle to be marked or placarded in accordance with Title 49, CFR, Part 177.823, and drives a motor vehicle with a gross vehicle or gross combination weight rating of 26,000 pounds or less;

(d) Notwithstanding Title 49, CFR, Parts 391.41 to 391.49 (Subpart E — Physical Qualifications and Examinations) the Department may, upon receipt of a favorable recommendation from the State Health Division or a licensed health care professional under contract to ODOT, issue a waiver of physical disqualification to a commercial vehicle driver who has met the conditions established by the Department and who is in compliance with motor carrier safety regulations applicable to drivers;

(e) With reference to Title 49, CFR, Part 395, motor carriers conducting intrastate transportation may not:

(A) Exceed 12 hours driving following eight consecutive hours off-duty;

(B) Drive for any period after being on-duty for 16 hours following eight consecutive hours off-duty;

(C) Drive for any period following 70 hours on-duty in any seven consecutive days; or

(D) Drive for any period following 80 hours on-duty in any eight consecutive days;

(f) Notwithstanding the provisions of Title 49, CFR, Part 395.1(e) relating to 100-airmile radius drivers, such drivers need not maintain a daily driver's record-of-duty status, as described in Title 49, CFR, Part 395.8, if:

(A) The driver operates within a 100-airmile radius of the normal work reporting location;

(B) The driver returns to the work reporting location and is released from work within consecutive 16 hours;

(C) The driver has at least eight consecutive hours off duty between each 16 hours on duty;

(D) The driver does not exceed 12 hours maximum driving time following eight consecutive hours off duty; and

(E) The motor carrier maintains and retains for a period of six months accurate and true driver time records showing:

(i) The time the driver reports for duty each day;

(ii) The total number of hours the driver is on duty each day;

(iii) The time the driver is released from duty each day; and

(iv) The total time for the preceding seven days in accordance with

Title 49, CFR, Part 395.8(j)(2), for such drivers used for the first time or intermittently;

(g) The provisions of subsections (e) and (f) of this section are not applicable to the transportation of hazardous materials of a type or quantity requiring placarding. Motor carriers transporting hazardous materials of a type or quantity requiring placarding must comply with Title 49, CFR, Part 395;

(h) All public utilities as defined in ORS 757.005, telecommunications utilities as defined in ORS 759.005, and electric, gas, water, and telecommunications utilities that are a people's utility district organized under ORS Chapter 261, a municipal utility operating under ORS Chapter 225, or a cooperative organized under ORS Chapter 62, are relieved from the drivers' hours-of-service requirements and restrictions prescribed in Title 49, CFR, Part 395, when such utility is engaged in the provision or restoration of essential utility services and such restoration is unplanned, unsheduled and the direct result of circumstances beyond the control of the utility; and

(i) The provisions of Title 49, CFR, Parts 396.17 through 396.23 (Periodic Inspection Requirements), are not applicable to operations conducted wholly in intrastate commerce.

(3) The provisions of Title 49, CFR, Part 386.83(a)(1) and Part 386.84(a)(1), related to sanctions for failure to pay civil monetary penalties are adopted for operations conducted in intrastate commerce, and are subject to penalties and sanctions found in ORS Chapter 825, pursuant to the provisions of ORS Chapter 183.

(4) The intracity operation exemption adopted by the US Department of Transportation found in Part 391.62 is not adopted and prescribed.

(5) Wherever reference is made in Title 49 of the CFR as adopted by this rule to a federal entity, including but not limited to "Federal Highway Administrator," "Regional Director," "Special Agent of the Federal Highway Administration" or the "Federal Motor Carrier Safety Administration," it shall be construed to mean the Oregon Department of Transportation or a person authorized by the Oregon Department of Transportation to act on its behalf.

(6) Copies of the federal regulations referred to in this rule are available from ODOT Motor Carrier Transportation Division.

Stat. Auth.: ORS 823.011, ORS 825.137, ORS 825.210, ORS 825.232 & ORS 825.252

Stats. Implemented: ORS 825.210, ORS 825.250 & ORS 825.252

Hist.: PUC 156, f. 8-6-73, ef. 8-15-73 (Order No. 73-507); PUC 181, f. 12-30-77, ef. 1-15-78 (Order No. 77-896); PUC 4-1979, f. & ef. 9-21-79 (Order No. 79-641); PUC 5-1979, f. & ef. 9-21-79 (Order No. 79-635); PUC 2-1980, f. & ef. 3-27-80 (Order No. 80-179); PUC 3-1980, Part 1, f. & ef. 6-30-80 (Order No. 79-805); Part 2, f. & ef. 6-30-80 (Order No. 80-475); PUC 7-1980, f. & ef. 11-6-80 (Order No. 80-845); Renumbered from 860-035-0010; PUC 12-1981, f. & ef. 12-16-81 (Order No. 81-880); PUC 12-1982(Temp), f. 12-20-82, ef. 1-1-83 (Order No. 82-872); PUC 1-1983, f. & ef. 1-17-83 (Order No. 83-024); PUC 2-1983, f. & ef. 3-1-83 (Order No. 83-117); PUC 13-1984, f. & ef. 7-26-84 (Order No. 84-546); PUC 19-1984, f. & ef. 9-10-84 (Order No. 84-713); PUC 8-1985, f. & ef. 6-10-85 (Order No. 85-499); PUC 17-1986 (Temp), f. & ef. 12-3-86; (Order No. 86-1239); PUC 2-1987 (Temp), f. & ef. 2-25-87 (Order No. 87-248); PUC 4-1987, f. & ef. 6-9-87 (Order No. 87-509); PUC 16-1987(Temp), f. & ef. 12-11-87 (Order No. 87-1244); PUC 4-1988(Temp), f. & cert. ef. 2-12-88 (Order No. 88-161); PUC 6-1988(Temp), f. & cert. ef. 3-9-88 (Order No. 88-818); PUC 14-1988, f. & cert. ef. 7-22-88 (Order No. 88-245); PUC 7-1989, f. & cert. ef. 5-23-89 (Order No. 89-663); PUC 1-1991, f. & cert. ef. 1-11-91 (and corrected 1-31-91) (Order No. 91-20); PUC 6-1992, f. & cert. ef. 2-26-92 (Order No. 92-292); PUC 13-1992(Temp), f. & cert. ef. 9-4-92 (Order No. 92-1303); PUC 10-1993, f. & cert. ef. 6-3-93 (Order No. 93-693 & 93-761); PUC 6-1994, f. & cert. ef. 3-28-94 (Order No. 94-525); PUC 6-1995, f. & cert. ef. 7-13-95 (Order No. 95-562); MCT 3-1996, f. & cert. ef. 3-14-96; Renumbered from 860-065-0010; MCT 4-1996, f. 3-20-96, cert. ef. 4-1-96; MCT 5-1996, f. & cert. ef. 9-17-96; MCT 1-1997, f. 3-24-97, cert. ef. 4-1-97; MCT 2-1997, f. & cert. ef. 5-9-97; MCT 6-1997, f. & cert. ef. 8-26-97; MCT 10-1997, f. & cert. ef. 12-22-97; MCTB 1-1998, f. 3-10-98, cert. ef. 4-1-98; MCTB 2-1998, f. & cert. ef. 8-20-98; MCTB 1-1999, f. & cert. ef. 4-22-99; MCTB 1-2000, f. 3-16-00, cert. ef. 4-1-00; MCTB 2-2001, f. 3-13-01, cert. ef. 4-1-01; MCTB 2-2002, f. & cert. ef. 6-21-02; MCTD 2-2003, f. & cert. ef. 4-21-03

## 740-100-0070

### North American Uniform Vehicle Out-of-Service Criteria

(1) Appendix A of the North American Uniform Vehicle Out-of-Service Criteria, published by the Commercial Vehicle Safety Alliance, in effect April 1, 2003, is adopted by and incorporated into this rule. Inspection violations identified in the chart may be subject to one or more of the following:

(a) Out-of-Service Condition: When any motor vehicle by reason of its mechanical condition or loading, is determined to be so unsafe as to likely cause an accident or breakdown, or when such conditions would likely contribute to loss of control of the vehicle by the driver, said vehicle shall be placed out-of-service. No motor carrier shall permit or require nor shall any person operate any motor vehicle declared and marked "out-of-service" until all required repairs of violations which resulted in the out-of-service condition have been completed. If, at the discretion of the inspector, it is less hazardous to the public to relocate the vehicle, it shall be towed, transported, or escorted only at the direction of an official authority.

(b) Other: Violations other than out-of-service conditions detected during the inspection process will not preclude the completion of the cur-

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rent trip or dispatch. However, such violations must be corrected or repaired prior to redispach.

(2) Copies of Appendix A are available from the Commercial Vehicle Safety Alliance at: 5430 Grosvenor Lane, Suite 130, Bethesda MD 20814.

Stat. Auth.: ORS 823.011 & ORS 825.232

Stats. Implemented: ORS 825.250 & ORS 825.252

Hist.: PUC 3-1986, f. & ef. 4-18-86 (Order No. 86-372); PUC 7-1989, f. & cert. ef. 5-23-89 (Order No. 89-663); PUC 1-1991, f. & cert. ef. 1-11-91 (Order No. 91-20); PUC 6-1991, f. & cert. ef. 4-9-91 (Order No. 91-455); PUC 6-1992, f. & cert. ef. 2-26-92 (Order No. 92-292); PUC 10-1993, f. & cert. ef. 6-3-93 (Order No. 93-693 & 93-761); PUC 15-1993(Temp), f. & cert. ef. 8-19-93 (Order No. 93-1156); PUC 6-1994, f. & cert. ef. 3-28-94 (Order No. 94-525); PUC 6-1995, f. & cert. ef. 7-13-95 (Order No. 95-562); MCT 3-1996, f. & cert. ef. 3-14-96; Renumbered from 860-065-0030; MCT 4-1996, f. 3-20-96, cert. ef. 4-1-96; MCT 1-1997, f. 3-24-97, cert. ef. 4-1-97; MCTB 1-1998, f. 3-10-98, cert. ef. 4-1-98; MCTB 1-1999, f. & cert. ef. 4-22-99; MCTB 1-2000, f. 3-16-00, cert. ef. 4-1-00; MCTB 2-2001, f. 3-13-01, cert. ef. 4-1-01; MCTB 2-2002, f. & cert. ef. 6-21-02; MCTD 2-2003, f. & cert. ef. 4-21-03

## 740-100-0080

### North American Uniform Hazardous Material Out-of-Service Criteria

(1) Appendix A of the North American Uniform Vehicle Out-of-Service Criteria, published by the Commercial Vehicle Safety Alliance, in effect April 1, 2003, is adopted and incorporated in this rule. Inspection violations identified in the chart may be subject to out-of-service action. Condition(s) categorized in this Appendix as "Out-of-Service" shall not be allowed to continue in commerce until the condition(s) is/are corrected and the shipment complies with Title 49, CFR. If at the discretion of the inspector, it is less hazardous to the public to relocate the vehicle, it shall be towed, transported, or escorted to a safe location only at the direction of an official authority.

(2) Copies of Appendix A are available from the Commercial Vehicle Safety Alliance at: 5430 Grosvenor Lane, Suite 130, Bethesda MD 20814.

Stat. Auth.: ORS 823.011 & ORS 825.232

Stats. Implemented: ORS 825.250 & ORS 825.258

Hist.: PUC 3-1986, f. & ef. 4-18-86 (Order No. 86-377); PUC 7-1989, f. & cert. ef. 5-23-89 (Order No. 89-663); PUC 1-1991, f. & cert. ef. 1-11-91 (Order No. 91-20); PUC 6-1991, f. & cert. ef. 4-9-91 (Order No. 91-455); PUC 6-1992, f. & cert. ef. 2-26-92 (Order No. 92-292); PUC 10-1993, f. & cert. ef. 6-3-93 (Order No. 93-693 & 93-761); PUC 15-1993(Temp), f. & cert. ef. 8-19-93 (Order No. 93-1156); PUC 6-1994, f. & cert. ef. 3-28-94 (Order No. 94-525); PUC 6-1995, f. & cert. ef. 7-13-95 (Order No. 95-562); MCT 3-1996, f. & cert. ef. 3-14-96; Renumbered from 860-065-0035; MCT 4-1996, f. 3-20-96, cert. ef. 4-1-96; MCT 1-1997, f. 3-24-97, cert. ef. 4-1-97; MCTB 1-1998, f. 3-10-98, cert. ef. 4-1-98; MCTB 1-1999, f. & cert. ef. 4-22-99; MCTB 1-2000, f. 3-16-00, cert. ef. 4-1-00; MCTB 2-2001, f. 3-13-01, cert. ef. 4-1-01; MCTB 2-2002, f. & cert. ef. 6-21-02; MCTD 2-2003, f. & cert. ef. 4-21-03

## 740-100-0090

### North American Uniform Driver Out-of-Service Criteria

(1) Appendix A of the North American Uniform Vehicle Out-of-Service Criteria, published by the Commercial Vehicle Safety Alliance, in effect April 1, 2003, is adopted and incorporated in this rule. Inspection violations identified in the chart may be subject to one or both of the following:

(a) Out-of-Service Violation: Drivers with violations under this category shall not operate a commercial motor vehicle for a specified period of time or for some violations until a required condition is met.

(b) Other: Violations other than out-of-service violations require no immediate action by the driver or motor carrier. The carrier only has to complete the "Motor Carrier Certification of Action Taken" in accordance with the terms contained on the inspection document and return it to the Department of Transportation within 15 days.

(2) Copies of Appendix A are available from the Commercial Vehicle Safety Alliance at: 5430 Grosvenor Lane, Suite 130, Bethesda MD 20814.

Stat. Auth.: ORS 823.011 & ORS 825.232

Stats. Implemented: ORS 825.250, ORS 825.252 & ORS 825.260

Hist.: PUC 7-1989, f. & cert. ef. 5-23-89 (Order No. 89-663); PUC 1-1991, f. & cert. ef. 1-11-91 (Order No. 91-20); PUC 6-1991, f. & cert. ef. 4-9-91 (Order No. 91-455); PUC 6-1992, f. & cert. ef. 2-26-92 (Order No. 92-292); PUC 15-1993(Temp), f. & cert. ef. 8-19-93 (Order No. 93-1156); PUC 6-1994, f. & cert. ef. 3-28-94 (Order No. 94-525); PUC 6-1995, f. & cert. ef. 7-13-95 (Order No. 95-562); MCT 3-1996, f. & cert. ef. 3-14-96; Renumbered from 860-065-0040; MCT 4-1996, f. 3-20-96, cert. ef. 4-1-96; MCT 1-1997, f. 3-24-97, cert. ef. 4-1-97; MCTB 1-1998, f. 3-10-98, cert. ef. 4-1-98; MCTB 1-1999, f. & cert. ef. 4-22-99; MCTB 1-2000, f. 3-16-00, cert. ef. 4-1-00; MCTB 2-2001, f. 3-13-01, cert. ef. 4-1-01; MCTB 2-2002, f. & cert. ef. 6-21-02; MCTD 2-2003, f. & cert. ef. 4-21-03

## 740-110-0010

### Adoption of United States Department of Transportation Hazardous Materials Regulations

(1) Any person subject to ORS Chapter 825 who transports a hazardous material and any person subject to ORS 823.061 who causes to be transported a hazardous material shall comply with the rules and regulations governing the transportation of hazardous materials as prescribed by the United States Department of Transportation in Title 49, Code of Federal

Regulations, Part 397 and such portions of Parts 107-178 and 180 as are applicable, and amendments thereto, in effect on April 1, 2003.

(2) Copies of the federal regulations referred to in this rule are available from ODOT, Motor Carrier Transportation Division.

Stat. Auth.: ORS 823.011, ORS 823.061 & ORS 825.258

Stats. Implemented: ORS 825.258

Hist.: Refiled in PUC 18, f. 1-21-55, ef. 9-1-54 (Order No. 33203); PUC 98, f. 1-18-61, ef. 1-12-61 (Order No. 37620); PUC 120, f. 10-26-62, ef. 11-15-62 (Order No. 38811); PUC 132, f. 3-29-65, ef. 4-1-65 (Order No. 41035); PUC 135, f. 5-9-66, ef. 5-15-66 (Order No. 42332); PUC 148, f. 7-29-68, ef. 9-1-68 (Order No. 44783); PUC 150, f. 11-7-68, ef. 12-1-68 (Order No. 45141); PUC 156, f. 8-6-73, ef. 8-15-73 (Order No. 73-507); PUC 181, f. 12-30-77, ef. 1-15-78 (Order No. 77-896); PUC 2-1980, f. & ef. 3-27-80 (Order No. 80-179); PUC 3-1980, Part 1, f. & ef. 6-30-80 (Order No. 79-805); PUC 5-1980, f. & ef. 10-13-80 (Order No. 80-758); Renumbered from 860-036-0055; PUC 1-1981, f. & ef. 2-9-81; PUC 12-1981, f. & ef. 12-16-81 (Order No. 81-880); PUC 6-1982, f. & ef. 5-6-82 (Order No. 82-336); PUC 1-1983, f. & ef. 1-17-83 (Order No. 83-024); PUC 1-1984, f. & ef. 2-9-84 (Order No. 84-076); PUC 13-1984, f. & ef. 7-26-84 (Order No. 84-546); PUC 8-1985, f. & ef. 6-10-85 (Order No. 85-499); PUC 7-1986(Temp), f. & ef. 7-25-86 (Order No. 86-736); PUC 13-1986, f. & ef. 10-30-86 (Order No. 86-1106); PUC 7-1989, f. & cert. ef. 5-23-89 (Order No. 89-663); PUC 1-1991, f. & cert. ef. 1-11-91 (Order No. 91-20); PUC 6-1992, f. & cert. ef. 2-26-92 (Order No. 92-292); PUC 10-1993, f. & cert. ef. 6-3-93 (Order No. 93-693 & 93-761); PUC 6-1994, f. & cert. ef. 3-28-94 (Order No. 94-525); PUC 6-1995, f. & cert. ef. 7-13-95 (Order No. 95-562); MCT 1-1996, f. 2-16-96, cert. ef. 4-1-96; Renumbered from 860-066-0055; MCT 3-1996, f. & cert. ef. 3-14-96; MCT 5-1996, f. & cert. ef. 9-17-96; MCT 1-1997, f. 3-24-97, cert. ef. 4-1-97; MCTB 1-1998, f. 3-10-98, cert. ef. 4-1-98; MCTB 1-1999, f. & cert. ef. 4-22-99; MCTB 1-2000, f. 3-16-00, cert. ef. 4-1-00; MCTB 2-2001, f. 3-13-01, cert. ef. 4-1-01; MCTB 2-2002, f. & cert. ef. 6-21-02; MCTD 2-2003, f. & cert. ef. 4-21-03

## Department of Veterans' Affairs Chapter 274

**Adm. Order No.:** DVA 4-2003(Temp)

**Filed with Sec. of State:** 4-18-2003

**Certified to be Effective:** 4-21-03 thru 10-17-03

**Notice Publication Date:**

**Rules Amended:** 274-020-0341

**Subject:** Applications on all ODVA's Veterans Loan Program 1990 loans that have a maturity date of no more than 30 years and received on or after April 21, 2003, shall have the interest rate of 5.25 percent with an origination fee of 1.0 percent or 4.99 percent with an origination fee of 1.5 percent.

Applications on all ODVA's Post Vietnam Era Veterans' Home Loan Program loans that have a maturity date of no more than 30 years and received on or after April 21, 2003, shall have the interest rate of 5.25 percent with an origination fee of 1.0 percent or 5.125 percent with an origination fee of 1.5 percent.

**Rules Coordinator:** Charles E. Gehley — (503) 373-2142

## 274-020-0341

### Interest

(1) Prior to May 27, 1971, fixed interest rates on loans to eligible veterans are as follows:

(a) Four percent on all loans through August 21, 1969;

(b) Effective August 22, 1969, four percent on the first \$18,500 of a home loan balance, and four percent on the first \$50,000 of a farm loan balance;

(c) For loans made from August 22, 1969 through May 26, 1971, the interest rate on the loan amount in excess of \$18,500 for home loans and \$50,000 for farm loans is as follows:

(A) Effective August 22, 1969, 5.2 percent;

(B) Effective September 4, 1969, 6.9 percent;

(C) Effective December 10, 1969, 7.1 percent;

(D) Effective April 8, 1970, 6.8 percent;

(E) Effective August 19, 1970, 6.4 percent;

(F) Effective January 6, 1971, 5.4 percent.

(2) As provided by ORS 407.325, the interest rate on variable rate real property loans are as follows:

(a) Effective May 27, 1971, 5.9 percent on all loans;

(b) Effective April 1, 1981, 7.2 percent on loans for which applications were received after December 31, 1980;

(c) Effective April 1, 1981, 6.2 percent on loans in effect or for which applications were received on or before December 31, 1980;

(d) Effective November 1, 1981, 7.5 percent on loans for which applications were received after December 31, 1980, and before August 24, 1981. The loan payment for principal and interest on the loans affected will be adjusted on February 1, 1982;

(e) Effective December 22, 1981, 11 percent on loans for which applications were received on or after August 24, 1981;

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(f) Effective January 1, 1983, 6.7 percent on loans for which applications were received on or after July 1, 1979, and on or before December 31, 1980;

(g) Effective January 1, 1983, 8.2 percent on loans for which applications were received after December 31, 1980, and before August 24, 1981;

(h) Effective October 15, 1982, 10.5 percent on loans for which applications were received on or after August 24, 1981, and funds were disbursed on or after October 15, 1982;

(i) Effective January 1, 1983, the interest rate shall be adjusted to 10.5 percent on loans for which applications were received on or after August 24, 1981, and funds were disbursed before October 15, 1982.

(3) As provided by ORS 407.325, the interest rate on variable rate personal property loans shall be as follows:

(a) Effective May 30, 1975, 7.9 percent on personal property and leaseholds. Leaseholds were defined as real property on October 4, 1977, with rates established as provided in section (2) of this rule;

(b) Effective November 1, 1981, 13 percent on loans for which applications were received on or after August 24, 1981;

(c) Effective December 22, 1981, 11 percent on loans for which applications were received on or after August 24, 1981;

(d) Effective October 15, 1982, 10.5 percent on loans for which applications were received on or after August 24, 1981, and funds were disbursed on or after October 15, 1982;

(e) Effective January 1, 1983, the interest rate shall be adjusted to 10.5 percent on loans for which applications were received on or after August 24, 1981, and funds disbursed before October 15, 1982;

(4) Effective January 1, 1986, the interest rate on certain loans shall be changed as follows:

(a) The interest rate on 6.2 percent loans becomes 7.2 percent;

(b) The interest rate on 6.7 percent loans becomes 7.7 percent;

(c) The interest rate on 7.9 percent loans becomes 8.9 percent;

(d) The interest rate on 8.2 percent loans becomes 9.2 percent.

(5) As provided by ORS 407.327, the interest rate on loans made on or after:

(a) April 15, 1992, shall be fixed and shall be 7.6 percent on loans for which applications were received on or after April 8, 1992.

(b) August 17, 1992, shall be fixed and shall be 7 percent on loans with a maturity date of 15 years or less, and 7.3 percent on loans with a maturity date in excess of 15 years.

(c) April 1, 1993, shall be fixed and shall be 6.7 percent on loans with a maturity date of 15 years or less, and 7.0 percent on loans with a maturity date in excess of 15 years.

(d) November 1, 1993, shall be fixed and shall be 6.0 percent on loans with a maturity date of 15 years or less, and 7.0 percent on loans with a maturity date in excess of 15 years.

(6) As provided by ORS 407.327, the interest rate on loans for which applications were received from April 15, 1994, through June 21, 1994, shall be fixed and shall be 6.6 percent on loans that have a maturity date of at least 15 years, and 7.0 percent on loans with a maturity date in excess of 15 years. (Temporary Rule)

(7) As provided by ORS 407.327, the interest rate on loans for which applications were received on or after:

(a) June 22, 1994, shall be fixed and shall be 7.0 percent on loans that have a maturity date of at least 15 years, and 7.4 percent on loans with a maturity date in excess of 15 years.

(b) September 20, 1994, through November 17, 1994, shall be fixed and shall be 7.4 percent on loans that have a maturity date of at least 15 years, and 7.7 percent on loans with a maturity date in excess of 15 years. (Temporary Rule)

(c) November 18, 1994, shall be fixed and shall be 7.9 percent on loans that have a maturity date of at least 15 years, and 8.1 percent on loans with a maturity date in excess of 15 years.

(d) May 11, 1995, shall be fixed and shall be 7.4 percent on loans that have a maturity date of at least 15 years, and 7.6 percent on loans with a maturity date in excess of 15 years. (Temporary)

(e) May 18, 1995, shall be fixed and shall be 7.1 percent on loans that have a maturity date of at least 15 years, and 7.3 percent on loans with a maturity date in excess of 15 years. (Temporary)

(f) June 26, 1995, shall be fixed and shall be 6.80 percent on loans that have a maturity date of at least 15 years, and 7.0 percent on loans with a maturity date in excess of 15 years.

(g) November 1, 1995, shall be fixed and shall be 6.30 percent on loans that have a maturity date of not less than 15 years or more than 30 years.

(h) February 7, 1997, shall be fixed and shall be 6.60 percent on all loans that have a maturity date of no more than 30 years.

(i) February 2, 1998, shall be fixed and shall be 6.30 percent on all loans that have a maturity date of no more than 30 years.

(j) August 1, 1998, shall be fixed and shall be 5.95 percent on all loans that have a maturity date of no more than 30 years.

(k) September 22, 1999, shall be fixed, and shall be 5.95 percent with an origination fee of 2.00 percent, or 6.00 percent, with an origination fee 1.75 percent, on loans that have a maturity date of no more than 30 years.

(l) December 16, 1999, shall be fixed, and shall be 6.85 percent with an origination fee of 2.00 percent, or 6.90 percent, with an origination fee of 1.75 percent, on all loans that have a maturity date of no more than 30 years. (Temporary)

(m) March 31, 2000, shall be fixed, and shall be 6.50 percent with an origination fee of 2.00 percent, or 6.55 percent with an origination fee of 1.75 percent, on all loans that have a maturity date of no more than 30 years.

(n) June 12, 2000, shall be fixed, and shall be 7.15 percent with an origination fee of 2.00 percent, or 7.20 percent with an origination fee of 1.75 percent, on all loans that have maturity date of no more than 30 years. (Temporary)

(o) July 17, 2000, shall be fixed, and shall be 6.90 percent with an origination fee of 2.00 percent, or 6.95 percent with an origination fee of 1.75 percent, on all loans that have a maturity date of no more than 30 years. (Temporary)

(p) September 11, 2000, shall be fixed, and shall be 6.25 percent with an origination fee of 2.00 percent, or 6.30 percent with an origination fee of 1.75 percent, on all loans that have a maturity date of no more than 30 years.

(q) September 10, 2001, shall be fixed, and shall be 5.95 percent on all loans that have a maturity date of no more than 30 years.

(r) April 1, 2002, shall be fixed, and shall be 6.15 percent on all loans that have a maturity date of no more than 30 years. (Temporary)

(s) June 27, 2002, shall be fixed, and shall be 5.95 percent on all loans that have a maturity date of no more than 30 years.

(t) September 26, 2002, shall be fixed on all loans that have a maturity date of no more than 30 years and shall be:

(A) 5.95 percent with an origination fee of 1.0 percent;

(B) 5.79 percent with an origination fee of 1.5 percent; or

(C) 5.65 percent with an origination fee of 2.0 percent. (Temporary)

(u) January 21, 2003, shall be fixed on all loans that have a maturity date of no more than 30 years and shall be as follows:

(A) ODVA's Veterans' Loan Program 1990 loans.

(i) 5.55 percent with an origination fee of 1.0 percent;

(ii) 5.39 percent with an origination fee of 1.5 percent; or

(iii) 5.25 percent with an origination fee of 2.0 percent.

(B) ODVA's Post Vietnam Era Veterans' Home Loan Program loans.

(i) 5.95 percent with an origination fee of 1.0 percent;

(ii) 5.79 percent with an origination fee of 1.5 percent; or

(iii) 5.65 percent with an origination fee of 2.0 percent.

(v) April 21, 2003, shall be fixed on all loans that have a maturity date of no more than 30 years and shall be as follows.

(A) ODVA's Veterans' Loan Program 1990 loans:

(i) 5.25 percent with an origination fee of 1.0 percent; or

(ii) 4.99 percent with an origination fee of 1.5 percent.

(B) ODVA's Post Vietnam Era Veterans' Home Loan Program loans:

(i) 5.25 percent with an origination fee of 1.0 percent; or

(ii) 5.125 percent with an origination fee of 1.5 percent.

(8) As provided by ORS 407.327, the interest rate on home improvement loans for which applications are received on or after:

(a) November 12, 1997, shall be fixed and shall be 7.95 percent.

(b) February 2, 1998, shall be fixed and shall be 7.5 percent.

Stat. Auth.: ORS 406.030, ORS 407.115, ORS 407.325 & ORS 407.327

Stats. Implemented: 407.325 & ORS 407.327

Hist.: DVA 40, f. 5-27-71, ef. 5-27-71; DVA 45, f. & ef. 12-1-75; DVA 49, f. & ef. 6-1-77; DVA 50, f. 11-16-77, ef. 12-1-77; DVA 2-1978, f. & ef. 12-1-78; DVA 1-1979, f. & ef. 12-5-79; DVA 4-1980, f. & ef. 12-1-80; DVA 6-1980(Temp), f. 12-19-80, ef. 1-1-81; DVA 1-1981, f. 3-1-81, ef. 4-1-81; DVA 2-1981(Temp), f. 3-11-81, ef. 4-1-81; DVA 4-1981, f. & ef. 4-16-81; DVA 5-1981(Temp), f. & ef. 8-10-81; DVA 7-1981, f. 10-30-81, ef. 11-1-81; DVA 8-1981, f. 10-30-81, ef. 12-1-81; DVA 10-1981(Temp), f. & ef. 12-22-81; DVA 3-1982(Temp), f. & ef. 2-3-82; DVA 11-1982, f. 4-23-82, ef. 1-1-83; DVA 15-1982, f. & ef. 6-1-82; DVA 27-1982(Temp), f. & ef. 10-15-82; DVA 5-1983, f. & ef. 2-15-83; DVA 10-1985, f. 8-23-85, ef. 1-1-86; DVA 6-1992(Temp), f. & cert. ef. 4-15-92; DVA 9-1992, f. & cert. ef. 8-3-92, DVA 10-1992(Temp), f. & cert. ef. 8-17-92; DVA 1-1993, f. & cert. ef. 1-4-93; DVA 6-1993(Temp), f. 3-30-93, cert. ef. 4-1-93; DVA 8-1993, f. 7-30-93, cert. ef. 9-27-93; DVA 10-1993(Temp), f. 10-18-93, cert. ef. 11-1-93; DVA 1-1994, f. 1-10-94, cert. ef. 2-1-94; DVA 2-1994(Temp), f. & cert. ef. 4-15-94; DVA 4-1994, f. & cert. ef. 6-22-94; DVA 5-1994(Temp), f. 9-15-94, cert. ef. 9-20-94; DVA 6-1994(Temp), f. 11-15-94, cert. ef. 11-18-94; DVA 2-1995, f. & cert. ef. 3-23-95; DVA 3-1995(Temp), f. & cert. ef. 5-11-95; DVA 4-1995(Temp), f. & cert. 5-18-95; DVA 6-1995(Temp), f. 6-23-95, cert. ef. 6-26-96; DVA 13-1995, f. & cert.

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ef. 10-23-95; DVA 14-1995(Temp), f. 10-30-95, cert. ef. 11-1-95; DVA -1996, f. & cert. ef. 3-22-96; DVA 1-1997(Temp), f. 2-4-97, cert. ef. 2-7-97; DVA 3-1997, f. & cert. ef. 6-25-97; DVA 5-1997, f. & cert. ef. 10-22-97; DVA 2-1998(Temp), f. 1-26-98, cert. ef. 2-2-98 thru 7-31-98; DVA 6-1998, f. & cert. ef. 6-23-98; DVA 8-1998(Temp), f. 7-28-98, cert. ef. 8-1-98 thru 1-27-99; DVA 1-1999, f. & cert. ef. 1-22-99; DVA 2-1999, f. & cert. ef. 9-22-99; DVA 4-1999(Temp), f. 12-14-99, cert. ef. 12-16-99 thru 6-12-00; DVA 2-2000(Temp), f. 3-30-00, f. 3-31-00 thru 6-12-00; DVA 6-2000, f. & cert. ef. 5-23-00; DVA 7-2000(Temp), 6-12-00 thru 12-9-00; DVA 8-2000(Temp), f. 7-14-00, cert. ef. 7-17-00 thru 12-9-00; DVA 9-2000(Temp), f. 9-8-00, cert. ef. 9-11-00 thru 12-9-00; DVA 10-2000, f. 12-5-00, cert. ef. 12-10-00; DVA 6-2001(Temp), f. 9-7-01, cert. ef. 9-10-01 thru 3-8-02; DVA 2-2002, f. & cert. ef. 2-22-02; DVA 3-2002(Temp), f. 3-29-02, cert. ef. 4-1-02 thru 9-27-02; DVA 5-2002(Temp), f. 6-26-02, cert. ef. 6-27-02 thru 9-27-02; DVA 6-2002, f. & cert. ef. 9-24-02; DVA 8-2002(Temp), f. 9-25-02, cert. ef. 9-26-02 thru 3-24-03; DVA 1-2003(Temp), f. 1-17-03, cert. ef. 1-21-03 thru 3-24-03; DVA 2-2003, f. & cert. ef. 3-24-03; DVA 4-2003(Temp), f. 4-18-03, cert. ef. 4-21-03 thru 10-17-03

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**Adm. Order No.:** DVA 5-2003

**Filed with Sec. of State:** 4-23-2003

**Certified to be Effective:** 4-23-03

**Notice Publication Date:** 4-1-03

**Rules Amended:** 274-021-0005

**Rules Repealed:** 274-021-0005(T)

**Subject:** This rule replaces and supersedes the Temporary Rule 274-021-0005(T) filed on October 30, 2002, and effective November 1, 2002 through April 29, 2003.

The interest rate on contracts entered into on or after November 1, 2002, shall be seven percent fixed. The interest rate on contracts with approved work equity shall be one percent higher until the required improvements have been completed and approved.

**Rules Coordinator:** Charles E. Gehley—(503) 373-2142

## 274-021-0005

### Foreclosed and Deeded Property

(1) When properties acquired under ORS 407.135 and 407.145(1) are being sold pursuant to the provisions of ORS 407.375, the sale will be under the following terms:

(a) Must be offered first by sealed bid.

(b) Must be advertised in the local newspaper and comply with the following:

(A) Published at least once during the 15 days prior to the bid opening;

(B) Advise prospective buyers that of the bidders who are persons meeting the eligibility requirements under Article XI-A of the Oregon Constitution (eligible veteran), the one who submits the highest bid shall be given the opportunity to purchase the property for the amount of a higher bid submitted by the highest bidder who is not eligible for a veterans loan. In order to be given an opportunity to match a higher bid, a bidder eligible for a loan under Article XI-A of the Oregon Constitution will have a specified time to match highest bid. The matching bid must be made in writing by 5 p.m. on the date and at the place specified in the notification. The matching bid opportunity is only available to a veteran purchasing the property solely in his or her own name, or with a lawful spouse. If the highest bid is not matched by a person eligible for a loan under Article XI-A of the Oregon Constitution, the highest bid will be accepted;

(C) State the minimum bid that will be accepted.

(2) When properties acquired under ORS 407.135 and 407.145(1) are being sold pursuant to the provisions of ORS 407.377, the sale will be under the following terms:

(a) The person with whom the Director of the Oregon Department of Veterans' Affairs has entered into a personal services contract must post a "for sale" sign on the property; and

(b) The property must be advertised for sale at least once in a newspaper of general circulation in the locality where the property is located.

(3) Interest rates:

(a) The interest rate on contracts entered into without work equity on or after:

(A) June 22, 1996, shall be nine percent fixed;

(B) November 1, 2002, shall be seven percent fixed.

(b) The interest rate on contracts with approved work equity is subject to the provisions of subparagraph (4)(b)(B)(i) of this rule;

(c) After the original purchase from the State of Oregon, each time ownership of the property is transferred to anyone (veteran or nonveteran), other than the surviving spouse, unremarried former spouse, surviving child, or surviving stepchild of the owner, the interest rate from the date of such transfer shall be the same as the then-prevailing interest rate under subsection (3)(a) of this section, or the existing interest rate on the contract, whichever is higher;

(d) The Director may modify the terms of the contract if agreeable to all parties.

(4) Each property will be sold on contract unless the Director finds that in a particular transaction it would be in the best interest of the Department that the property be sold on a Deed of Trust, or for cash. The terms of all sales will be as follows:

(a) Length:

(A) The maximum length of the contract will be established by the purchase price, as follows:

(i) \$63,000 and over — 30 years;

(ii) \$35,000 - \$62,999.99 — 25 years;

(iii) \$15,000 - \$34,999.99 — 20 years;

(iv) \$10,000 - \$14,999.99 — 10 years;

(v) Under \$10,000 - 0 years (Cash Out Only)

(B) The Director may enter into a contract with terms different from the ones prescribed in this rule if the provisions of ORS 407.375(6) apply (no satisfactory bid received and sale negotiated).

(b) Down Payment:

(A) The term "purchase price" as used in this rule shall mean the actual purchase price agreed to by the purchaser and the Director;

(B) The Director may accept improvements of the property by the purchaser in lieu of other means of satisfying the down payment requirement, in which case the provisions of ORS 407.375(4) will apply and improvements in lieu of a cash down payment shall be subject to the following conditions and limitations:

(i) The interest rate on the contract shall be one percent higher than the base contract interest rate in effect at the time of purchase, until the required improvements have been completed, inspected, and a completion letter issued. After the completion letter is issued the Director will lower the interest rate to the base contract interest rate, adjust the payment to reflect the lower rate, and amortize the remaining principal balance within the remaining term of the contract, provided that the purchaser has complied with the occupancy requirements provided by section (9) of this rule. The adjusted payment will be effective on the first day of the second full month following the Director's written approval of the completed improvements;

(ii) Improvements in lieu of a cash down payment will not be allowed unless the contract purchaser will occupy the property being purchased as provided by section (9) of this rule;

(iii) Improvements in lieu of a cash down payment will not be allowed unless the value added to the property by completed improvements is \$500 or more;

(iv) The Director will not consent to an assignment of the contract until the required improvements have been completed to the sole satisfaction of the Director or payment of what the original down payment would have been at the time of purchase or the new owner of the property signs an agreement agreeing to complete the improvements;

(v) If the purchaser fails to complete all of the improvements within the time allowed by the Director or fails to make the property available for inspection by the Director's representative, the Director will give the purchaser 30 days notice to either complete all of the improvements or to pay a cash down payment. The down payment will be the amount the purchaser would have been required to pay if the property had been purchased without approved work equity. The Director will not give any allowance for completion of a portion of the improvements. If purchaser elects to make a cash down payment in lieu of completing improvements, the Director will lower the interest rate one percent to the base contract interest rate at the time of purchase, reamortize the remaining principal balance on the account, and adjust the principal and interest portion of the regular payment accordingly. Failure to complete all of the improvements or pay a cash down payment will constitute a default under the terms of the Contract of Sale. Thereafter, the Director may exercise any or all of the default remedies stated in the contract.

(C) The minimum down payment required will be established by whether the property will be owner-occupied, whether the property is classified as farm, residential, personal property, unique, unusual, or bare land, the asking price and the purchase price, as follows:

(i) Residential — Asking price less than \$80,000 — Five percent down payment if owner-occupied, otherwise 15 percent down payment. In cases where the purchase price is different than the asking price, the percentage (five or 15) will be applied to the purchase price;

(ii) Farm, Mobile Home With Land, Bare Land, Residential - Asking price \$80,000 or more - 10 percent down payment if owner-occupied, otherwise 20 percent down payment. In cases where the purchase price is different than the asking price, the percentage (10 or 20) will be applied to the purchase price;



# ADMINISTRATIVE RULES

(iii) Personal Property Mobile Home or Floating Home — 20 percent down payment if owner-occupied, otherwise 30 percent down payment;

(iv) Unique or Unusual Property — The required down payment will be stated on the property description sheet in an amount or percentage determined by the Director.

(5) A purchase of property from the Oregon Department of Veterans' Affairs will not be considered a loan under ORS 407.205.

(6) All purchasers must meet the department's repayment ability requirements.

(7) If a prospective purchaser submits more than one bid for the same property, only the highest such bid will be considered.

(8) The property will not be sold on contract to anyone who had an interest in the property at the time foreclosure action was commenced or a deed-in-lieu of foreclosure was accepted.

(9) A purchaser who states that he or she will be occupying the property in order to pay a lesser percentage of down payment and/or to receive approval of work equity must:

(a) Occupy the property within 60 days after the sale closes; and

(b) Continuously occupy the property as his or her principal primary residence for a period of not less than 365 days from the date of closing or initial occupancy, whichever is later.

(10) In the event purchaser fails to occupy the property as stated, the Director may require cash payment of an additional down payment. The required additional down payment will be the amount the purchaser would have been required to pay if the property had been purchased as nonowner-occupied, less any cash down payment received at closing. If work equity improvements were approved, the Director will not give any allowance for completion of all or any portion of the improvements. Following payment of the required additional down payment, the department will reamortize the remaining principal balance on the account and adjust the principal and interest portion of the regular payment accordingly.

Stat. Auth.: ORS 406.030, ORS 407.115, ORS 407.135, ORS 407.145, ORS 407.375 & ORS 407.377

Stats. Implemented: ORS 407.135, ORS 407.145, ORS 407.375 & ORS 407.377  
Hist.: DVA 8-1982(Temp), f. & ef. 4-6-82; DVA 13-1982, f. & ef. 5-17-82; DVA 7-1983, f. 5-13-83, ef. 5-15-83; DVA 14-1983, f. 11-29-83, ef. 12-1-83; DVA 5-1984(Temp), f. & ef. 7-17-84; DVA 1-1985, f. & ef. 1-15-85; DVA 6-1985, f. 5-22-85, ef. 7-1-85; DVA 11-1985, f. & ef. 11-5-85; DVA 4-1987, f. & ef. 5-1-87; DVA 7-1987, f. 9-30-87, ef. 10-1-87; DVA 5-1990, f. 8-20-90, cert. ef. 10-1-90; DVA 2-1991, f. 5-29-91, cert. ef. 6-3-91; DVA 3-1996, f. 6-21-96, cert. ef. 6-22-96; DVA 9-2002(Temp), f. 10-30-02, cert. ef. 11-1-02 thru 4-29-03; DVA 5-2003, f. & cert. ef. 4-23-03

## Employment Department Chapter 471

**Adm. Order No.:** ED 6-2003

**Filed with Sec. of State:** 4-25-2003

**Certified to be Effective:** 4-27-03

**Notice Publication Date:** 3-1-03

**Rules Amended:** 471-020-0035

**Subject:** The Employment Department is amending the new Employment Service rules to clarify when a fee may be charged in order for a job order to be listed with the Employment Department.  
**Rules Coordinator:** Richard L. Luthe—(503) 947-1724

### 471-020-0035

#### Job Orders

(1) All jobs listed with the Employment Department's job order system must:

(a) Be for an identifiable current job opening, or an identifiable future job opening;

(b) Establish an employer-employee relationship;

(c) Pay at least minimum wage, unless exempted by state or federal law; and

(d) Not contain terms or conditions of employment contrary to state or federal law.

(2) The Employment Department will not list job orders replacing workers that are out of work due to a labor dispute, as defined in OAR 471-030-0097.

(3) No job order will be accepted that charges a fee to candidates, unless:

(a) The fee is for a drug test and is charged only to individuals who have been offered work contingent on passing the drug test;

(b) The fee is for a physical examination to determine that the job offered is within the physical capabilities of the applicant and is only charged to individuals who have been offered work contingent upon passing the physical examination; or

(c) The fee is for a license, test or check (such as a background check) that is required by statute or law and is charged only to individuals who have been offered work contingent on obtaining the required license or passing the required test or check.

(4) Unless the conditions of any job order can reasonably be shown to be a "bona fide occupational requirement" (BFOQ), as determined by the Department, all employers making use of the Employment Department's job order system will abide by all state and federal laws relating to Equal Employment Opportunity, including prohibition against discrimination on the basis of:

(a) Race, color, or ethnicity;

(b) Religion;

(c) National origin;

(d) Sex;

(e) Age;

(f) Physical or mental disability; or

(g) Marital status.

Stat. Auth.: ORS 657.610

Stats. Implemented: ORS 657.610 & ORS 657.705 - ORS 657.725

Hist.: ED 3-2003, f. 2-14-03, cert. ef. 2-16-03; ED 6-2003, f. 4-25-03, cert. ef. 4-27-03

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**Adm. Order No.:** ED 7-2003

**Filed with Sec. of State:** 4-25-2003

**Certified to be Effective:** 4-27-03

**Notice Publication Date:** 3-1-03

**Rules Amended:** 471-040-0005

**Subject:** The Employment Department is amending this rule to clarify how an individual or employer may file a request for hearing.

**Rules Coordinator:** Richard L. Luthe—(503) 947-1724

### 471-040-0005

#### Request for Hearing

(1) A Request for hearing may be filed on forms provided by the Employment Department or similar offices in other states. Use of the form is not required provided the party specifically requests a hearing.

(2) A request for hearing may be filed in person, by mail, or by fax, with any Employment Department office in Oregon or any other employment security agency in any other state. A request for hearing may also be filed by e-mail or by telephone with the Hearing Officer Panel in Oregon.

(3) The filing date for any request for hearing shall be determined as follows:

(a) When delivered in person to any Employment Department office in the state of Oregon, or to any other employment security agency in any other state, the date of delivery, as evidenced by the receipt date stamped or written by the public employee who receives the document, shall be the filing date.

(b) When filed by mail, the date that the document is deposited in the United States mail, as evidenced by the postmark affixed by the United States Postal Service, shall be the filing date.

(c) When filed by fax, the date of filing shall be the encoded date on the fax document unless such date is absent, illegible, improbable or challenged, in which case the fax receipt date, if available, shall be the date of filing. If a filing date cannot otherwise be determined, the most probable date of faxing as determined by the Employment Department, shall be the date of filing.

(d) When filed by e-mail, the date of filing shall be the initial date of transmission of the e-mail.

(e) When filed by telephone, the date of filing shall be the date marked or stamped by the agency employee accepting the request for hearing.

(4) A request for hearing with respect to a claim for benefits shall not stay the payment of any benefits not placed in issue by the request for hearing, nor shall it stay an order previously entered allowing benefits.

Stat. Auth.: ORS 183.335, ORS 657.260, ORS 657.265 - ORS 657.270, ORS 657.335, ORS 657.610 & OL 1993, Ch. 729

Stats. Implemented: ORS 657.280, ORS 657.610 & ORS 657

Hist.: 1DE 150, f. & ef. 2-9-76; 1DE 5-1979, f. & ef. 8-27-79; ED 4-1994, f. & cert. ef. 9-2-94; ED 3-1999, f. 6-29-99, cert. ef. 7-4-99; ED 7-2003, f. 4-25-03, cert. ef. 4-27-03

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## Employment Department, Child Care Division Chapter 414

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

**Filed with Sec. of State:** 4-25-2003

**Certified to be Effective:** 4-27-03

# ADMINISTRATIVE RULES

**Notice Publication Date:** 3-1-03

**Rules Repealed:** 414-001-0000

**Subject:** The Employment Department is deleting this rule as it is obsolete.

**Rules Coordinator:** Richard L. Luthe—(503) 947-1724

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## Health Licensing Office Chapter 331

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

**Filed with Sec. of State:** 5-6-2003

**Certified to be Effective:** 5-15-03

**Notice Publication Date:** 3-1-03

**Rules Amended:** 331-205-0030

**Subject:** Fee increases for initial facility application fee from \$100 to \$150; facility license and renewal fees from \$100 to \$250; renewal of expired technician registration after 30 days \$35; and renewal of expired facility license after 30 days \$300. Fee replacement category is for a NSF assessment fee of \$25 in lieu of the \$25 civil fine currently in place for submitting payment, which is dishonored by the payor's financial institution.

**Rules Coordinator:** Patricia C. Allbritton—(503) 378-8667, ext. 4322

### 331-205-0030

#### Fees

(1) Payment of fees to the Health Licensing Office shall be made for the exact amount of the transaction. No monetary change will be transacted for payments made at the Program office. Application fees are non-refundable.

(2) If a NSF or non-negotiable instrument is received for payment of fees, copies of records or materials, or other services, a \$25 administrative processing fee will be assessed. The Agency may take any other disciplinary action against a licensee for failing to make good on any payment, in a timely manner, that has been returned to the Agency as NSF or non-negotiable by a financial institution.

(3) Payment of fees are deemed received by the Agency upon receipt in the Program office during regular business hours.

(4) The fee schedule is:

- (a) Application for facility license: \$150.
- (b) Initial, one-year facility license: \$275.
- (c) Annual renewal of facility license: \$275.
- (d) Renewal of expired facility license: \$300.
- (e) Technician application: \$10.
- (f) Initial technician registration: \$25.
- (g) Annual renewal of technician registration: \$25.
- (h) Renewal of expired technician registration: \$35.
- (i) Duplicate license or registration: \$10.

(5) The Agency shall not refund fees, civil penalties or other monies overpaid by an amount of \$10 or less, unless such refund is requested in writing by the payor within 3 years after the date of the overpayment.

(6) Monies received without indication as to purpose or intent or an amount of overpayment shall be applied toward any outstanding civil penalty balance owed.

Stat. Auth.: ORS 690.550 (Ch. 562, OL 1995, effective 9-9-95)

Stats. Implemented: ORS 690.550

Hist.: HDLB 1-1996, f. & cert. ef. 4-1-96; HLO 2-2003, f. 5-6-03, cert. ef. 5-15-03

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**Adm. Order No.:** HLO 3-2003

**Filed with Sec. of State:** 5-6-2003

**Certified to be Effective:** 5-15-03

**Notice Publication Date:** 3-1-03

**Rules Amended:** 331-405-0030

**Subject:** Fee increases have been adopted for initial issuance and license renewal, and written and practical examinations. Proposed fee increases corrected depleted revenues resulting from licensee attrition and increased costs of providing services and administering the licensing program.

**Rules Coordinator:** Patricia C. Allbritton—(503) 378-8667, ext. 4322

### 331-405-0030

#### Fees

(1) Payment of fees to the Health Licensing Office must be made for the exact amount due. Fees are non-refundable.

(2) Transactions submitted to the Health Licensing Office where either the payment or required documentation is incomplete or incorrect shall be returned to the payor for correction before being processed by the Health Licensing Office.

(3) Fees will be applied as directed by the payor. Fees misapplied may be corrected by written request specifying the license number(s) affected and the action requested, subject to conditions set forth in subsection (5) of this rule.

(4) Fees paid to the agency are not transferable between licenses or from person-to-person.

(5) Payments made by a licensee or applicant without explanation or as an overpayment shall be applied to any outstanding balance owed by licensee or applicant.

(6) FEE SCHEDULE: Fees established by the Board in consultation with the Health Licensing Office, and approved by the Department of Administrative Services are as follows:

(a) \$495 — Initial denturist license or relicensure fee.

(b) \$495 — Denturist license renewal fee.

(c) \$50 — Delinquency fee (late renewal).

(d) \$150 — Restoration of license fee.

(e) \$50 — Replacement or duplicate license fee.

(f) \$100 — Application fee

(g) Scheduled examination or re-examination fees:

(A) \$275 — Written examination;

(B) \$525 — Practical examination.

(C) \$400 — Oral pathology indorsement examination.

(D) \$400 — Oral pathology indorsement retake examination.

(h) If a NSF or non-negotiable instrument is received for payment of fees, copies of records or materials, or other services, a \$25 administrative processing fee will be assessed. The Agency may take any other disciplinary action against a licensee for failing to make good on any payment, in a timely manner, that has been returned to the Agency as NSF or non-negotiable by a financial institution.

Stat. Auth.: ORS 680.525

Stats. Implemented: ORS 680.525

Hist.: HD 11-1979(Temp), f. & ef. 8-23-79; HD 2-1980, f. & ef. 2-14-80; HD 11-1981(Temp), f. & ef. 7-15-81; HD 9-1985(Temp), f. & ef. 5-24-85; HD 15-1985, f. & ef. 9-4-85; HD 25-1988(Temp), f. & cert. ef. 11-1-88; HD 4-1989, f. & cert. ef. 6-1-89; HD 13-1991(Temp), f. & cert. ef. 9-30-91; HD 3-1992, f. & cert. ef. 3-25-92; HD 22-1993, f. 12-30-93, cert. ef. 1-1-94; HDLP 3-1998, f. 6-26-98, cert. ef. 7-1-98, Renumbered from 333-020-0035; HDLP 1-2001, f. 3-21-01, cert. ef. 4-1-01; HLO 3-2003, f. 5-6-03, cert. ef. 5-15-03

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## Health Licensing Office, Sanitarians Registration Board Chapter 338

**Adm. Order No.:** SRB 1-2003(Temp)

**Filed with Sec. of State:** 4-25-2003

**Certified to be Effective:** 4-25-03 thru 10-17-03

**Notice Publication Date:**

**Rules Amended:** 338-010-0030

**Subject:** Suspends the current rule for a passing test score of 70% to a score that corresponds with the National passing standard, 68%. The new score will rely on quantifiable national standards that are reviewed and validated by the National Environmental Health Association.

**Rules Coordinator:** Patricia C. Allbritton—(503) 378-8667, ext. 4322

### 338-010-0030

#### Examination

(1) The Board shall conduct examinations at least twice a year. A schedule of examination dates and times shall be available upon request. The Board reserves the right to alter or adjust examination dates, times and locations as it deems necessary to meet emergency situations and will notify applicants in advance.

(2) The Board may, if it deems necessary delegate the authority for oral examination of candidates to a sub-committee of its members to be held separately from the Board meeting.

(3) Candidates shall qualify for examination upon compliance with all applicable provisions of OAR 338-010-0015, 338-010-0017 and 338-010-

# ADMINISTRATIVE RULES

0025. Candidates will not be allowed to sit for the examination if documentation is incomplete or incorrect.

(4) Candidates shall present photographic identification, such as a driver's license, to the examination proctor.

(5) In order to qualify for registration, the candidate shall:

(a) Receive a passing score of at least 68 percent on the written examination;

(b) Complete a minimum of 18 months of the qualified work experience as defined in OAR 338-005-0020(35) and required pursuant to OAR 338-010-0015(2) or (3) prior to eligibility for the oral examination;

(c) Demonstrate to the Board, in an oral examination, which establishes the qualifications and ability to practice as a sanitarian or waste water sanitarian, including the ability to perform scientific investigations in response to particular situations.

(6) **EXAMINATION CONDUCT:** Examinations are conducted in a designated area with restricted access. Examination conduct differs between the sanitarian, waste water sanitarian, and oral examinations. Authorization for bringing any written material or electronic equipment or devices is subject to approval of the Board. Taking unauthorized items into the examination area may invalidate the examination and result in forfeiture of the examination and fees.

(7) **EXAMINATION DISQUALIFICATION:** A candidate will be immediately disqualified during or after the examination for conduct that interferes with the examination. Such conduct includes:

(a) Giving or attempting to give assistance to others in answering questions during the examination;

(b) Receiving or attempting to receive assistance during the examination, including assistance from other individuals, from notes, books or devices to answer questions;

(c) Removing or attempting to remove any secure examination-related information, notes, or materials from the examination site;

(d) Failing to follow directions relative to the conduct of the examination;

(e) Exhibiting behavior which impedes the normal progress of the examination; and

(f) Endangering the health or safety of a person involved in the examination.

(8) Disqualification will invalidate the examination and result in forfeiture of the examination and fees. The candidate will be required to reapply, submit additional examination fees, and request in writing to schedule another examination at a date and time determined by the Board. Reexamination may take place following a one year delay from the date of disqualification or at the discretion of the Board.

Stat. Auth.: ORS 700.050, ORS 700.059 & ORS 700.240

Stats. Implemented: ORS 700.050, ORS 700.059 & ORS 700.240

Hist.: SRB 2, f. 4-7-72, ef. 5-1-72; SRB 1-1985, f. & ef. 11-1-85; SRB 1-1993, f. & cert. ef. 3-18-93; SRB 2-1996, f. 5-31-96, cert. ef. 6-1-96; SRB 1-1998, f. 4-29-98, cert. ef. 5-1-98; SRB 1-2003(Temp), f. & cert. ef. 4-25-03 thru 10-17-03

## Oregon Board of Dentistry Chapter 818

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

**Filed with Sec. of State:** 4-18-2003

**Certified to be Effective:** 4-18-03

**Notice Publication Date:** 3-1-03

**Rules Amended:** 818-021-0011, 818-021-0025

**Subject:** The rules are amended to remove the requirement that applicants for licensure by this pathway have passed the written National Board examinations. This is the permanent adoption of temporary rules that were effective in July 2002.

**Rules Coordinator:** Sharon Ingram—(503) 229-5520

### 818-021-0011

#### Application for License to Practice Dentistry Without Further Examination

(1) The Oregon Board of Dentistry may grant a license without further examination to a dentist who holds a license to practice dentistry in another state or states if the dentist meets the requirements set forth in ORS 679.060 and 679.065 and submits to the Board satisfactory evidence of:

(a) Having graduated from a school of dentistry accredited by the Commission on Dental Accreditation of the American Dental Association; or

(b) Having graduated from a dental school located outside the United States or Canada, completion of a predoctoral dental education program of not less than two years at a dental school accredited by the Commission on

Dental Accreditation of the American Dental Association, and proficiency in the English language; and

(c) Having passed the dental clinical examination conducted by a regional testing agency or by a state dental licensing authority; and

(d) Holding an active license to practice dentistry, without restrictions, in another state; including documentation from the state dental board(s) or equivalent authority, that the applicant was issued a license to practice dentistry, without restrictions, and whether or not the licensee is, or has been, the subject of any final or pending disciplinary action; and

(e) Having conducted licensed clinical practice in other states or in the Armed Forces of the United States, the United States Public Health Service or the United States Department of Veterans Affairs for a minimum of 3,500 hours in the five years immediately prior to application; and

(f) Having completed 40 hours of continuing education in accordance with the Board's continuing education requirements contained in these rules within the two years immediately preceding application.

(2) Applicants must pass the Board's Jurisprudence Examination.

(3) A background check will be conducted by the Board or its designee.

(4) A dental license granted under this rule will be the same as the license held in another state; i.e., if the dentist holds a general dentistry license, the Oregon Board will issue a general (unlimited) dentistry license. If the dentist holds a license limited to the practice of a specialty, the Oregon Board will issue a license limited to the practice of that specialty. If the dentist holds more than one license, the Oregon Board will issue a dental license which is least restrictive.

Stat. Auth.: ORS 679

Stats. Implemented: ORS 679.060, ORS 679.065, ORS 679.070, ORS 679.080 & ORS 679.090

Hist.: OBD 4-1999, f. 6-25-99, cert. ef. 7-1-99; OBD 4-2001, f. & cert. ef. 1-8-01; OBD 12-2001(Temp), f. & cert. ef. 1-9-01 thru 7-7-01; OBD 14-2001(Temp), f. 8-2-01, cert. ef. 8-15-01 thru 2-10-02; OBD 15-2001, f. 12-7-01, cert. ef. 1-1-02; OBD 1-2002(Temp), f. & cert. ef. 7-17-02 thru 1-12-03; Administrative correction 4-16-03; OBD 1-2003, f. & cert. ef. 4-18-03

### 818-021-0025

#### Application for License to Practice Dental Hygiene Without Further Examination

(1) The Oregon Board of Dentistry may grant a license without further examination to a dental hygienist who holds a license to practice dental hygiene in another state or states if the dental hygienist meets the requirements set forth in ORS 680.040 and 680.050 and submits to the Board satisfactory evidence of:

(a) Having graduated from a dental hygiene program accredited by the Commission on Dental Accreditation of the American Dental Association; or

(b) Having graduated from a dental hygiene program located outside the United States or Canada, completion of not less than one year in a program accredited by the Commission on Dental Accreditation of the American Dental Association, and proficiency in the English language; and

(c) Evidence of having passed the dental hygiene examination conducted by a regional testing agency or by a state dental or dental hygiene licensing authority; and

(d) Holding an active license to practice dental hygiene, without restrictions, in another state; including documentation from the state dental board(s) or equivalent authority, that the applicant was issued a license to practice dental hygiene, without restrictions, and whether or not the licensee is, or has been, the subject of any final or pending disciplinary action; and

(e) Having conducted licensed clinical practice in other states or in the Armed Forces of the United States, the United States Public Health Service or the United States Department of Veterans Affairs for a minimum of 3,500 hours in the five years immediately prior to application; and

(f) Having completed 24 hours of continuing education in accordance with the Board's continuing education requirements contained in these rules within the two years immediately preceding application.

(2) Applicants must pass the Board's Jurisprudence Examination.

(3) A background check will be conducted by the Board or its designee.

Stat. Auth.: ORS 680

Stats. Implemented: ORS 680.040, ORS 680.050, ORS 680.060, ORS 680.070 & ORS 680.072

Hist.: OBD 4-1999, f. 6-25-99, cert. ef. 7-1-99; OBD 4-2001, f. & cert. ef. 1-8-01; OBD 12-2001(Temp), f. & cert. ef. 1-9-01 thru 7-7-01; OBD 14-2001(Temp), f. 8-2-01, cert. ef. 8-15-01 thru 2-10-02; OBD 15-2001, f. 12-7-01, cert. ef. 1-1-02; OBD 1-2002(Temp), f. & cert. ef. 7-17-02 thru 1-12-03; Administrative correction 4-16-03; OBD 1-2003, f. & cert. ef. 4-18-03

# ADMINISTRATIVE RULES

## Oregon Department of Education Chapter 581

**Adm. Order No.:** ODE 6-2003

**Filed with Sec. of State:** 4-29-2003

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**Subject:** Special Education Rules. If you have questions regarding these rules, please contact Suzy Harris at (503) 378-3600, ext. 2333 or e-mail suzy.harris@state.or.us. If you want a copy of a rule, please contact Debby Ryan at (503) 378-3600, ext. 2348 or e-mail debby.ryan@state.or.us

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### 581-015-0017

#### School Programs in Private Hospitals

(1) For purposes of this rule:

(a) "Patient" means a school age child;

(b) "Specialized intensive treatment" means that the hospital maintains special facilities, equipment, and staff;

(c) "School district" means the school district in which the private hospital is located.

(2) Private hospitals not including psychiatric facilities may submit an application for approval of a school program to the State Superintendent of Public Instruction. The application submitted shall include verification that:

(a) The hospital admits patients from throughout the state;

(b) The hospital provides specialized intensive treatment that is unique and generally not available in local community hospitals;

(c) The hospital provides services to patients who have severe, low incidence types of disabling conditions including but not limited to burns, orthopedic impairments, and head injuries, but not including drug and alcohol problems;

(d) The hospital admits patients who can be expected to be hospitalized for five days or more or readmitted frequently; and

(e) The facility is licensed as a hospital under OAR 333-500-0010(1)(a).

(3) Approval of the application by the State Superintendent of Public Instruction establishes the hospital program's eligibility to receive state funds.

(4) All patients are eligible to receive educational services. Educational services need not commence until a patient's hospital stay is expected to last five school days or longer and the hospital staff has determined the patient is medically able to receive educational services.

(5) The school district contracting to provide the education program shall develop or implement an existing individualized education program that meets all applicable state and federal requirements for patients who meet eligibility criteria for a disability under OAR 581-015-0051.

(6) The primary purpose of the school program for hospitalized patients is to maintain the patient's educational programs. For patients working toward a GED, the school program staff shall continue the student's work in that program.

(7) The hospital shall:

(a) Provide classroom space and facilities necessary to carry out the educational program for each patient;

(b) Coordinate with the school program in developing each patient's educational and medical treatment needs; and

(c) Assume responsibility for the transportation, care, treatment, and medical costs of each patient.

(8) All teachers in the hospital school program shall have appropriate teacher certification under rules of the Teacher Standards and Practices Commission. At least one teacher or supervisor in the school program serving the hospital shall have special education certification appropriate to the age and disability of patients served.

(9) Upon initial application or approval of a school program in a private hospital the Oregon Department of Education shall review the application, inspect the school program facility and confer with hospital authorities as necessary. The Department will then advise the private hospital whether the school program is approved or disapproved and under what conditions; if approved, the date upon which funds will be available for

operation of the school program, and the effective date and length of the approval. The hospital may reapply for approval at the expiration of each approval period.

(10) The Department shall monitor each program for compliance with applicable state and federal requirements.

(11) The State Superintendent of Public Instruction shall ensure that the school district contracting to provide the educational program meets the following requirements:

(a) The program is operated under a written agreement with the Department of Education;

(b) Each nondisabled child has a personalized educational plan that includes goals, services, timelines, and assessment of progress;

(c) Information pertaining to the educational programs is provided to the Department in an accurate and timely manner; and

(d) The educational program is developed and implemented in conjunction with the medical treatment program.

Stat. Auth.: ORS 343

Stats. Implemented: ORS 343.261

Hist.: EB 29-1987, f. & ef. 11-19-87; EB 16-1990, f. & cert. ef. 4-5-90; ODE 2-2003, f. & cert. ef. 3-10-03; ODE 6-2003, f. 4-29-03, cert. ef. 4-30-03

### 581-015-0053

#### Eligibility Determination Procedures

(1) Upon completing the administration of tests and other evaluation materials, a team shall determine whether the child is a child with a disability under OAR 581-015-0051

(a) The team shall include the parent and two or more professionals, at least one of who is knowledgeable and experienced in the evaluation and education of children with the suspected disability. This team may be the child's IEP team.

(b) For a child suspected of having a specific learning disability, the team shall also include:

(A) The child's regular classroom teacher or, if the child does not have a regular classroom teacher, a regular classroom teacher qualified to teach a child of his or her age; and

(B) A person qualified to conduct individual diagnostic examinations of children, such as a school psychologist, speech-language pathologist, or other qualified professional.

(2) The team shall prepare a written statement of eligibility.

(a) The written statement of eligibility shall include:

(A) All evaluation data considered in determining the child's eligibility;

(B) A determination of whether the child meets the minimum evaluation criteria for one of the disability categories in OAR 581-015-0051 or 581-015-0942;

(C) A determination of whether the primary basis for the suspected disability is:

(i) A lack of instruction in reading or math; or

(ii) Limited English proficiency;

(D) A determination of whether the child's disability has an adverse impact on the child's educational performance;

(E) A determination of whether, as a result of the disability, the child needs special education services; and

(F) The signature of each member of the team indicating agreement or disagreement with the eligibility determination.

(b) For a child suspected of having a specific learning disability, the team's written report and documentation of determination of eligibility shall also include statements regarding:

(A) Whether the child has a specific learning disability;

(B) The basis for the determination;

(C) The relevant behavior noted during the observation of the child;

(D) The relationship of that behavior to the child's academic functioning;

(E) The educationally relevant medical findings, if any;

(F) Whether there is a significant discrepancy between achievement and ability which is not correctable without special education; and

(G) The determination of the team concerning the effects of environmental, cultural, or economic disadvantage.

(H) Each team member shall certify either:

(i) Agreement with the report; or

(ii) Disagreement, with a separate statement of conclusions.

(3) The team shall determine a child to be eligible under this rule if the child has a disability and needs special education and related services, even though the child is advancing from grade to grade.

(4) For a child who may have disabilities in more than one category, the team need only qualify the child under one disability category.

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However, the child shall be evaluated in all areas related to the suspected disability or disabilities, and the child's IEP shall address all of the child's special education needs.

(5) The team may not find a child eligible for special education services if:

(a) The determinant factor for that eligibility decision is:

(A) Lack of instruction in reading or math; or

(B) Limited English proficiency; and

(b) The child does not otherwise meet the eligibility criteria under OAR-015-0051.

(6) The school district shall provide a copy of the evaluation report and the documentation of determination of eligibility to the parent.

Stat. Auth.: ORS 343.045; ORS 343.155; & ORS 343.157

Stats. Implemented: ORS 343.035, ORS 343.157, ORS 343.227; 34 CFR 300.7(6), 34 CFR 300.530 - 300.534 & 34 CFR 300.540 - 300.543

Hist.: EB 22-1995, f. & cert. ef. 9-15-95; ODE 12-2000, f. 5-3-00, cert. ef. 5-3-00; ODE 6-2003, f. 4-29-03, cert. ef. 4-30-03

## 581-015-0074

### Reevaluation

(1) Educational agencies shall ensure that a reevaluation of each child with a disability is conducted every three years, or more frequently if conditions warrant or if the child's parent or teacher requests an evaluation.

(2) As part of the reevaluation, the child's IEP or IFSP team shall review existing data and determine what, if any, additional assessment data are needed in accordance with OAR 581-015-0701.

(3) In determining whether a child continues to have a disability, the team shall address all of the evaluation components and minimum eligibility criteria of the child's eligibility category under OAR 581-015-0051, except as described in subsection (4).

(4) Upon a request for a reevaluation, the school district shall either:

(a) Provide the parent with prior written notice of the proposed evaluation under OAR 581-015-0075 and obtain written parent consent in conformance with OAR 581-015-0039 and 0042(2); or

(b) Provide the parent with prior written notice under OAR 581-015-0075 of the school district's refusal to conduct a reevaluation.

(5) Parents may challenge a school district's refusal to conduct a reevaluation under OAR 581-015-0081.

Stat. Auth.: ORS 343.157 & ORS 343.173

Stats. Implemented: ORS 343.157, ORS 343.173 & 20 USC § 1412(5)(c)

Hist.: 1EB 269, f. & ef. 12-22-77; EB 22-1995, f. & cert. ef. 9-15-95; ODE 12-2000, f. 5-3-00, cert. ef. 5-3-00; ODE 6-2003, f. 4-29-03, cert. ef. 4-30-03

## 581-015-0108

### Definitions

The following definitions apply to OAR 581-015-0109:

(1) "Student with a disability under Section 504" means any student who:

(a) Has a physical or mental impairment that substantially limits one or more major life activities;

(b) Has a record of such an impairment; or

(c) Is regarded as having such an impairment.

(2) As used in section (1) of this rule:

(a) "Physical or mental impairment" means any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; endocrine; any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities;

(b) "Major life activities" means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working;

(c) "Has a record of such impairment" means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities;

(d) "Is regarded as having an impairment" means:

(A) Has a physical or mental impairment that does not substantially limit major life activities but that is treated by a recipient as constituting such a limitation;

(B) Has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others towards such impairment;

(C) Has none of the impairments defined in subsection (2)(a) of this rule but is treated by a school district as having such an impairment.

(3) "Qualified student with a disability under Section 504" means a student with a disability under Section 504 who is:

(a) Of an age during which non-disabled persons are provided educational services;

(b) Of any age during which it is mandatory under state law to provide such services to students with disabilities; or

(c) To whom a state is required to provide a free appropriate public education under the Individuals with Disabilities Education Act.

(4) "School District" means a school district as defined in ORS 343.153.

Stat. Auth.: ORS 326 & ORS 323.055

Stats. Implemented: ORS 343.041

Hist.: EB 7-1987(Temp), f. & ef. 5-11-87; EB 24-1988, f. & cert. ef. 5-24-88; ODE 6-2003, f. 4-29-03, cert. ef. 4-30-03

## 581-015-0109

### Procedures for a Hearing under Section 504 of the Rehabilitation Act of 1973

(1) The parent or guardian of a qualified student with a disability under section 504 may file a written request for a hearing with the State Superintendent of Public Instruction with respect to actions regarding the identification, evaluation, provision of a free appropriate education, or education placement of the student with the disability under Section 504, which the parent or guardian alleges to be in violation of Section 504 of the Rehabilitation Act of 1973, Public Law 93-112, or any amendment thereof. In such event, the Superintendent shall conduct a hearing.

(2) The school district involved in the hearing shall be responsible for the costs of the hearing.

(3) The parties shall be entitled to the procedural rights under OAR 581-015-0080 with the exceptions of the stay-put provision in OAR 581-015-0080(3)(f)(A) and the right to obtain at no cost a written or electronic verbatim record of the hearing in OAR 581-015-0080(3)(f)(B)(iv), both of which shall not apply to a hearing under this rule.

(4) Nothing in this rule is meant to prevent the parties from also seeking due process remedies under the Individuals with Disabilities Education Act as set forth in OAR 581-015-0080 through 581-015-0093 and 581-015-0096.

Stat. Auth.: ORS 326 & ORS 343.055

Stats. Implemented: ORS 343.041

Hist.: EB 7-1987(Temp), f. & ef. 5-11-87; EB 24-1988, f. & cert. ef. 5-24-88; EB 24-1990, f. & cert. ef. 5-18-90; EB 9-1993, f. & cert. ef. 3-25-93; ODE 6-2003, f. 4-29-03, cert. ef. 4-30-03

## 581-015-0141

### Obligations of Public Agencies that Contract with Approved Private Schools

(1) For the purposes of this rule, "public agency" means school districts and other public agencies that contract to provide EI/ECSE or special education. Public agencies may contract with private schools that are approved by the Department as contractors for EI/ECSE or special education pursuant to OAR 581-015-0126 and 581-015-0131.

(2) For a child birth through age 21, the public agency shall fulfill all federal and state requirements relating to the evaluation, individualized family service plan or individualized education program development, and placement when determining whether the child shall be placed in an approved private school for EI/ECSE services. For children ages 3 through 21, the public agency also shall determine whether placement in an approved private school constitutes a free appropriate public education in the least restrictive environment for each child.

(3) A public agency that proposes to place a child with a disability in an approved private school shall ensure that:

(a) The school-aged child is a resident of the school district under Oregon law; or

(b) The public agency is under contract to provide early intervention or early childhood special education for children age birth through eligibility for entry into kindergarten; and

(c) The child is eligible to receive EI/ECSE or special education services.

(4) Before the public agency places a child with a disability in an approved private school:

(a) The public agency shall initiate and conduct an individualized family service plan or individualized education program meeting that includes a representative of the approved private school and at which an individualized family service plan or individualized education program is developed based upon the needs of the child.

(b) If a representative of the approved private school is unable to attend the individualized family service plan or individualized education program meeting, the public agency shall use other methods to ensure participation including, but not limited to, individual or conference telephone calls, or individual meetings.

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(5) After a public agency initially places a child in an approved private school, any subsequent meetings to review or revise an individualized family service plan or individualized education program shall be the responsibility of the public agency.

(6) The public agency may request by written agreement that the approved private school initiate and conduct individualized family service plan or individualized education program meetings to review and revise an individualized family service plan or individualized education program. If the approved private school initiates and conducts these meetings, the public agency shall ensure that the parents and a representative of the public agency:

(a) Are involved in any decision about the child's individualized family service plan or individualized education program; and

(b) Agree to any proposed changes in the program before those changes are implemented.

(7) The public agency shall conduct the meeting pursuant to OAR 581-015-0061 to determine the annual educational placement of a child.

(8) The public agency placing a child age 3 through 21 in an approved private school shall ensure that the child and the child's parents receive all the rights and protections as required for children with disabilities served by public agencies as set forth in federal law and in OAR chapter 581, division 015.

(9) The school district where the child resides shall ensure that transportation is provided to and from the approved private school.

Stat. Auth.: ORS 343.041 & ORS 343.055

Stats. Implemented: ORS 343.041 & ORS 343.221

Hist.: 1EB 40-1978, f. & ef. 10-5-78; EB 18-1994, f. & cert. ef. 12-15-94; ODE 16-2000, f. & cert. ef. 5-23-00; ODE 6-2003, f. 4-29-03, cert. ef. 4-30-03

## 581-015-0291

### Definitions for Regional Programs

The following definitions apply to OAR 581-015-0292 through 581-015-0296 unless otherwise indicated by the context.

(1) "Regional program" means direct or consultative services funded through the Department provided on a single or multi-county basis that assist school districts and early intervention/ early childhood special education providers in meeting the unique needs of eligible children.

(2) "Consultation services" means technical assistance to or conferring with the local education agency and staff or early intervention/early childhood special education providers and staff or families to assist them to provide services to eligible children.

(3) "Superintendent" means the State Superintendent of Public Instruction.

(4) "Administrative Unit" means the school district or ESD within each region chosen to operate the regional program through contract with the Department of Education.

(5) "Department" means the Oregon Department of Education.

(6) "Direct services" means services provided to the child by regional specialists.

(7) "Eligible children" means children with low-incidence, high need disabilities who need the services of the regional program.

(8) "Low incidence, high need disabilities" means one or more of the following categories under OAR 581-015-0051: autism spectrum disorder, deafblindness, hearing impairment, orthopedic impairment, and vision impairment. A child with an orthopedic impairment is eligible for regional services only if determined to be severely orthopedically impaired by his/her eligibility team based on eligibility tool(s) approved by the Department.

(9) "Services" means early intervention services, early childhood special education and/or related services, and special education and/or related services, as defined in OARs 581-015-0900 and 581-015-0005, respectively.

Stat. Auth.: ORS 343.236(3)

Stats. Implemented: ORS 343.236

Hist.: EB 27-1988, f. & cert. ef. 6-9-88; EB 10-1996, f. & cert. ef. 6-26-96; ODE 6-2003, f. 4-29-03, cert. ef. 4-30-03

## 581-015-0293

### Eligibility for Regional Services

(1) The determination of a child's eligibility for services as a child with autism spectrum disorder, deafblindness, hearing impairment, orthopedic impairment, or vision impairment shall be the responsibility of:

(a) The resident school district for children who are at the age of eligibility for kindergarten through age 21 in accordance with OAR 581-015-0051; or

(b) The designated referral and evaluation agency for children who are at the age of eligibility for:

(A) Early intervention, from birth until the age of three in accordance with OAR 581-015-0946; and

(B) Early childhood special education, from the age of three until eligible for kindergarten in accordance with OAR 581-015-0942.

(2) Regional programs may assist the local district or designated referral and evaluation agency in evaluating and/or determining eligibility when the local district or the designated referral and evaluation agency does not have a person trained and experienced in the area of the suspected disability(ies).

(3) A child who is found eligible for services as a child with autism spectrum disorder, deafblindness, hearing impairment, or vision impairment shall be eligible for regional services if the child needs regional program services.

(4) A child who is found eligible for services as a child with orthopedic impairment shall be eligible for regional services if the child is determined to be severely orthopedically impaired by his/her eligibility team based on eligibility tool(s) approved by the Department, and needs regional program services.

Stat. Auth.: ORS 343.236(a)

Stats. Implemented: ORS 343.236

Hist.: EB 27-1988, f. & cert. ef. 6-9-88; EB 10-1996, f. & cert. ef. 6-26-96; ODE 6-2003, f. 4-29-03, cert. ef. 4-30-03

## 581-015-0294

### Referral for Regional Services

In referring a child to the regional program, the district or early intervention/early childhood special education program shall provide the regional coordinator with the following information:

(1) A request for regional services;

(2) A statement of a child's eligibility in one of the following categories, if previously determined: autism spectrum disorder; deafblindness, hearing impairment, orthopedic impairment, vision impairment, or;

(3) A statement from the child's eligibility team for a child who is severely orthopedically impaired, including eligibility tool(s) approved by the Department, if previously determined; and

(4) Additional information as the regional coordinator or other regional program representative may request.

Stat. Auth.: ORS 343.236(a)

Stats. Implemented: ORS 343.236

Hist.: EB 27-1988, f. & cert. ef. 6-9-88; EB 10-1996, f. & cert. ef. 6-26-96; ODE 6-2003, f. 4-29-03, cert. ef. 4-30-03

## 581-015-0301

### Youth Corrections Education and Juvenile Detention Education Programs

(1) Definitions:

(a) "Youth Corrections Education Program" means the provision of educational services to youths in youth correction facilities of the Oregon Youth Authority, and includes secure regional youth facilities, regional accountability camps, residential academies and satellites, camps and branches of those facilities.

(b) "Juvenile Detention Education Program" means the provision of educational services to youths lodged overnight who receive educational services on consecutive days within a detention facility.

(2) Youth Corrections Education Program: The following administrative rules shall apply to education programs for youth housed in Oregon Youth Authority youth correctional facilities:

(a) Special Education Rules, OARs 581-015-0005, 581-015-0033 through 581-015-0042, 581-015-0048 through 581-015-0109, and 581-015-0550 through 581-015-0704;

(b) School Improvement and Professional Development Rules, OARs 581-020-0005 through 581-020-0200;

(c) School Governance and Student Conduct, OARs 581-021-0037 through 581-021-0440;

(d) Standards for Public Elementary and Secondary Schools, OARs 581-022-0102 through 581-022-0413, 581-022-0606, 581-022-0610, 581-022-0705, 581-022-1020 through 581-022-1210, 581-022-1310 through 581-022-1340, 581-022-1420, 581-022-1440, 581-022-1520, 581-022-1610 through 581-022-1670, 581-022-1710 through 581-022-1730;

(e) Funds to State and Local Agencies to Provide Employment and Training Services Under the Workforce Investment Act (formerly the Job Training Partnership Act (JPTA)), OARs 581-060-0010 through 581-060-0020;

(f) Teacher Standards and Practices Commission Rules.

(3) Juvenile Detention Education Program: All rules applicable to education programs for OYA youth correction facilities, as set out in sec-

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tions (1) of this rule, apply to educational programs for juvenile detention facilities.

(a) Students may not be suspended or expelled from juvenile detention education programs.

(b) Juvenile directors and the school district or education service district responsible for the education of students in a juvenile detention education program under contract with the Department will sign a letter of agreement establishing each agency's areas of responsibility and duties.

Stat. Auth.: ORS 343

Stats. Implemented: ORS 343.980(1)

Hist.: EB 3-1997, f. & cert. ef. 4-25-97; ODE 6-2003, f. 4-29-03, cert. ef. 4-30-03

## 581-015-0606

### Access to Student Education Records

(1) School districts shall give parents of children with disabilities an opportunity to examine all student education records in accordance with this rule and OAR 581-021-0220 through 581-021-0440.

(2) A school district shall comply with a request from a parent to examine student education records without unnecessary delay and before any meeting regarding an IEP, or any due process hearing and in no case more than 45 days after the request has been made.

(3) The rights accorded to parents regarding student educational records shall transfer to the student at age of majority if other rights transfer.

Stat. Auth.: ORS 343.055

Stats. Implemented: SB 363 Sec. 1 & 2, amending ORS 399

Hist.: ODE 4-2000, f. & cert. ef. 2-1-00; ODE 6-2003, f. 4-29-03, cert. ef. 4-30-03

## 581-015-0704

### Approval of Alternate IEP Forms

(1) A school district may use an alternate form in the development, review and revision of IEPs if the Department approves the alternate form.

(2) The Department shall develop criteria for approval of submitted alternate forms. These criteria shall include, but not be limited to:

(a) Whether the alternate form meets the requirements for the contents of an IEP under OARs 581-015-0066, 581-015-0068, 581-015-0102, 581-015-0568 and 581-015-0605; and

(b) Whether use of the alternate form will reduce unnecessary or confusing paperwork.

(3) The Department may establish dates for submission of the alternate form for approval.

(4) Within 10 days of the established date of submission of the alternate form for approval, the Department shall decide;

(a) Whether the alternate form is approved or disapproved; and

(b) Any conditions that apply to the use of the alternate form.

(5) The school district may ask for a reconsideration of the decision within 30 days of receiving the Department's decision in subsection (4). The Department will issue a written response to the district of the reconsideration within 30 days of receiving the request.

(6) If the school district changes or modifies the approved alternate form they must submit the form for approval prior to its use.

(7) The decisions of the Department shall be final.

Stat. Auth.: ORS 343.155 - ORS 343.183

Stats. Implemented: ORS 343.155 - ORS 343.183

Hist.: ODE 17-2000, f. & cert. ef. 5-23-00; ODE 6-2003, f. 4-29-03, cert. ef. 4-30-03

## 581-015-0705

### Definitions for Parentally Placed Private School Children

For the purposes of OAR 581-015-0038 to 0196 and 581-015-0706 to 581-015-0709, the following definitions apply:

(1) "Enrolled in a public school or ECSE program" means enrolled in, attending, and, for children ages 7 to 18, not exempt from compulsory school attendance as a private school student.

(2) "IDEA funds" means federal funds allocated to the public agency under the Individuals with Disabilities Education Act of June 4, 1997.

(3) "Private school child with a disability" means:

(a) A child who has been enrolled by their parent in a private school or facility who is:

(A) A school-age child eligible for special education under OAR 581-015-0051 and who, if aged 7 to 18, is exempt from compulsory school attendance under ORS 339.115; or

(B) A child aged 3 until the age of eligibility for public school who is eligible for early childhood special education under OAR 581-015-051 or as a child with a developmental delay under 581-015-0942.

(b) This term includes school-age children who are exempt from compulsory school attendance under ORS 339.115, even if a school district permits the student to attend one or more classes pursuant to a district policy permitting dual enrollment.

(c) This term does not include:

(A) Children three years of age until the age of eligibility for public school who can be provided a free appropriate public education in a private preschool or child care setting selected and paid for by their parents; or

(B) Children who are exempt from compulsory school attendance under ORS 339.115 as a home schooled student; or

(C) Children who are not of compulsory school attendance age who have rejected public agency services but who are not attending a private school; or

(D) Children who are placed in a private school by the public agency.

(4) "Public agency" means:

(a) For school-aged children, their resident school district; and

(b) For children aged 3 up to school-age, the Department.

(5) "Representatives of private school children with disabilities" means individuals selected from staff of private schools located in the public agency's jurisdiction and parents of private school children with disabilities, and other individuals who are knowledgeable about the needs of private school children with disabilities.

(6) "Service plan" means an individually developed plan that describes the special education, related services or modifications or accommodations that will be provided by the public agency for a private school child with disabilities. Unlike an IEP or IFSP, a service plan does not need to provide a free appropriate public education.

Stat. Auth.: ORS 343.055 & ORS 343.157

Stat. Implemented: ORS 343.055

Hist.: ODE 16-2000, f. & cert. ef. 5-23-00; ODE 6-2003, f. 4-29-03, cert. ef. 4-30-03

## 581-015-0706

### Expenditures for Parentally Placed Private School Children

(1) Formulas for determining funds available for provision of special education and related services to private school children with disabilities:

(a) For school-age children: Each school district shall spend an amount that is the same proportion of the school district's total subgrant of IDEA funds as the number of school-age private school children with disabilities residing in its jurisdiction is to the total number of school-age children with disabilities in its jurisdiction.

(b) For private school children with disabilities aged 3 up to school-age, the Department shall spend:

(A) An amount that is the same proportion of the Department's total IDEA fund subgrant under section 611(g) for ECSE children as the number of ECSE private school children with disabilities residing in its jurisdiction is to the total number of ECSE children with disabilities in its jurisdiction; and

(B) An amount that is the same proportion of the Department's total IDEA fund subgrant under section 619(g) of the Act as the number of ECSE private school children with disabilities residing in its jurisdiction is to the total number of ECSE children with disabilities in its jurisdiction.

(2) Private School Child Count:

(a) Each school district, for school-age children, and the Department, for ECSE children, shall:

(A) Consult with representatives of private school children in deciding how to conduct the annual count of the number of private school children with disabilities; and

(B) Ensure that the count is conducted on December 1 of each year.

(b) The child count must be used to determine the amount that the school district and the Department, respectively, shall spend on providing special education and related services to private school children with disabilities in the next subsequent fiscal year.

(3) Expenditures for child find activities described in OAR 581-015-0037 may not be considered in determining whether the school district or Department, respectively, have met the requirements of section (1).

(4) School districts and the Department, respectively, are neither required to or prohibited from providing services to private school children with disabilities in excess of those required by this part, consistent with State law or local policy.

(5) The cost of the transportation described in OAR 581-015-0151(5) may be included in calculating whether the public agency has met the requirement of section (1) of this rule.

Stat. Auth.: ORS 343.055 & ORS 343.157

Stat. Implemented: ORS 343.055

Hist.: ODE 16-2000, f. & cert. ef. 5-23-00; ODE 6-2003, f. 4-29-03, cert. ef. 4-30-03

## 581-015-0940

### Prior Written Notice and Notice of Procedural Safeguards (EI/ECSE Program)

(1) Prior written notice shall be given to the parent or surrogate parent a reasonable time before the contractor or subcontractor initiates or

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changes, or refuses to initiate or change, the identification, evaluation, placement of the child; or

(a) The provision of appropriate EI services if the child is from birth to age three; or

(b) The provision of a free appropriate public education to the child if the child is three years of age to eligibility for public school.

(2) Prior written notice must be given after a decision is made and a reasonable time before the decision is implemented.

(3) The content of the prior written notice shall include:

(a) A description of the action proposed or refused by the contractor or subcontractor;

(b) An explanation of why the contractor or subcontractor proposed or refused to take the action;

(c) A description of any options that the contractor or subcontractor considered and reasons why those options were rejected;

(d) A description of each evaluation procedure, test, record, or report which is directly relevant to the proposal or refusal;

(e) A description of any other factors that are relevant to the contractor's or subcontractor's proposal or refusal;

(f) A statement that the parents of a child with a disability have procedural safeguards and the means by which a copy of the Notice of Procedural Safeguards may be obtained;

(g) Sources for parents to contact to obtain assistance in understanding their procedural safeguards; and

(h) For children in EI, a statement of the complaint procedures under OAR 581-015-0054, including a description of how to file a complaint and the timelines under those procedures.

(4) The prior notice shall be:

(a) Written in language understandable to the general public; and

(b) Provided in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so.

(5) If the native language or other mode of communication of the parent is not a written language, the contractor or subcontractor shall take steps to ensure that:

(a) The notice is translated orally or by other means to the parent in the parent's native language or other mode of communication;

(b) A reasonable effort is made to aid the parent in understanding the content of the notice; and

(c) There is written evidence that the requirements in subsections (5)(a) and (b) of this rule have been met.

(6) If a parent is deaf or blind, or has no written language, the mode of communication shall be that normally used by the parent (such as sign language, Braille, or oral communication).

(7) If the proposed action requires prior written notice and written consent, the contractor or subcontractor may give notice at the same time it requests consent.

(8) Notice of Procedural Safeguards: Contractors and subcontractors shall provide notice of Procedural Safeguards as described in OAR 581-015-0079.

Stat. Auth.: ORS 343.465 - ORS 343.534

Stats. Implemented: 34 CFR 300.504 - 505, ORS 343.521, ORS 343.527 & ORS 343.531

Hist.: EB 23-1992, f. & cert. ef. 6-23-92; EB 4-1995, f. & cert. ef. 1-24-95; EB 27-1995, f. & cert. ef. 12-11-95; ODE 24-2000, f. & cert. ef. 10-16-00; ODE 8-2001, f. & cert. ef. 1-29-01; ODE 6-2003, f. 4-29-03, cert. ef. 4-30-03

## 581-015-0941

### ECSE Evaluation

(1) When evaluating children suspected of being eligible for ECSE, school districts shall ensure that the procedures in OAR 581-015-0070 to 0074, and 581-015-0700 are followed by the agency(ies) conducting the evaluation.

(2) In addition, the following evaluation shall be conducted:

(a) A review of existing evaluation data by following the procedures in OAR 581-015-0701; and

(b) For a child suspected of having any of the following disabilities, an evaluation in all areas of the suspected disability following OAR 581-015-0051:

(A) Autism spectrum disorder;

(B) Communication disorder;

(C) Deafblindness;

(D) Emotional disturbance;

(E) Hearing impairment;

(F) Mental retardation;

(G) Orthopedic impairment;

(H) Other health impaired;

(I) Specific learning disability;

(J) Traumatic brain injury;

(K) Visual impairment; or

(c) If no categorical disability area is suspected, then an evaluation for determining a developmental delay as follows:

(A) At least one norm referenced, standardized test in each area of suspected delay;

(B) At least one additional procedure to confirm the child's level of functioning in each area of suspected delay;

(C) At least one 20-minute observation of the child;

(D) Review of previous testing, medical data, and parent reports; and

(E) Other evaluative information as necessary to determine eligibility.

Stat. Auth.: ORS 343.465 - ORS 343.534

Stats. Implemented: ORS 343.475

Hist.: EB 4-1995, f. & cert. ef. 1-24-95; ODE 24-2000, f. & cert. ef. 10-16-00; ODE 6-2003, f. 4-29-03, cert. ef. 4-30-03

## 581-015-0949

### Provision of EI Services Before an Evaluation and Assessment Are Completed

Early intervention services for an eligible child and the child's family may begin before the completion of the evaluation and assessment process described in OAR 581-015-0945 if the following conditions are met:

(1) Parental consent for evaluation and services is obtained;

(2) An interim IFSP is developed that includes:

(a) The name of the service coordinator who will be responsible for implementation of the interim IFSP and coordination with other agencies and persons; and

(b) The EI services that have been determined to be needed immediately by the child and the child's family; and

(c) The evaluation and assessment are completed within the 45 calendar days as required in OAR 581-015-0945(1)(d).

Stat. Auth.: ORS 343.465 - ORS 343.534

Stats. Implemented: ORS 343.475

Hist.: EB 4-1995, f. & cert. ef. 1-24-95; ODE 24-2000, f. & cert. ef. 10-16-00; ODE 6-2003, f. 4-29-03, cert. ef. 4-30-03

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**Adm. Order No.:** ODE 7-2003(Temp)

**Filed with Sec. of State:** 5-15-2003

**Certified to be Effective:** 5-15-03 thru 11-1-03

**Notice Publication Date:**

**Rules Adopted:** 581-021-0021

**Subject:** Mercury Elimination Policies — Senate Bill 594 was enacted during the 2001 Legislative Session. This bill requires the State Board to adopt administrative rules to eliminate the use and purchase of elemental mercury, mercury compounds and mercury added instructional materials by public elementary and secondary schools. The administrative rule proposed here would implement that statutory requirement.

For questions regarding this rule, please contact Randy Harnisch at (503) 378-3600, ext. 2348 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)

**Rules Coordinator:** Debby Ryan—(503) 378-3600, ext. 2348

## 581-021-0021

### Mercury Elimination Policy

(1) Definitions:

(a) "Mercury-added instructional material" means an item or product containing intentionally added elemental mercury or mercury compound(s) used for educational purposes.

(b) "Mercury compound" means a substance consisting mercury chemically combined with another element or combination of elements, e.g. mercury oxide (HgO).

(c) "Elemental mercury" means the silvery-white liquid metal with atomic number of 80 and an atomic mass of 200.57 represented by chemical symbol Hg.

(2) All Oregon school districts must adopt and implement policies for public elementary and secondary schools to:

(a) Prohibit the purchase of elemental mercury, mercury compounds and mercury-added instructional materials before the beginning of school year 2003/2004;

(b) Eliminate all elemental mercury and mercury compounds that are maintained for educational purposes, for example, vials of liquid mercury and samples of mercury compounds contained in chemistry class stockrooms by the end of the 2003 - 2004 school year;



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(c) Eliminate the use of mercury-added instructional materials as those materials are replaced at the end of their normal useful lives or before the beginning of the 2004 - 2005 school year, whichever comes first; and

(d) Eliminate the use of items and products containing elemental mercury or mercury compounds, as those items and products are replaced at the end of their normal useful lives with cost-effective mercury-free alternatives.

(3) Mercury elimination policies must include, but are not limited to, the following:

(a) A process to inventory schools for mercury containing items;

(b) A statement that only mercury-free materials and items will be purchased, whenever possible;

(c) A statement that when instructional materials, items and products containing elemental mercury and mercury compounds are replaced, those materials, items and products will be disposed of following Oregon Department of Environmental Quality guidelines.

Stat. Auth.: ORS 326.051(b)

Stats. Implemented: ORS 326.051(g)

Hist.: ODE 7-2003(Temp), f. & cert. ef. 5-15-03 thru 11-1-03

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## Oregon Economic and Community Development Department Chapter 123

**Adm. Order No.:** EDD 5-2003(Temp)

**Filed with Sec. of State:** 5-2-2003

**Certified to be Effective:** 5-2-03 thru 9-30-03

**Notice Publication Date:**

**Rules Adopted:** 123-049-0006, 123-049-0061

**Subject:** Provides for temporary incorporation and addition to rule, by reference, of an addendum to the current program handbook/guidelines for the State of Oregon's operation of the federally funded Drinking Water State Revolving Fund, under the U.S. Safe Drinking Water Act and the Environmental Protection Agency. This addendum will provide critical clarification and establishment of modifications to this Fund in the interim before a new handbook is completed and updated for permanent adoption. Also, a key element of this addendum and temporary rulemaking is formalization of an ancillary loan fund for projects directed not a public water system infrastructure, but rather at protecting the source of water used by the system.

**Rules Coordinator:** Margie N. Druery—(503) 986-0206

### 123-049-0006

#### Handbook Addendum

Along with and in addition to the document identified in OAR 123-049-0005(3), the "ADDENDUM: Safe Drinking Water Revolving Loan Fund Guidelines & Applicant's Handbook" (April 2003) is:

(1) The principal source of information on these programs, as prepared by the Department;

(2) Available by contacting any of the Department's teams of regionally assigned staff;

(3) Incorporated into and adopted as part of this division of administrative rules, by reference; and

(4) Subject to the same definitions as used in this division of administrative rules.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 285A.075(5), ORS 285A.110(1) & ORS 285A.213(4)

Stats. Implemented: ORS 285A.213

Hist.: EDD 5-2003(Temp), f. & cert. ef. 5-2-03 thru 9-30-03

### 123-049-0061

#### Drinking Water Protection Loan Fund

(1) For purposes of implementing section 1452(k)(1) of the Act, the Department shall administer loans to public water systems for protecting surface and underground sources of drinking water, in order to solve or prevent health problems before the water is collected or treated by the system.

(2) The moneys for these loans are derived from the "local assistance" set-aside of the federal capitalization grant, such that unused amounts will be transferred to the Fund, and repayments shall be either added to the Fund or placed in a dedicated account for further lending under this rule.

(3) The loans under this rule are distinct from the Fund. Relevant provisions of this division of administrative rules, however, shall apply to the administration of such loans.

(4) For purposes of this rule, administration includes underwriting assessments, loan awards, contract execution, disbursements, loan repay-

ments and so forth. Health Services (Oregon Department of Human Services) and the Oregon Department of Environmental Quality shall handle determinations of eligibility, prioritization of loan recipients and related duties.

(5) More specific guidelines for the loans under this rule are available from the Department in the addendum cited in OAR 123-049-0006.

Stat. Auth.: ORS 285A.075(5), ORS 285A.110(1) & ORS 285A.213(4)

Stats. Implemented: ORS 285A.213

Hist.: EDD 5-2003(Temp), f. & cert. ef. 5-2-03 thru 9-30-03

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## Oregon Housing and Community Services Chapter 813

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

**Filed with Sec. of State:** 5-1-2003

**Certified to be Effective:** 5-1-03

**Notice Publication Date:** 4-1-03

**Rules Adopted:** 813-350-0005, 813-350-0010, 813-350-0020, 813-350-0030, 813-350-0040, 813-350-0050, 813-350-0060, 813-350-0070

**Subject:** These rules implement the General Guarantee Program and establishes the process by which the Department may provide loan guarantees to lenders, sponsors and leasing companies for the development of suitable housing for low- and very-low income families and individuals including, but not limited to, disabled persons, farmworkers and ex-offenders.

**Rules Coordinator:** Sandy McDonnell—(503) 986-2012

### 813-350-0005

#### Purpose and Objectives

OAR chapter 813, division 350 is promulgated to accomplish the general purposes of ORS 456.515 to 456.725, and more specifically, of ORS 456.625(12) and 456.625(16), which respectively authorize the Department to implement actions that the Department deems necessary or appropriate to carry out housing and community services programs, and to employ certain funds, inter alia, for loan guarantees. The General Guarantee Program as set forth in this Division establishes the process by which the Department may provide such loan guarantees to lenders, and lease guarantees to sponsors and leasing companies for the development of suitable housing for low and very-low income families and individuals including, but not limited to, disabled persons, farmworkers, and ex-offenders.

Stat. Auth.: ORS 183, ORS 456.552(2), ORS 456.625(12)(16)

Stats. Implemented: ORS 456.625(12)(16)

Hist.: OHCS 2-2003, f. & cert. ef. 5-1-03

### 813-350-0010

#### Definitions

(1) Words and terms are used in OAR chapter 813, division 350, consistently with definitions in the Act, in OAR 813-005-0005 and herein.

(2) As used in OAR chapter 813, division 350, unless otherwise indicated by the context:

(a) "Control" means the ownership, management, or maintenance of a housing project;

(b) "Employer(s)" also means relatives, agents, or associations of employers;

(c) "Ex-Offender" means an offender returning to the community from prison or from local control jail sentences.

(d) "Farmworker" means any person working in connection with: cultivating the soil, raising or harvesting any agricultural or aquaculture commodity; catching, netting, handling, planting, drying, grading, storing, or preserving in its unmanufactured state any agriculture or aquaculture commodity; delivering to storage, market, or a carrier for transportation to market, or to processing, any agriculture or aquaculture commodity; forestation or reforestation of land, including but not limited to, the planting, transportation, tubing, precommercial thinning of trees and seedlings, the clearing, pulling, and disposal of brush and slash, and other related activities; or as otherwise determined by the Department in the exercise of its authority;

(e) "Leasing Company" means a bank, finance company, or other person or entity, that in the ordinary course of business, acquires goods or the right to possession and use of goods and transfers the right to possession and use of such goods under a lease;

(f) "Lender" means financial institutions, including but not limited to, state and federal regulated banks, credit unions, savings and loans, savings banks, finance companies, life insurance companies, pension funds, mortgage bankers, and other public or private lending consortiums;

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(g) "Low Income" means an individual or household with an adjusted annual household income that is more than 50 percent, but less than 80 percent of the area median income, as determined by the Department based on information including, but not limited to data from the United States Department of Housing and Urban Development, with allowances for family size;

(h) "Very-Low Income" means an individual or household with an adjusted annual household income that is 50 percent or less of the area median income, as determined by the Department based on information including, but not limited to data from the United States Department of Housing and Urban Development, with allowances for family size.

Stat. Auth.: ORS 183, ORS 456.555(2), ORS 456.625(12)(16)  
Stats. Implemented: ORS 456.515 - ORS 456.725  
Hist.: OHCS 2-2003, f. & cert. ef. 5-1-03

## 813-350-0020

### Source of Guarantee Funding

The Department may provide loan and lease guarantees under this Division from:

(1) Unrestricted cash and investments of the Department made available for use as loan and lease guarantees, not needed for operations of the Department and not otherwise determined by the Director to be a necessary or prudent reserve;

(2) Resources made available to the Department for loan and lease guarantees from other financial institutions, including but not limited to, Federal Home Loan Bank and Fannie Mae; and,

(3) Appropriations for this purpose.  
Stat. Auth.: ORS 183, ORS 456.555(2), ORS 456.625(12)(16)  
Stats. Implemented: ORS 456.515 - ORS 456.725  
Hist.: OHCS 2-2003, f. & cert. ef. 5-1-03

## 813-350-0030

### Eligibility for Guarantees

(1) The Department may provide guarantees for the partial repayment of loans made by lenders to finance the construction, development, acquisition, and/or rehabilitation of, and/or for the partial repayment of leases made by sponsors or leasing companies to facilitate the equipping, development or operation of:

(a) Suitable housing for low and/or very-low income persons and households including, but not limited to, suitable housing for disabled persons, farmworkers, and suitable transitional housing for ex-offenders;

(b) The commercial component of a structure that contains both commercial property and suitable housing for low and/or very-low income individuals and households; or

(c) Both (a) and (b).

(2) The Department may not:

(a) Issue any loan guarantee under this Division that guarantees the repayment of more than 25 percent of any qualifying loan obligation;

(b) Issue any loan or lease guarantee under this Division equal to or in excess of \$100,000 without obtaining the prior approval of the Housing Council;

(c) Issue any single loan or lease guarantee under this Division in excess of \$500,000;

(d) Issue loan and lease guarantees under this Division in an aggregate outstanding amount in excess of \$4,000,000; and

(e) Issue lease guarantees under this Division in an aggregate outstanding amount in excess of \$1,000,000.

(3) The Department may choose at any time not to maximize its loan and/or lease guarantee authority under this Division.

Stat. Auth.: ORS 183, ORS 456.555(2), ORS 456.625(12)(16)  
Stats. Implemented: ORS 456.515 - ORS 456.725  
Hist.: OHCS 2-2003, f. & cert. ef. 5-1-03

## 813-350-0040

### Application Procedure and Requirements

(1) To obtain a loan or lease guarantee under this Division, a lender, sponsor or leasing company must submit a request for a loan or lease guarantee to the Department, in form and content satisfactory to the Department.

(2) The request must include the following documents and information, all in form and content satisfactory to the Department:

(a) A written description of the project needing credit enhancement including, but not limited to, the number of units, unit mix, proposed rents, site location and amenities;

(b) A statement of the project purpose indicating the housing type and residents to be housed;

(c) A proforma of project expenses and income;

(d) The loan and/or lease guarantee amount requested;

(e) A statement of total project development costs, including a description of all additional project funding and credit enhancement sources;

(f) A description of the sponsor/developer/owner/manager experience in developing and operating housing projects; and

(g) Such other documents and information as the Department may require.

(3) The Department may identify periods of time when it will accept or not accept loan and/or lease guarantee applications.

(4) The Department may solicit requests for loan and/or lease applications.

Stat. Auth.: ORS 183, ORS 456.555(2), ORS 456.625(12)(16)  
Stats. Implemented: ORS 456.515 - ORS 456.725  
Hist.: OHCS 2-2003, f. & cert. ef. 5-1-03

## 813-350-0050

### Criteria for Guarantees

(1) The Department has no obligation to issue any loan and/or lease guarantee in response to any loan and/or lease guarantee request made pursuant to this Division.

(2) In evaluating whether or not to provide a loan and/or lease guarantee, or the amount of any such guarantee, the Department may consider factors including, but not limited to the following:

(a) The responsiveness and accuracy of the request;

(b) The need of the project for the guarantee;

(c) The availability of other credit enhancement vehicles;

(d) The credit worthiness of the project;

(e) The experience and ability of the project sponsor;

(f) The experience and ability of the lender and/or leasing company;

(g) The location and need for the project;

(h) The availability of Department funds and guarantee authority;

(i) The Department's experience with and/or the reputation of the lender, leasing company and/or sponsor, including without limitation, any of their agents, representatives, employees or contractors;

(j) The amount, quality, and duration of suitable lower income housing to be provided or enabled by the project;

(k) The mix of low and very-low income housing to be provided or enabled; and

(l) Any other information obtained by or made available to the Department.

(3) The Department may give a preference for a loan and/or lease guarantee based upon factors including, but not limited those described in subparagraph (2) and to the following:

(a) Providing the greatest number of suitable housing units constructed, acquired, developed or rehabilitated for the least amount of guarantee, granted or committed;

(b) The longest possible use for the units as lower income housing units;

(c) Providing suitable housing for a seasonal work force, where a critical need for housing such a work force exists; and

(d) Providing suitable housing for specific populations, which have historically faced barriers in finding housing, and which are identified as having a priority in the Consolidated Plan or its successor or in a state-acknowledged initiative;

(4) In evaluating housing projects that serve a predominantly non-English speaking population, the Department may give subordinate preference to projects which mitigate the language barrier impact in the provision of supportive services.

Stat. Auth.: ORS 183, ORS 456.555(2), ORS 456.625(12)(16)  
Stats. Implemented: ORS 456.515 - ORS 456.725  
Hist.: OHCS 2-2003, f. & cert. ef. 5-1-03

## 813-350-0060

### Fees

(1) A nonrefundable fee of \$250.00 must be submitted with each request for a loan and/or lease guarantee.

(2) A lender, sponsor or leasing company receiving a loan or lease guarantee will be charged, and must pay, an annual fee of one percent of the guaranteed amount. Payment shall be remitted to the Department not less than annually as designated by the Department. All fees are nonrefundable.

(3) Line of credit guarantee fees will be based by the Department, and charged, on the total credit line.

(4) The Department may charge other fees, as determined necessary or appropriate by the Department to cover actual and anticipated costs of a guarantee including, without limitation, its issuance and its evaluation, or to reduce the financial risk to the Department of making a guarantee.

Stat. Auth.: ORS 183, ORS 456.555(2), ORS 456.625(12)(16)  
Stats. Implemented: ORS 456.515 - ORS 456.725  
Hist.: OHCS 2-2003, f. & cert. ef. 5-1-03

# ADMINISTRATIVE RULES

## 813-350-0070

### Waiver

The Director may waive or modify any requirement of OAR 813, division 350, unless such waiver or modification would violate applicable state or federal statutes or regulations.

Stat. Auth.: ORS 183, ORS 456.555(2), ORS 456.625(12)(16)

Stats. Implemented: ORS 456.515 - ORS 456.725

Hist.: OHCS 2-2003, f. & cert. ef. 5-1-03

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**Adm. Order No.:** OHCS 3-2003

**Filed with Sec. of State:** 5-12-2003

**Certified to be Effective:** 5-12-03

**Notice Publication Date:** 4-1-03

**Rules Adopted:** 813-220-0001, 813-220-0015, 813-220-0070

**Rules Amended:** 813-220-0010, 813-220-0020, 813-220-0030, 813-220-0050, 813-220-0060

**Rules Repealed:** 813-220-0040

**Rules Ren. & Amended:** 813-220-0000 to 813-220-0005

**Subject:** 813-220-0001 is a new rule describing the purpose and objectives of the program. 813-220-0005 (renumbered from 813-220-0000) is amended to provide further clarification to definitions that are commonly used in the program. 813-220-0010 incorporates language to clarify the relationship between the department and Regional Coordinating Agencies and the State Coordinating Agency. Additional clarification is provided on the handling of damaged shipments. 813-220-0015 establishes the requirements imposed on Regional Coordinating Agencies by the State Coordinating Agency. 813-220-0020 incorporates general housekeeping to clarify language. 813-220-0030 incorporates general housekeeping to clarify language on the distribution of commodities. Adds language that the availability of Title II Commodities must be publicized and distributed in their respective Service Areas to ensure a maximum number of potential eligible households are reached. 813-220-0040 - Rule deleted. 813-220-0050 - Added language that Regional Coordinating Agencies must submit monthly progress reports to the Oregon Food Bank and the Department and maintain records as required by federal and state rules. This language was previously incorporated in 813-220-0040. General housekeeping was also incorporated to clarify language. 813-220-0060 - General housekeeping was incorporated to clarify language. 813-220-0070 is a new rule providing the Director of the Department the ability to waive or modify any requirement of OAR Chapter 813, Division 220.

**Rules Coordinator:** Sandy McDonnell—(503) 986-2012

## 813-220-0001

### Purpose and Objectives

OAR chapter 813, division 220, is promulgated to accomplish the general purpose of ORS 458.505 to 458.545, specifically ORS 458.525 to 458.530, which designates the Housing and Community Services as the lead agency to coordinate state efforts in meeting the problem of hunger. OAR chapter 813, division 220, describes the Emergency Food Assistance Program, which operates through a network of service-provider agencies at the local level. The Department has been designated as the state agency responsible for administering the Emergency Food Assistance Program. The Program's objective is to provide lower-income households with food for home use.

Stat. Auth.: ORS 458.505 - ORS 458.545

Stats. Implemented: ORS 458.525 - ORS 458.530

Hist.: OHCS 3-2003, f. & cert. ef. 5-12-03

## 813-220-0005

### Definitions

All terms used in OAR chapter 813, division 220, are defined in the Act, and in OAR 813-005-0005. As used in OAR chapter 813, division 220, unless otherwise indicated by the context:

(1) "Eligible Services" means services provided in accordance with the rules and regulations governing the Program.

(2) "Low Income Household" means a Household with an income at or below 185 percent of the Poverty Line.

(3) "Program" means the Emergency Food Assistance Program authorized by Public Law 98-8 as extended by Public Law 98-92.

(4) "Regional Coordinating Agency or "RCA" means any public or private, nonprofit agency which has subcontracted with the State

Coordinating Agency to relieve situations of emergency and distress through distribution of Title II Commodities to local designated food assistance programs such as congregate meal sites, temporary shelters, and emergency food pantries and through those programs to Low Income Households.

(5) "State Coordinating Agency" or "SCA" means a private, nonprofit organization designated by the Department to coordinate in Oregon the distribution of Title II Commodities provided through the program.

(6) "Storage and Distribution Costs" means direct costs incurred by the Department, SCA and/or RCA for the operation of the Program, including but not limited to, intrastate storage and distribution of Title II Commodities.

(7) "Title II Commodities" means commodities provided to Low Income Households under the Program.

(8) "USDA" means the United States Department of Agriculture.

(9) "Value of Commodities Distributed" means the USDA's cost of acquiring Title II Commodities for distribution under this Program.

Stat. Auth.: ORS 184 & ORS 458.505 - ORS 458.515

Stats. Implemented: ORS 458.505 - ORS 458.515

Hist.: HR 2-1983(Temp), f. & ef. 7-28-83; HR 1-1984, f. & ef. 5-30-84; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 410-090-0000; HSG 8-1993, f. & cert. ef. 10-1-93;

OHCS 3-2003, f. & cert. ef. 5-12-03, Renumbered from 813-220-0000

## 813-220-0010

### Administration

(1) The agency has been designated, through a letter agreement, has designated the Oregon Food Bank, a private, nonprofit corporation, organized under ORS Chapter 65, as the Program's State Coordinating Agency.

(2) The State Coordinating Agency shall select and subcontract with Regional Coordinating Agencies to carry out Program activities at the local level.

(3) The RCAs shall coordinate, in as much as it is practical and responsible to do so, with other service agencies in their specific service areas.

(4) Reimbursement by the Department of the Storage and Distribution Costs of the SCA and RCA shall be limited to USDA allocations to the Department and further shall not exceed five percent of the Value of Commodities Distributed by the SCA.

(5) The reimbursement described in OAR 813-220-0010(4) above shall be paid by the Department to the SCA. The SCA shall be responsible for paying to each RCA its proportionate share of the moneys received from the Department as reimbursement for Program Storage and Distribution Costs.

(6) If the SCA or RCA receives a shipment containing damaged or spoiled Title II Commodities and such damage or spoilage totals less than 5,000 pounds, a local or state health inspector shall be notified and asked to examine the damage or spoilage. If because of damage or spoilage, Title II Commodities are declared unfit for human consumption, they shall be destroyed or disposed of as specified by the USDA. If the damaged or spoiled Title II Commodities in a shipment total 5,000 or more pounds, a federal health inspection shall be requested by the SCA or RCA. If the damaged or spoiled Title II Commodities are declared unfit for human consumption, the Title II Commodities in question shall be reclaimed by the USDA.

(7) The RCAs shall use public and quasi-public sites and facilities, such as schools, churches and government buildings, for distribution of Title II Commodities. The RCAs shall not use any private sites to distribute Title II Commodities unless a waiver has been granted by the SCA and the Department.

(8) The SCA and RCA's shall comply with all applicable state and federal rules and regulations.

Stat. Auth.: ORS 184 & ORS 458.505 - ORS 458.515

Stats. Implemented: ORS 458.505 - ORS 458.515

Hist.: HR 2-1983(Temp), f. & ef. 7-28-83; HR 1-1984, f. & ef. 5-30-84; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 410-090-0005; HSG 8-1993, f. & cert. ef. 10-1-93;

OHCS 3-2003, f. & cert. ef. 5-12-03

## 813-220-0015

### Requirements Imposed on RCAs

(1) Prior to providing services, an RCA shall sign a contract with the SCA. That contract shall include information on, but not be limited to, the following:

(a) The projected level of funds and Title II Commodities available to the RCA under the Program;

(b) The contract effective date and term;

(c) The time period during which the RCA can obligate funds;

(d) Program eligibility requirements;

(e) Eligible Services; and

# ADMINISTRATIVE RULES

(f) Fiscal report, Program report and audit requirements.

(2) The RCA shall provide monthly reports to the SCA in a format prescribed by the SCA and the Department. This report shall include, but not be limited to:

(a) The number of Low Income Households to whom services were provided;

(b) The type of services provided;

(c) Problems encountered;

(d) Corrective action taken; and

(e) Storage and Distribution Costs for the month.

(3) Under no circumstances shall program recipients be required to make any payments in money, materials, or services for, or in connection with, participation in this Program, nor shall donations of any kind be solicited from Program recipients.

Stat. Auth.: ORS 183 & ORS 458.505 - ORS 458.515

Stats Implemented: ORS 458.525 - ORS 458.530

Hist.: OHCS 3-2003, f. & cert. ef. 5-12-03

## 813-220-0020

### Client Eligibility

(1) Title II Commodities shall be made available to Low Income Households. Participation in such programs as Food Stamps, Temporary Assistance to Low Income Families, SSI, State General Assistance, Low-Income Energy Assistance and the Oregon Supplemental Income Program shall establish Household's eligibility under the Program.

(2) Households may also establish their eligibility to participate in the Program through a self-declaration of income at or below 130 percent of the Poverty Line. The period for determining eligibility shall not be more than 12 months nor less than one month preceding receipt of assistance under the Program.

Stat. Auth.: ORS 183 & ORS 458.505 - ORS 458.515

Stats Implemented: ORS 458.505 - ORS 458.515

Hist.: HR 2-1983(Temp), f. & ef. 7-28-83; HR 1-1984, f. & ef. 5-30-84; HR 2-1985, f. & ef. 2-5-85; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 410-090-0010; OHCS 3-2003, f. & cert. ef. 5-12-03

## 813-220-0030

### Services Provided

(1) The SCA and RCAs shall distribute Title II Commodities under the Program to Low Income Households through emergency food box programs and participating soup kitchens.

(2) The SCA and RCAs shall assist Low Income Households to access services designed to meet other, existing needs, whenever possible.

(3) RCAs shall publicize the availability of Title II Commodities and distribute those Title II Commodities in their respective Service Areas in such a manner that a maximum number of potential eligible Households are reached.

Stat. Auth.: ORS 184 & ORS 458.505 - ORS 458.515

Stats Implemented: ORS 458.505 - ORS 458.515

Hist.: HR 1-1984, f. & ef. 5-30-84; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 410-090-0015; HSG 8-1993, f. & cert. ef. 10-1-93; OHCS 3-2003, f. & cert. ef. 5-12-03

## 813-220-0050

### Fiscal Control/Reporting Requirements/Documents

(1) The SCA and all RCAs shall maintain records which document the receipt, disposition and inventory of Title II Commodities received through this Program.

(2) At every transfer point (e.g., from SCA to RCA and from RCA to recipient), a receipt documenting the transfer must be signed by a responsible person. The transfer of Title II Commodities from an RCA (or an RCA's distribution site) to a client may either be documented by client receipt or by record of such distribution signed by the staff/volunteer responsible for such distribution.

(3) The signature of individual recipients on distribution sheets may serve as a receipt for Title II Commodities provided to them.

(4) The SCA and RCAs shall document spoilage received in Title II Commodity shipments, including the extent of such spoilage and its disposition.

(5) The RCAs shall submit monthly progress reports to Oregon Food Bank and the Department.

(6) The SCA's shall provide the Department with an annual audit of Program and fiscal transactions within 120 days after the close of its fiscal year.

(7) Records of Program activities and fiscal transactions shall be maintained by the SCA and RCAs for a period of three years and shall be made available to federal, state and, in the case of the RCAs, the SCA on request. The SCA and RCAs shall insure that proper records are kept at all distribution sites.

(8) The SCA and each RCA shall maintain records as required by federal and state rules.

Stat. Auth.: ORS 184 & ORS 458.505 - ORS 458.515

Stats. Implemented: ORS 458.505 - ORS 458.515

Hist.: HR 2-1983(Temp), f. & ef. 7-28-83; HR 1-1984, f. & ef. 5-30-84; HR 2-1985, f. & ef. 2-5-85; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 410-090-0025; HSG 8-1993, f. & cert. ef. 10-1-93; OHCS 3-2003, f. & cert. ef. 5-12-03

## 813-220-0060

### Monitoring

(1) The Department may conduct on-site evaluations once per federal fiscal year of RCAs and all Community Action Partner (CAP) related agencies.

(2) During these evaluations, the Department may examine records and facilities which document eligibility determinations, food ordering procedures, storage and warehousing practices, inventory controls, sub-distribution site approval processes, reporting and record keeping requirements and a sampling of the RCAs sub-distribution sites.

(3) If the Department determines that an RCA is not in compliance with applicable state or federal regulations, the Department shall, within 30 working days of the close of the on-site evaluation, send to the RCA and the SCA a corrective action notice which shall include at a minimum:

(a) A description of the identified deficiency;

(b) The possible causes of the deficiency;

(c) The time frame within which corrective action must be taken; and

(d) Any requirements for documenting corrective action taken.

Stat. Auth.: ORS 184 & ORS 458.505 - ORS 458.515

Stats. Implemented: ORS 458.505 - ORS 458.515

Hist.: HR 2-1985, f. & ef. 2-5-85; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 410-090-0030; HSG 8-1993, f. & cert. ef. 10-1-93; OHCS 3-2003, f. & cert. ef. 5-12-03

## 813-220-0070

### Waiver

The Director may waive or modify any requirements of OAR chapter 813, division 220, unless such waiver or modification would violate applicable federal or state statutes or regulations.

Stat. Auth.: ORS 183 & ORS 458.505 - ORS 458.515

Stats Implemented: ORS 458.525 - ORS 458.530

Hist.: OHCS 3-2003, f. & cert. ef. 5-12-03

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**Adm. Order No.:** OHCS 4-2003

**Filed with Sec. of State:** 5-12-2003

**Certified to be Effective:** 5-12-03

**Notice Publication Date:** 4-1-03

**Rules Adopted:** 813-250-0050

**Rules Amended:** 813-250-0000, 813-250-0010, 813-250-0020, 813-250-0030, 813-250-0040

**Subject:** 813-250-0000 - Clarifies language that ORS 458.525 to 458.530 designates the Department as the state agency responsible for administering emergency food assistance programs in Oregon. 813-250-0010 is amended to provide further clarification to definitions that are commonly used in the program. 813-250-0020 - Adds that the Department has designated the Oregon Food Bank through a letter agreement as the State Coordinating Agency. General housekeeping was incorporated to clarify language. 813-250-0030 - Deletes language that the SCA and RCAs will document spoilage received in food shipments. 813-250-0040 - General housekeeping of language for clarification. 813-250-0050 is a new rule providing the Director of the Department the ability to waive or modify any requirement of OAR Chapter 813, Division 250.

**Rules Coordinator:** Sandy McDonnell—(503) 986-2012

## 813-250-0000

### Purpose and Objectives

OAR chapter 813, division 250, is promulgated to accomplish the general purpose of ORS 485.505 to 458.545, specifically ORS 458.525 to 458.530. The Housing and Community Services has been designated as the state agency responsible for administering emergency food assistance programs in Oregon. OAR chapter 813, division 250, describe the Foods Assistance Funds Program, and authorizes the Housing and Community Services Department to allocate funds to the statewide network of emergency food programs in the form of grants to develop and implement linkage activities and to demonstrate the benefits of local control of commodity purchasing.

Stat. Auth.: ORS 456.505 - ORS 458.545

Stats. Implemented: ORS 456.505 - ORS 458.545

Hist.: HSG 1-1994, f. & cert. ef. 3-2-94; OHCS 4-2003, f. & cert. ef. 5-12-03

# ADMINISTRATIVE RULES

## 813-250-0010

### Definitions

All words and terms used in OAR chapter 813, division 250, are defined in the Act, in OAR 813-005-0005 and OAR 813-250-0010 and below. As used in OAR chapter 813, division 250, unless the context indicates otherwise:

(1) "EFA Program" means the Emergency Food Assistance Program established pursuant to OAR chapter 813, division 220.

(2) "Eligible Services" means services that are provided in accordance with the rules and regulations of the Program.

(3) "Emergency Food Organization" means a private, non-profit organization that is subcontracted with an RCA to relieve situations of emergency and distress through provision of food under the Program to Low Income Households.

(4) "Food Assistance Funds" means the U.S. Department of Agriculture and State administrative support for state and local agencies for the sole purpose of the distribution of commodities to programs serving Low-Income Households.

(5) "Linkages" means activities and/or information designed to ensure that participants in food assistance programs are made aware of and directed to other services and resources for which they may be eligible and that may be of assistance in reducing their need for emergency food.

(6) "Local Commodity Purchasing" means the acquisition of food by Emergency Food Organizations through a coordinated statewide effort designed to demonstrate the efficiency of such a process.

(7) "Low Income Household" means a Household with an income at or below 185 percent of the Poverty Line.

(8) "Program" means this Food Assistance Funds Program.

(9) "Regional Coordinating Agency" or "RCA" means any public or private, nonprofit agency which has subcontracted with the State Coordinating Agency to relieve situations of emergency and distress through provision of food under the Program to Low Income Households.

(10) "State Coordinating Agency" or "SCA" means a private nonprofit organization designated by the Department to coordinate distribution of food in Oregon to Low Income Households.

Stat. Auth.: ORS 456.555 & OL 1993 Ch. 725

Stats. Implemented: OL 1993 Ch. 725

Hist.: HSG 1-1994, f. & cert. ef. 3-2-94; OHCS 4-2003, f. & cert. ef. 5-12-03

## 813-250-0020

### Administration

(1) The Department has, through a letter agreement, designated the Oregon Food Bank, a private, non-profit corporation organized under ORS Chapter 65, as the State Coordinating Agency.

(2) The State Coordinating Agency has selected and subcontracted with, under the EFA Program Regional Coordinating Agencies to carry out Program activities at the local level.

(3) Prior to receiving grant funds, an RCA shall sign a contract with the SCA. That contract shall include, but not be limited to, provisions regarding the grant amount and conditions, effective date and the term of the contract, Eligible Services, fiscal and Program report requirements and audit requirements.

(4) The SCA and RCA's shall comply with all applicable state and federal rules and regulations.

Stat. Auth.: ORS 456.555 & OL 1993 Ch. 725

Stats. Implemented: OL 1993 Ch. 725

Hist.: HSG 1-1994, f. & cert. ef. 3-2-94; OHCS 4-2003, f. & cert. ef. 5-12-03

## 813-250-0030

### Eligible Activities

(1) The Department shall allocate Food Assistance Funds for grants to Emergency Food Organizations to develop and implement Linkage activities and Local Commodity Purchasing.

(2) Food Assistance Funds shall be used to supplement, not supplant, existing funds used in supporting the work of the emergency food assistance network and its member agencies.

(3) Food Assistance Funds shall be used in a manner which maximizes resources and services available for Low Income Households statewide.

(4) RCA's, and Emergency Food Organizations, through their respective RCA's, shall advise the SCA as to the type and amount of food acquired with the Local Commodity Purchasing funds.

(5) RCA's shall recommend to the SCA the guidelines for the uses, disbursement and reporting requirements for Linkage and Local Community Purchasing funds.

(6) RCA's shall coordinate, in as much as it is practical and responsible to do so, with other service agencies in their locale.

(7) Under no circumstances shall individual recipients be required to make any payments in money, materials, or services for, or in connection with, the receipt of emergency food.

Stat. Auth.: ORS 456.555 & OL 1993 Ch. 725

Stats. Implemented: OL 1993 Ch. 725

Hist.: HSG 1-1994, f. & cert. ef. 3-2-94; OHCS 4-2003, f. & cert. ef. 5-12-03

## 813-250-0040

### Fiscal Control/Reporting Requirements

(1) The SCA and RCA's shall maintain records that document the use of these funds for Linkage activities and the receipt and distribution of locally purchased commodities.

(2) The SCA shall provide the Department with an annual audit of Program activities and fiscal transactions within 180 days after the close of its fiscal year.

(3) Each RCA shall provide quarterly reports and one final report to the SCA in a format prescribed by the SCA and the Department.

(4) Records of Program activities and fiscal transactions shall be maintained by the SCA and RCA's for a period of three years and shall be made available to the Department or its agents upon request.

Stat. Auth.: ORS 456.555 & OL 1993 Ch. 725

Stats. Implemented: OL 1993 Ch. 725

Hist.: HSG 1-1994, f. & cert. ef. 3-2-94; OHCS 4-2003, f. & cert. ef. 5-12-03

## 813-250-0050

### Waiver

The Director may waive or modify any requirements of OAR chapter 813, division 250, unless such waiver or modification would violate applicable federal or state statutes or regulations.

Stat. Auth.: ORS 184 & ORS 458.505 - ORS 458.515

Stats Implemented: ORS 458.525 - ORS 458.530

Hist.: OHCS 4-2003, f. & cert. ef. 5-12-03

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**Adm. Order No.:** OHCS 5-2003

**Filed with Sec. of State:** 5-15-2003

**Certified to be Effective:** 5-15-03

**Notice Publication Date:** 4-1-03

**Rules Adopted:** 813-200-0001

**Rules Amended:** 813-200-0010, 813-200-0020, 813-200-0030, 813-200-0040, 813-200-0050, 813-200-0060

**Rules Repealed:** 813-200-0001(T), 813-200-0005(T), 813-200-0010(T), 813-200-0020(T), 813-200-0030(T), 813-200-0040(T), 813-200-0050(T), 813-200-0060(T)

**Rules Ren. & Amended:** 813-200-0000 to 813-200-0005

**Subject:** The rules implement the Low Income Energy Assistance Program. The program operates through a network of service agencies at the local level. The objective of the Program is to assist low-income persons with their energy needs through a variety of means, including assistance payments, client education and weatherization activities.

813-200-0001 is a new rule describing the purpose and objectives of the program. 813-200-0005 (renumbered from 813-200-0000) is amended to provide further clarification to definitions that are commonly used in the program. 813-200-0010 clarifies the language that the Department may contract with a Subgrantee Agency to provide program services and activities at the local level. It further clarifies eligible agencies, and the general reporting requirements for these agencies. 813-200-0020 changes the eligibility requirements of a household from 125 percent of the poverty guideline to the requirements outlined in the LIEAP Operations Manual. 813-200-0030 clarifies that all services may not be provided to each household. Allocation of resources will be determined based on need for service. Added language on the Leverage Incentive Fund assistance, allocation of those funds, and how the funds may be used. 813-200-0040 - Incorporated general housekeeping to clarify language. 813-200-0050 - Incorporated general housekeeping to clarify language. 813-200-0060 - Incorporated general housekeeping to clarify language.  
**Rules Coordinator:** Sandy McDonnell—(503) 986-2012

## 813-200-0001

### Purpose and Objectives

OAR chapter 813, division 200, is promulgated to accomplish the general purpose of ORS 458.505 to 458.545, specifically ORS 458.505 to

# ADMINISTRATIVE RULES

458.515, which designates the Housing and Community Services Department as the state agency responsible for administering state and federal antipoverty programs in Oregon. The Department has been designated as the state agency responsible for implementing the Low Income Home Energy Assistance Act in Oregon. OAR chapter 813, division 200, described the Low-Income Energy Assistance Program (LIEAP), which operates through a network of service agencies at the local level. The objective of the Program is to assist low-income persons with their energy needs through a variety of means, including assistance payments, client education and weatherization activities.

Stat. Auth.: ORS 458.505 - ORS 458.545  
Stats. Implemented: ORS 458.505 - ORS 458.545  
Hist.: OHCS 15-2002(Temp), f. & cert. ef. 11-20-02 thru 5-17-03; OHCS 5-2003, f. & cert. ef. 5-15-03

## 813-200-0005

### Definitions

All terms used in OAR chapter 813, division 200, are defined in the Act, in OAR 813-005-0005 and below. As used in OAR 813, division 200, unless otherwise indicated by the context:

(1) "Crisis Assistance" means the assistance provided to help Low-Income Households to meet crisis situations such as supply shortages, loss of Household heat, minor fuel source repairs, furnace repairs and other situations approved by the Department as described in the state plan.

(2) "Eligible Services" means the services described in OAR 813-200-0040.

(3) "Energy Assistance Payment" means a payment made under this Program to or on behalf of an eligible Household.

(4) "Funding Application" means a Subgrantee Agency's application to the Department for Program funds.

(5) "Home Energy" means the type of energy or fuel, including but not limited to fuel oil, natural gas, electricity, wood or propane, supplying the major portion of the Household's heat.

(6) "Home Energy Supplier" means a supplier who either delivers Home Energy in bulk to Households, or provides Home Energy continuously via wire or pipe.

(7) "Household" means any individual residing alone or groups of individuals who are living together as one economic unit and purchase residential energy in common.

(8) "Household Income" means the total Household receipts before taxes from all sources. Income may be reduced by deductions allowed by the Department. Income does not include assets or funds over which the members of the Household have no control.

(9) "Incidental Fees" means charges imposed by the Home Energy Suppliers other than the actual cost of energy or fuel and includes reconnection charges and deposits.

(10) "Indirect Heaters" means renters whose heating costs are included as an undifferentiated part of their rent payments.

(11) "Poverty Line" means the official standard as established by the U.S. Department of Health and Human Services.

(12) "LIEAP" or the "Program" means the Low-Income Energy Assistance Program.

(13) "Low-Income Household" means a Household whose gross annual income is at or less than 60% of statewide median income as defined by Health and Human Services for the State of Oregon.

(14) "Service Area" means the specific geographic area or region within which a Subgrantee Agency provides Program services directly or by contract.

(15) "Subgrantee Agency" means a private, nonprofit corporation organized under ORS Chapter 65, a housing authority established under ORS 456.055 to 456.235, or a local government as defined in ORS 197.015 with whom the Department has contracted to administer Program activities and services at the local level.

(16) "Work Plan" or "Plan" means the Subgrantee Agency's plan for the use of Program funds which is part of its Funding Application and which has been approved by the Department and included in its contract with the Department.

Stat. Auth.: ORS 458.505 - ORS 458.545  
Stats. Implemented: ORS 458.505 - ORS 458.545  
Hist.: HR 1-1982, f. & ef. 1-11-82; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 410-050-0000; HSG 2-1993, f. & cert. ef. 4-2-93; Renumbered from 813-200-0000; OHCS 15-2002(Temp), f. & cert. ef. 11-20-02 thru 5-17-03; OHCS 5-2003, f. & cert. ef. 5-15-03, Renumbered from 813-200-0000

## 813-200-0010

### Administration

(1) The Department may contract with a Subgrantee Agency to provide Program services and activities at the local level.

(a) In order to be eligible to administer the Program at the local level, a Subgrantee Agency shall submit, on a biennial basis, a Funding Application (including a Work Plan) which the Department must approve. The Work Plan shall outline how the Subgrantee Agency determines its needs, including what forum the Subgrantee Agency uses to solicit input and who participates; summarizes the needs of the Service Area and the goals and outcome-based objectives of the Program administered by the Subgrantee Agency; and requires quarterly reporting. The approved Funding Application shall be on file with the Department.

(b) A Subgrantee Agency may subcontract with another organization to provide a Program service or activity in its Service Area. The Department may conduct a periodic evaluation of a Subgrantee Agency's Program performance. Factors that the Department may consider in this evaluation include, but are not limited to, the level of Eligible Service provided by the Subgrantee Agency, ease of access to Eligible Services for eligible Households, error rate, and compatibility with other community service programs.

(3) If the Department deems the performance of a Subgrantee Agency to be deficient and the Subgrantee Agency does not give the Department adequate assurance of satisfactory future performance, the Department may terminate its contract with the non-performing Subgrantee Agency and contract with another Subgrantee Agency to provide the Program's Eligible Services going forward.

(4) A Subgrantee Agency shall take applications, verify Household eligibility and contract with and monitor local Home Energy Suppliers to determine that the clients are receiving proper benefits and services.

(5) A Subgrantee Agency shall follow the procedures outlined in the LIEAP Operations Manual. These procedures govern accurate completion of intake documentation and entry of the resultant data into a Department-approved system, authorizing payments, writing checks to Home Energy Suppliers and clients, and requirements for reports of request draws and end-of-year Program reports to the Department.

(6) A Subgrantee Agency shall make good faith attempts to recover any overpayment made to an applicant or Home Energy Supplier. When recovery from an applicant is not commercially reasonable, the Subgrantee Agency shall promptly give the name and social security number of the applicant to the Department for submission to the Department of Revenue and recovery through the Department of Revenue's S.O.I.L. Program.

Stat. Auth.: ORS 458.505 - ORS 458.545  
Stats. Implemented: ORS 458.505 - ORS 458.545  
Hist.: HR 1-1982, f. & ef. 1-11-82; HR 4-1983, f. & ef. 11-25-83; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 410-050-0005; HSG 2-1993, f. & cert. ef. 4-2-93; OHCS 15-2002(Temp), f. & cert. ef. 11-20-02 thru 5-17-03; OHCS 5-2003, f. & cert. ef. 5-15-03

## 813-200-0020

### Eligibility

To be eligible to receive Eligible Services under the Program, a Household shall meet the requirements outlined in the LIEAP Operations Manual.

(1) These requirements include, but are not limited to:

(a) Meeting income guidelines for the Program; and

(b) A demonstrated utility cost.

(2) The period for determining a Household's eligibility shall be no more than the past 12 months or less than the 30 days immediately preceding the date of application unless the Department gives prior approval.

(3) A client of the Oregon Department of Human Services may use an income verification notification sent by that agency as verification of the applicant's Household Income for the Program.

(4) An eligible Households may apply for assistance with the Subgrantee Agency in the Service Area in which the Household resides.

(5) Households in similar circumstances shall receive similar benefits.

(a) Both renters and homeowners may be eligible under the Program.

(b) An applicant living in an institution is not eligible for assistance under the Program. Institutions include hospitals, licensed domiciliary care facilities, intermediate care facilities, skilled nursing facilities or homes, alcohol and drug rehabilitation centers or treatment programs, dormitories, fraternities, sororities, and temporary protective facilities such as domestic violence shelters and homeless shelters.

(c) Residents of governmental subsidized housing may be eligible for up to 50 percent of a regular Energy Assistance Payment depending on Household size and Household Income and be eligible for a crisis payment under Crisis Assistance guidelines in the LIEAP State Plan or the LIEAP Operations Manual.

Stat. Auth.: ORS 458.505 - ORS 458.545  
Stats. Implemented: ORS 458.505 - ORS 458.545  
Hist.: HR 1-1982, f. & ef. 1-11-82; HR 4-1983, f. & ef. 11-25-83; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 410-050-0010; HSG 2-1993, f. & cert. ef. 4-2-93; OHCS 15-2002(Temp), f. & cert. ef. 11-20-02 thru 5-17-03; OHCS 5-2003, f. & cert. ef. 5-15-03

# ADMINISTRATIVE RULES

## 813-200-0030

### Eligible Services

One or more of the following services may be provided to an Eligible Household. A Subgrantee Agency shall help an applicant determine which service(s) is most beneficial to the Household:

(1) Heating assistance, including:

(a) Payments to Home Energy Suppliers for Household's Home Energy Costs and for services which relate to the heating of the Household's dwelling units. Payments to Home Energy Suppliers may include payments for Incidental Fees and for pre-enrollment or post-enrollment charges. Pre-enrollment charges are incurred by a Household for Eligible Services delivered before the Household is determined to be eligible for LIEAP benefits. Post-enrollment charges are those charges incurred by a Household for Eligible Services after the Household is determined to be eligible for LIEAP benefits; and

(b) The following direct payments to an Eligible Household:

(A) Payments to an Indirect Heater equal to Energy Assistance Payments made to or on behalf of homeowners in similar circumstances;

(B) Payments to a Household if the Household's Home Energy Supplier has not signed a contract with the Subgrantee Agency in the Service Area; and;

(C) Reimbursement of prepayment for Home Energy Costs as in the case of bulk oil or wood deliveries, up to the amount for which the Household is eligible. A Household must provide applicable receipts prior to reimbursement.

(2) Weatherization assistance, including, but not limited to, insulation, water pipe wrap, air sealing and storm windows.

(3) Crisis Assistance. In order to qualify for Crisis assistance under the Program, a Household shall:

(a) Have been evaluated for, and received, an Energy Assistance Payment (regular or subsidized in the same program year) other than for Crisis Assistance; and;

(b) Meet the guidelines for Crisis Assistance outlined in the LIEAP Operations Manual. The following are examples of Households that are eligible for Crisis Assistance; a Household whose annual heating cost exceeds 20 percent of Annual Household Income; a Household needs energy-related repairs; and a Household (including a resident of government subsidized housing that suffers a serious, unexpected hardship.

(4) Client Education. All eligible Households shall be offered information designed to help them make appropriate decisions and life-style choices that will effectively reduce energy consumption.

(5) Leveraging Incentive Fund assistance. Leveraging Incentive Fund assistance is subject to the Department receiving funds under the LIEAP Leveraging Incentive Program and obtaining Legislative approval to accept and spend such funds.

(a) Leveraging Incentive Funds may be used to increase or maintain heating, crisis and/or weatherization assistance benefits in conjunction with the LIEAP or to provide a benefit after LIEAP funds have been depleted.

(b) Leveraging Inactive Funds provided by the Department under the Program to a Subgrantee Agency shall be subject to the rules, regulations or procedures prescribed by the source of such funds.

Stat. Auth.: ORS 458.505 - ORS 458.545

Stats. Implemented: ORS 458.505 - ORS 458.545

Hist.: HR 1-1982, f. & ef. 1-11-82; HR 4-1983, f. & ef. 11-25-83; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 410-050-0015; HSG 2-1993, f. & cert. ef. 4-2-93; OHCS 15-2002(Temp), f. & cert. ef. 11-20-02 thru 5-17-03; OHCS 5-2003, f. & cert. ef. 5-15-03

## 813-200-0040

### Assistance Levels

Energy Assistance Payments made under this Program shall not exceed the amount of funds made available to the Department under the Omnibus Reconciliation Act of 1981, Public Law 97-35, Sections 2601-11, as amended.

Stat. Auth.: ORS 458.505 - ORS 458.545

Stats. Implemented: ORS 458.505 - ORS 458.545

Hist.: HR 1-1982, f. & ef. 1-11-82; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 410-050-0020; HSG 2-1993, f. & cert. ef. 4-2-93; OHCS 15-2002(Temp), f. & cert. ef. 11-20-02 thru 5-17-03; OHCS 5-2003, f. & cert. ef. 5-15-03

## 813-200-0050

### Coordination with Home Energy Suppliers

(1) In order to be eligible to receive Energy Assistance Payments, a Home Energy Supplier must execute a contract with a Subgrantee Agency.

(2) This contract shall provide, among other things, that the Home Energy Supplier agrees that:

(a) It shall not discriminate against an eligible Household;

(b) It shall not treat a Household receiving LIEAP benefits any differently than any other similarly situated Household;

(c) It shall not charge a Household receiving LIEAP benefits the difference between the actual cost of the Home Energy and the amount of the LIEAP payment for such Home Energy;

(d) It shall not make payment arrangements for any balances owing after LIEAP payments are applied to past due bills; and

(e) It shall refund to the Subgrantee Agency any Energy Assistance Payments for services that cannot be delivered because of a death or because Home Energy services are discontinued and the client cannot be located. The refund is the property of the client first.

Stat. Auth.: ORS 458.505 - ORS 458.545

Stats. Implemented: ORS 458.505 - ORS 458.545

Hist.: HR 1-1982, f. & ef. 1-11-82; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 410-050-0025; HSG 2-1993, f. & cert. ef. 4-2-93; OHCS 15-2002(Temp), f. & cert. ef. 11-20-02 thru 5-17-03; OHCS 5-2003, f. & cert. ef. 5-15-03

## 813-200-0060

### Administrative Review

A Subgrantee Agency shall provide an administrative review process, which shall include an administrative hearing, to individuals whose claims for assistance under the Program are denied or deemed denied because of the failure of the Subgrantee Agency to process a request for assistance.

Stat. Auth.: ORS 458.505 - ORS 458.545

Stats. Implemented: ORS 458.505 - ORS 458.545

Hist.: HR 1-1982, f. & ef. 1-11-82; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 410-050-0030; HSG 2-1993, f. & cert. ef. 4-2-93; OHCS 15-2002(Temp), f. & cert. ef. 11-20-02 thru 5-17-03; OHCS 5-2003, f. & cert. ef. 5-15-03

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**Adm. Order No.:** OHCS 6-2003

**Filed with Sec. of State:** 5-15-2003

**Certified to be Effective:** 5-15-03

**Notice Publication Date:** 4-1-03

**Rules Adopted:** 813-202-0005, 813-202-0010, 813-202-0015, 813-202-0020, 813-202-0030, 813-202-0040, 813-202-0050, 813-202-0060

**Subject:** The rules implement the Oregon Energy Assistance Program (OEA). The Program operates through a network of service agencies at the local level. The objective of the Program is to assist low-income persons meet their energy needs through assistance payments and client education.

**Rules Coordinator:** Sandy McDonnell—(503) 986-2012

## 813-202-0005

### Definitions

All terms used in OAR chapter 813, division 202, are defined in the Act, in OAR 813-005-0005, and in this OAR 813-202-0005. As used in OAR 813, division 202, unless the context indicates otherwise:

(1) "CAP agency" means a private nonprofit corporation organized under ORS Chapter 65, or an office, division or agency of a political subdivision designated by the Department of Health and Human Services as a community action agency pursuant to the Economic Opportunity Act of 1964, which meets the requirements outlined in ORS 458.505(4).

(2) "DHS" means the Oregon Department of Human Services.

(3) "Energy assistance" means the services provided under the Program and may include energy bill payment assistance and client education.

(4) "Energy assistance payments" means payments for the energy costs of eligible households which the Department pays to energy suppliers, households and may include any of the following:

(a) Prepayment for electricity prior to its delivery;

(b) Payment for pre-enrollment charges for those services delivered before a household is determined to be eligible for OEAP benefits;

(c) Payment for post-enrollment charges for services delivered after a household is determined to be eligible for OEAP benefits; and

(d) Payment of incidental fees and costs of maintaining or reestablishing service such as reconnection charges, deposits and other required charges of energy suppliers.

(5) "Energy costs" means costs related to the heating of dwelling units with electricity.

(6) "Expenditure area" means the utility service territory of the Originating Utility. This expenditure area may include multiple counties.

(7) "Energy supplier" means a company that provides electricity continuously via wires as the source of energy supplying heat to a household.

(8) "Household" means any individual living alone or group of individuals who are living together as one economic unit and who purchase residential energy in common.

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(9) "Income" means the total annual household receipts before taxes from all sources. Income does not include assets or funds over which the applicant has no control.

(10) "Local service providers" means those a private, nonprofit corporation organized under ORS Chapter 65, a housing authority established under ORS 456.055 to 456.235, or a local government as defined in ORS 197.015 with whom the Department has contracted to administer Program activities and services at the local level.

(11) "OEAP" or "Program" means the Oregon Energy Assistance Program, the low-income electric bill payment assistance program.

(12) "Originating Utility" means the utility from which the funds being expended under the Program were collected.

(13) "Service area" means the specific geographic area or region within which a local service provider provides Program services.

(14) "Utility service territory" means the geographic area in Oregon within which a utility provides electricity service.

(15) "Oregon median income" means the median income in Oregon, based on the guideline for the non-farm population of the State of Oregon produced by the United States Department of Health and Human Services,

Stat. Auth.: ORS 184, ORS 456.555, ORS 757.612 & ORS 757.617

Stats. Implemented: ORS 456.555

Hist.: OHCS 6-2003, f. & cert. ef. 5-15-03

## 813-202-0010

### Administration

(1) The Department has been designated as the administering agency for the Oregon Energy Assistance Program.

(2) The Department may select those CAP agencies or local service providers, which have satisfactorily provided the Department with energy assistance services in prior years as local service providers. The Department shall enter into a contract with each of the agencies selected to provide Program services within its service area, on such terms as the Department shall determine. Upon completion of a local service provider's contract, the Department shall conduct an evaluation of such local service provider's performance. Factors that the Department may consider are the level of service provided, error rate and ease of access to the services for eligible households within the service area. If the performance of a local service provider is found by the Department to be deficient, the Department may either require that the local service provider provide assurance of improvement by a written corrective action plan, or may select another local service provider.

Stat. Auth.: ORS 184, ORS 456.555, ORS 757.612 & ORS 757.617

Stats. Implemented: ORS 456.555

Hist.: OHCS 6-2003, f. & cert. ef. 5-15-03

## 813-202-0015

### Responsibilities of Local Service Providers

(1) Local service providers shall provide Program services to or on behalf of those households and residents within its service area. Local service providers shall take applications, verify the income of applicants, complete payment authorizations and contract with and monitor energy suppliers to ensure that eligible households within their service areas receive proper benefits and services. Local service providers are responsible to ensure that disbursed funds are expended in the utility service territory of the Originating Utility.

(2) Local service providers are responsible to ensure funds are disbursed in a timely manner. Funds not expended by a local service provider in a timely manner are subject to being reallocated and redistributed to statewide service providers of the Originating Utilities for distribution within the utility service territory of these Originating Utilities.

(3) Local service providers shall attempt to recover overpayments made to energy suppliers on behalf of eligible households within their service areas. When recovery from an energy supplier is not possible, the name and social security number of the customer receiving unrecovered overpayments shall be turned over by OHCS to the Oregon Department of Revenue for recovery through the Set Off Individual Liability (SOIL) program.

Stat. Auth.: ORS 184, ORS 456.555, ORS 757.612 & ORS 757.617

Stats. Implemented: ORS 456.555

Hist.: OHCS 6-2003, f. & cert. ef. 5-15-03

## 813-202-0020

### Eligibility

(1) An eligible household is a household, including homeowners and renters whose utility cost is included in their rent on an undifferentiated basis, with an income at or below 60 percent of the Oregon median income in effect at the start of the Program year, with demonstrated energy costs.

(2) Except as provided in the next sentence, the period for determining a household's income eligibility shall not be more than the 12 months preceding the date of application or less than the 30 days immediately preceding the date of application. A DHS income verification notification may be presented by a DHS client at the time of application as evidence of the household's verified income.

(3) A resident of government subsidized housing may be eligible for up to 50 percent of a regular energy assistance payment, depending on household size and income, and may be eligible to receive a crisis energy assistance payment.

(4) A resident of an institution is not eligible for energy assistance under the Program. Institutions include hospitals, licenses domiciliary care facilities, intermediate care facilities, skilled nursing facilities or homes, alcohol and drug rehabilitation centers or treatment programs, dormitories, fraternities, sororities, and temporary protective facilities such as domestic violence shelters and homeless shelters.

Stat. Auth.: ORS 184, ORS 456.555, ORS 757.612 & ORS 757.617

Stats. Implemented: ORS 456.555

Hist.: OHCS 6-2003, f. & cert. ef. 5-15-03

## 813-202-0030

### Program Services

(1) A household may apply for energy assistance at the local service provider that serves its geographic area. Priority assistance shall be given to low-income consumers who are in danger of having their electricity service disconnected.

(2) Local service agencies shall help applicants determine which energy assistance service is most appropriate. The following services may be provided to eligible households:

(a) Regular Energy Assistance. Regular energy assistance includes payments for the energy costs of eligible households which the Department makes to the energy suppliers for these eligible households.

(b) Emergency Energy Assistance: If sufficient funds are available, requests for emergency energy assistance payments may be considered by the local service providers. Each emergency energy assistance payment shall be approved by an authorized person other than an intake worker at the local service provider before disbursement. Households eligible for emergency energy assistance payments include a household with annual energy costs exceeding 20 percent of its household income, and a household that suffer a serious, unexpected hardship.

(c) Client Education: All eligible households may be offered information designed to help them make good decisions and life style choices to effectively reduce energy consumption.

(3) Households in similar circumstances shall receive similar benefits.

Stat. Auth.: ORS 184, ORS 456.555, ORS 757.612 & ORS 757.617

Stats. Implemented: ORS 456.555

Hist.: OHCS 6-2003, f. & cert. ef. 5-15-03

## 813-202-0040

### Limitation on Energy Assistance Payments

Energy assistance payments are limited to the amount of funds made available under ORS 757.612(7)(b), (c) and (d).

Stat. Auth.: ORS 184, ORS 456.555, ORS 757.612 & ORS 757.617

Stats. Implemented: ORS 456.555

Hist.: OHCS 6-2003, f. & cert. ef. 5-15-03

## 813-202-0050

### Responsibilities of Energy suppliers

(1) Energy suppliers shall not:

(a) Discriminate against eligible households; or

(b) Treat any applicant households any differently because they are receiving OEAP benefits.

(2) Energy suppliers shall:

(a) Charge a household in the normal billing process the difference between the actual energy costs and the amount of the energy assistance payment;

(b) Promptly apply energy assistance payments to the eligible household's account upon receipt of notification of authorization for payment from the local service provider of the Program ;

(c) Attempt to make payment arrangements for any balances owing after energy assistance payments are applied to past due bills; and

(d) Return any undisbursed funds to the Department in the event that utility services cannot be delivered because of death or if the customer cannot be located after utility services are discontinued.

Stat. Auth.: ORS 184, ORS 456.555, ORS 757.612 & ORS 757.617

Stats. Implemented: ORS 456.555

Hist.: OHCS 6-2003, f. & cert. ef. 5-15-03



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## 813-202-0060

### Administrative Hearings

A local service provider shall provide an administrative hearing, if requested, for any resident within its service area whose application for energy assistance is denied or not acted upon by a local service provider (local agency) in a timely manner.

Stat. Auth.: ORS 184, ORS 456.555, ORS 757.612 & ORS 757.617

Stats. Implemented: ORS 456.555

Hist.: OHCS 6-2003, f. & cert. ef. 5-15-03

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## Oregon Liquor Control Commission

### Chapter 845

**Adm. Order No.:** OLCC 6-2003

**Filed with Sec. of State:** 4-25-2003

**Certified to be Effective:** 5-1-03

**Notice Publication Date:**

**Rules Amended:** 845-004-0100, 845-010-0166, 845-010-0210, 845-013-0030, 845-016-0020

**Subject:** All five need minor amendments to correct statutory references which are no longer valid. This filing is made under the process requirements of ORS 183.335(7).

**Rules Coordinator:** Katie Hilton — (503) 872-5004

## 845-004-0100

### Production of Alcohol for Fuel

ORS 471.403 prohibits the distilling of alcoholic liquor without a license. Producers of alcohol for fuel will not violate ORS 471.403 if they comply with the following requirements:

(1) Any person who produces motor fuels containing distilled spirits must possess a Federal Alcohol Fuel Producer's Permit, pursuant to Title 27, CFR, Section 19.935, and must comply with all pertinent federal regulations in effect as of January 1, 1984.

(2) Prior to beginning operation, the person must furnish the Commission with a copy of the Alcohol Fuel Producer's Permit and a copy of the application for the permit.

(3) Alcohol produced or held under the permit may not be used, sold or made available for human consumption.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 471 & ORS 472, including ORS 471.030, 471.730(1) & (5), 472.030, 472.060(1) & (2)(d)

Stats. Implemented: ORS 471.205 & ORS 471.730(8)

Hist.: LCC 14-1979, f. 8-27-79, ef. 8-29-79; Renumbered from 845-010-0785; LCC 1-1984, f. & ef. 4-3-84; OLCC 6-2003, f. 4-25-03, cert. ef. 5-1-03

## 845-010-0166

### Territorial Agreements for the Wholesale Sale of Malt Beverages

The Commission interprets ORS 474.115 as follows:

(1) Only one wholesaler may distribute a brand of malt beverage in a designated territory.

(2) When an importer contracts with a wholesaler for exclusive distribution, the importer must give the Commission copies of both its agreement with the wholesaler and its agreement with the manufacturer that documents its authority to designate a wholesaler. The Commission will not allow the wholesaler to post prices without both agreements.

(3) The Commission will accept a filing for a change in an exclusive territorial designation whenever the manufacturer executes and files a notice of change and an affidavit that the level of service will not be affected. This applies even when the existing agreement is between an importer and a wholesaler. When the Commission receives the notice, manufacturer's affidavit, and territorial agreement, the new agreement automatically supercedes any previous agreements.

(4) The manufacturer may base the affidavit on information received from the wholesaler.

(5) "Level of service will not be affected" means that the new wholesaler will comply with all quality control standards and services as required in ORS 474.115, and will service all retail licensees within the designated territory who want to sell the product.

(6) The Commission's only responsibilities under ORS 474.115 are to accept and file notices, affidavits, and territorial agreements a manufacturer submits.

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

Stats. Implemented: ORS 474.115

Hist.: LCC 5-1986(Temp), f. & ef. 3-26-86; LCC 24-1986, f. 10-30-86, ef. 11-1-86; OLCC 6-2003, f. 4-25-03, cert. ef. 5-1-03

## 845-010-0210

### Price Lists

(1) Any wholesale licensee of the Commission must maintain price lists at the licensed business premises for two years. Licensees must have these price lists available for Commission inspection at all times during business hours.

(2) A licensee must charge all retailers the same price excluding any transportation costs.

(3) The price list must show:

(a) Every brand and type of product offered for sale;

(b) The price for each size container;

(c) The effective date of each price;

(d) Any allowance granted for a returnable container;

(e) Any handling fee on wine sold in less than the smallest multiple-package case available for sale; and

(f) Any transportation costs. Since ORS 474.115 prohibits quantity discounts, a wholesaler may not base transportation costs on quantity. The licensee must also show the amount of any transportation cost on the retailer's invoice.

(4) A price list becomes effective on the date the wholesaler indicates on the list.

(5) Once a licensee decreases a price, the licensee must not increase the price for 14 days. Whenever a licensee changes a price, the licensee must prepare a new price list.

(6) After a price becomes effective, the licensee must sell only at that price. If a licensee sells malt beverages or wine at any other price, the Commission considers the sale to be giving financial assistance within the meaning of the Oregon Liquor Control Act and the Commission's administrative rules.

(7) The Commission does not require price lists for dock sales to consumers.

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

Stats. Implemented: ORS 471.398

Hist.: LCC 26, f. 5-12-60; LCC 27, f. 9-15-60; LCC 28, f. 12-19-60; LCC 29, f. 5-21-64; LCC 33, f. 6-12-69; LCC 55, f. 10-20-76, ef. 12-1-76; LCC 31-1980, f. 12-22-80, ef. 2-1-81; OLCC 15-1987, f. 4-6-87, ef. 7-1-87; OLCC 9-1989(Temp), f. 10-2-89, cert. ef. 10-15-89; OLCC 10-1990, f. 4-18-90, cert. ef. 4-19-90; OLCC 6-2003, f. 4-25-03, cert. ef. 5-1-03

## 845-013-0030

### Fixtures, Furniture, Furnishings, ORS 471.465(1)(c)

(1) ORS 471.398(3) prohibits a manufacturer or wholesaler from providing any fixtures, furniture or furnishings to a retailer. A manufacturer or wholesaler does not violate this prohibition if he/she provides a display bin or rack under the following conditions:

(a) The manufacturer or wholesaler provides no more than one bin or rack per trade name per retailer at any given time;

(b) The manufacturer or wholesaler has permanently marked the bin or rack with a brand name or trade name of the manufacturer or wholesaler's alcoholic beverage product; and

(c) The retailer uses the bin or rack to display only products from the brand name or trade name permanently marked on the bin or rack;

(d) For purposes of this rule, "trade name" means the operating trade name and associated business names filed by a manufacturer or wholesaler as part of the Federal Bureau of Alcohol, Tobacco and Firearms basic permit; "brand names" means the various wines, distilled spirits and malt beverages sold under a particular trade name.

(2) In addition to the requirements in section (1) of this rule, if the cost of the display bin or rack exceeds \$30 (cost is the cost to the manufacturer or wholesaler who initially purchased or produced the bin or rack), the manufacturer or wholesaler must:

(a) Invoice the retailer for the bin or rack upon delivery and issue a credit upon manufacturer or wholesaler removal;

(b) Loan the bin or rack to the retailer for a period not to exceed 45 days. At least 45 days must elapse before the manufacturer or wholesaler loans the same or another display bin or rack to the retailer for products from the same trade name.

Stat. Auth.: ORS 471 & ORS 472, including ORS 471.030, 471.730(1) & (5), 472.030, 472.060(1) & (2)(d)

Stats. Implemented: ORS 471.398(3)

Hist.: OLCC 8-1992, f. 8-25-92, cert. ef. 10-1-92; OLCC 6-2003, f. 4-25-03, cert. ef. 5-1-03

## 845-016-0020

### Instructor and Trainer Qualification and Performance Standards; Provider Responsibility for Fee and Performance

(1) Qualifications: Each instructor and person who trains instructors must have:

(a) A minimum of two years of verified full-time employment (4,000 hours) in the fields of training, education, law, law enforcement, substance

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abuse rehabilitation, the hospitality industry or any of the subjects listed in ORS 471.542(5); or

(b) A minimum of two years of post-secondary education in the fields of training, education, law, law enforcement, substance abuse rehabilitation, the hospitality industry or any of the subjects listed in 471.542(5).

(2) Performance Standards: Each instructor and person who trains instructors must:

(a) Teach the Alcohol Server Education Program that the Commission approved;

(b) Understand the objectives of the program and be able to communicate to the students with knowledge, clarity and judgment about the program;

(c) Demonstrate skill in student supervision;

(d) Respect the rights of all students and treat them without discrimination based on their age, disability, national origin, race, marital status, religion, sex or sexual orientation;

(e) Demonstrate willingness to work cooperatively with other, including the Commission staff.

(3) Provider Responsibility for Fee:

(a) The provider must mail or deliver, no later than 36 hours after the instructor's first class, to the Commission a completed Provider Staff Certification form and a \$100 fee for each instructor. Holidays and weekends are not included in counting the 36 hours. The Commission does not require a \$100 instructor fee for a qualified provider instructor or authorized representative instructor. If, however, both the provider and the authorized representative will teach courses, the provider must pay the instructor fee for the authorized representative. The instructor fee is refundable only if the Commission denies certification;

(b) Despite subsection (3)(a) of this rule, if an instructor wants to teach in another provider's Oregon Alcohol Server Education Program, the Commission will not require another instructor fee if the fee has been paid for the certification period;

(c) Violation of this section is a Category III violation (see OAR 845-016-0080, Sanctions).

(4) Provider Responsibility for Performance Standards:

(a) The provider must ensure that each instructor meets the performance standards in section (2) of this rule. This includes at least:

(A) Personally observing each instructor's entire class and evaluating the instructor on the Commission's evaluation form during the instructor's first or second class. (If the provider is the instructor, the Commission will evaluate the provider-instructor);

(B) Sending the form to the Commission within 15 days after the class;

(C) Correcting any performance that the provider identifies or that the Commission identifies through its Quality Assurance Plan.

(b) Violation of this section is a Category II violation (see OAR 845-016-0080, Sanctions).

(5) Provider Responsibility to give notice of class times and locations:

(a) The provider must submit a schedule of planned classes, with times and locations, at least seven days before the classes are held;

(b) The provider must notify the Commission of any changes to the schedule required in section (5)(a) as soon as possible;

(c) Despite Sections (5)(a) and (b), a provider or instructor may:

(A) Schedule or reschedule a class shortly before the class to accommodate a request from students. If the Commission has been unable to observe and evaluate an instructor because most classes are scheduled under seven days, the Commission will notify the provider and require the provider to call the Commission to give all class times and locations until the Commission is able to complete the required observations and evaluation;

(B) Cancel a class in an emergency without prior notice to the Commission. A provider or instructor may also cancel shortly before a class without notifying the Commission if the provider:

(i) Notifies persons inquiring about classes that the provider may cancel if there are not a stated minimum numbers of students; and

(ii) Has notified the Commission in advance of this practice.

(d) Violation of this section is a Category III Violation (see OAR 845-016-0080, Sanctions).

Stat. Auth.: ORS 471.030, ORS 471.730(1), ORS 471.730(5), 472.060(1) & (2)(d)

Stats. Implemented: ORS 471.542 & ORS 471.547

Hist.: LCC 13-1986(Temp), f. 9-2-86, ef. 9-8-86; OLCC 5-1987, f. 2-9-87, ef. 3-1-87; OLCC 9-1990, f. 3-27-90, cert. ef. 4-1-90; OLCC 6-1992, f. 6-5-92, cert. ef. 7-1-92; OLCC 10-1998, f. 10-27-98, cert. ef. 12-1-98; OLCC 14-2002, f. 10-25-02 cert. ef. 11-1-02; OLCC 6-2003, f. 4-25-03, cert. ef. 5-1-03

## Oregon Student Assistance Commission, Office of Degree Authorization Chapter 583

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

**Filed with Sec. of State:** 4-16-2003

**Certified to be Effective:** 4-16-03

**Notice Publication Date:** 11-1-02

**Rules Amended:** 583-030-0010, 583-030-0015, 583-030-0020, 583-030-0021, 583-030-0025, 583-030-0030, 583-030-0035, 583-030-0036, 583-030-0040, 583-030-0042, 583-030-0045, 583-030-0046, 583-030-0049

**Subject:** Several language and administrative changes have been made for clarity and ease of use.

**Rules Coordinator:** Della Lee—(541) 687-7443

### 583-030-0010

#### Exemptions

The standards and procedures in this rule shall not apply to a school determined by the Office of Degree Authorization under ORS 348.594 to be exempt in either of the following ways, except that no one is exempt when assisting a school that is not exempt.

(1) A school in the public postsecondary educational system of the State of Oregon is exempt when offering degrees and credits exclusively in its own name and under its own control as the Oregon University System or constituent unit thereof, an Oregon community college, or the Oregon Health and Science University.

(2) A school is exempt when offering only degrees in theology and religious occupations with exclusively religious titles explicitly approved for the school by the Office of Degree Authorization. This exemption may be approved for an authentic school of doctrinal theology that is not organizationally attached to an unaccredited school offering degrees anywhere other than those herewith exempted. A school of theology is considered authentic if it requires a high school diploma or the equivalent for undergraduate admission or a bachelor's degree for graduate admission, employs officers and faculty members who have appropriate graduate degrees or exceptional compensatory qualifications, and requires recipients of its degrees to complete an instructional program of conventional or greater length. A degree approved through this exemption is a sectarian church credential and is not a public credential valid for general academic and professional purposes.

Stat. Auth.: ORS 348.594

Stats. Implemented: ORS 348.594

Hist.: ECC 22, f. & ef. 12-22-75; ECC 2-1980, f. & ef. 4-14-80; ECC 3-1981, f. & ef. 12-16-81; EPP 1-1988, f. & cert. ef. 1-7-88; EPP 1-1995, f. & cert. ef. 10-6-95; EPP 1-1996, f. & cert. ef. 8-7-96; SSC 1-1997(Temp), f. & cert. ef. 8-25-97; ODA 2-1998, f. & cert. ef. 8-12-98; ODA 1-2003, f. & cert. ef. 4-16-03

### 583-030-0015

#### Definitions of Terms

The following definitions have particular application to one or more provisions of this rule.

(1) "Academic year" means approximately nine months, conventionally during fall, winter, and spring.

(2) "Accredited" means approved to offer degrees at a specified level by an agency or association recognized as an accreditor in the U.S. by the U.S. Secretary of Education, or so recognized by the Council for Higher Education Accreditation or its successor, or having candidacy status with an agency or association whose pre-accreditation category is recognized specifically by the U. S. Secretary of Education as an assurance of future accreditation. "Regionally accredited" means approved to offer degrees at a specified level by a regional institutional accreditor recognized for that purpose by the U.S. Secretary of Education.

(3) "Certificate" means a formal academic award that signifies, purports, or may generally be taken to signify completion of a course of instruction for which college or university level academic credit is given but which is shorter or more limited than that leading to a degree. Certificate includes the term "diploma" if used to mean a similar award. A certificate may be at the undergraduate or graduate level.

(4) "Class hour" or "contact hour" means approximately one hour of direct communication between a teacher and one or more students, minus time for rest or change of classes. Conventionally this has been a fifty-minute period.

(5) "Confer a degree" means give, grant, award, bestow, or present orally or in writing any symbol or series of letters or words that would lead the recipient to believe a degree had been obtained.

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(6) "Credit," when the full term is "postsecondary or college credit," means indication or certification by a school that a student has completed a unit of study, demonstrated achievement or proficiency, or manifested measured learning outside of school, so as to have satisfied a portion of the requirements for a degree or for any other academic recognition offered by the school.

(7) "Credit hour" means one postsecondary credit resulting from one of the following, intended to result from at least 2 hours of student work out of class (or in equivalent lab time) for each hour in class:

- (a) Approximately 45 hours of student work in a semester;
- (b) Approximately 30 hours of student work in a quarter;
- (c) An equivalent amount of student work under an alternate term calendar schedule approved by ODA; or

(d) Equivalent student work demonstrated by student performance on a nationally-recognized examination or evaluation acceptable to the Office.

(8) "Degree" means any academic or honorary title, rank, or status that may be used for any purpose, which is designated by a symbol or series of letters or words such as, but not limited to, associate, bachelor, master, or doctor, and forms or abbreviations thereof that signifies, purports, or may generally be taken to signify:

(a) Completion of a course of instruction at the college or university level; or

(b) Demonstration of achievement or proficiency comparable to such completion; or

(c) Recognition for nonacademic learning, public service, or any other reason of distinction comparable to such completion. "Degree" does not refer to a certificate or diploma signified by a series of letters or words unlikely to be confused with a degree, clearly intended not to be mistaken for a degree, and represented to students and the public in ways that prevent such confusion or error.

(9) "External degree" means a degree that can be earned mostly or entirely through correspondence, electronic recordings, or subscription telecommunications, rather than by resident instruction, except that some assistance may be provided for students face-to-face by school adjuncts in capacities such as advisor, mentor, tutor, clinic or practicum supervisor, topical speaker, occasional seminar leader, evaluator, or member of a thesis or study committee.

(10) "First-professional degree" means master's or doctor's degree conferred upon completion of a course of study for which admission into some schools may be gained with less than a baccalaureate, but for which pre-admission and professional study together invariably require more time than is required for a bachelor's degree alone, regardless of how many matriculants already have a bachelor's degree.

(11) "FTE" stands for "full-time-equivalent," which means the imaginary number of students, teachers, or other personnel, any member of which may be engaged full time or part time, who in combined time expended would be the equivalent of one full-time unit of the kind being described.

(12) "Full-time student" means a student who is engaged in academic study as the primary occupation, thus ordinarily requiring 35 to 45 hours per week divided between interaction with teachers and independent preparation.

(13) "Graduate degree" or "post-baccalaureate degree" means a master's or doctor's degree conferred upon completion of a course of study for which admission can be gained only through possession of a bachelor's degree satisfactory to the school offering the graduate instruction.

(14) "Lower-division instruction" means course content and teaching at a level appropriate for first- and second-year postsecondary students generally, but available to more advanced students who have no prior experience in the subject, and "upper-division instruction" means course content and teaching appropriate for third- and fourth-year students or others with a strong background in the subject.

(15) "Offer a degree" means announce, advertise, declare, or imply orally or in writing the willingness or intention to confer a degree directly or to cause a degree to be conferred by agreement or arrangement with any person or school.

(16) "Office" means the Office of Degree Authorization, as represented by the administrator or designated agent.

(17) "Oregon school" means any school or organized group of schools that has its principal executive offices in Oregon or is otherwise controlled effectively from within this state, regardless of the number of students served in various locations. "Non-Oregon school" means any school controlled effectively from outside the state.

(18) "Person assisting a school" means any person or organization helping the school or its students or clients by acting as educator or inter-

mediary or provider of communication technology, or by acting in any other way that helps the school offer or effectuate its services in Oregon, regardless of whether the person assisting has a contract or compensation. "Person assisting a school" includes but is not limited to: advertiser, recruiter, admissions agent, course registerer, advisor, teacher, mentor, tutor, supervisor of an internship or practicum, occasional speaker, seminar leader, informal discussion leader, student host for group activity, evaluator, member of a thesis or study committee, publisher of educational materials, operator of a radio station, internet service provider or a cable or broadcast television station.

(19) "Quarter" means one third of an academic year, typically 9-12 weeks in length and divided among fall, winter and spring.

(20) "Residential degree" means a degree earned primarily through "resident instruction," which is face-to-face teaching and learning at a school's main campus or other major facility with a regularity designed to accommodate full-time students and others who need continuous access to teachers and related resources on site.

(21) "Restricted degree" means an external or semi-residential degree offered exclusively to employees or members of contracting organizations, which receive on their own premises services that may include direct or televised teaching by regular or adjunct faculty members of the school. The opposite of restricted is "open" to all members of the general public who are qualified for admission.

(22) "School" means any person or persons and any organization or group of organizations, whether incorporated or not, engaging or appearing to engage in the activities of an educational entity or institution of learning, whether or not naming itself a school, college, university, institute, academy, seminary, conservatory, or similar term. The activities attributable to a school include but are not limited to teaching, measurement of achievement or proficiency, or recognition of educational attainment or comparable public distinction.

(23) "Semester" means half an academic year, typically 15-16 weeks in length, conventionally including a fall semester from September through December and a spring semester from January through May.

(24) "Semi-residential degree" means a degree that can be earned through a combination of residential and external methods but requires a substantial portion of learning from structured face-to-face teaching at a school's main campus or other major facility, or at a temporary instructional site where students meet in groups.

(25) "State academic standards" for Oregon means the standards provided in OAR 583-030-0035.

(26) "Term" means a segment of an academic year, ordinarily a semester or quarter but sometimes less. Term is the preferred descriptor for degree program courses using a nontraditional calendar.

(27) "Use" of a degree means to make the degree known as a credential in order to obtain or maintain employment, to obtain a promotion, better pay or benefits in existing employment, as an inducement to attract clients or customers, to improve professional standing or reputation, as a qualification for public office for which the degree may appear to make a candidate more qualified by virtue of professional standing, as enhancement to standing as an expert or in any other situation in which holding the degree provides a tangible benefit within society generally unavailable to people without the degree.

Stat. Auth.: ORS 348.594 & ORS 348.606

Stats. Implemented: ORS 348.594, ORS 348.603 & ORS 348.606

Hist.: ECC 22, f. & ef. 12-22-75; ECC 2-1980, f. & ef. 4-14-80; EPP 1-1988, f. & cert. ef. 1-7-88; EPP 1-1993, f. & cert. ef. 6-28-93; EPP 1-1995, f. & cert. ef. 10-6-95; EPP 1-1996, f. & cert. ef. 8-7-96; SSC 1-1997(Temp), f. & cert. ef. 8-25-97; ODA 2-1998, f. & cert. ef. 8-12-98; ODA 1-2001, f. & cert. ef. 6-27-01; ODA 1-2003, f. & cert. ef. 4-16-03

## 583-030-0020

### Exercise of Office Authority

(1) A school that offers to anyone from within Oregon or offers to Oregon residents from outside the state any form of instruction, lecture, training, tutoring, seminar, workshop, examination, evaluation, or other service represented as contributing credit or otherwise leading toward a specified or unspecified degree or certificate that will or might be conferred anywhere shall notify the Office in advance and then promptly supply all information the Office requests. Failure to notify the Office in advance or to provide preliminary information as directed may result in permanent denial of approval for the school to offer any services in or from Oregon. Schools that offer no degrees in Oregon but want to offer a certificate are under the jurisdiction of the Private Career Schools office of the Oregon Department of Education and should contact that office for approval.

(2) On the basis of preliminary information, the Office will determine whether the school:

# ADMINISTRATIVE RULES

(a) Shall apply for state authorization to offer instruction or related services leading to one or more degrees under the standards in OAR 583-030-0035, verbatim or as modified under OAR 583-030-0036; or

(b) Shall apply for approval of the exemption of one or more degrees from the standards in OAR 583-030-0035 as provided in OAR 583-030-0010(2); or

(c) Shall apply for deferment of the authorization requirement conditional on continuing to offer, under contract satisfactory to the Office, services leading only to academic credit issued by and in the name of an authorized or exempt school; or

(d) Shall apply for deferment of the authorization requirement conditional on continuing to offer services that do not, alone or in combination with services from any other school, lead substantially toward a degree to be conferred anywhere.

(3) A school that applies for degree authorization or exemption or requests a deferment shall use forms and follow procedures determined by the Office. Failure to comply constitutes good reason to reject an application or a deferment request. Such school shall be open to inspection and may be inspected at any time to verify its statements and to examine facilities. Inspection of a school and evaluation of its application or deferment request will be performed by state officials or consultants as the Office considers necessary, and findings will be utilized as the Office considers appropriate. Information from other examiners, such as accreditors or professional licensing agencies, may accompany materials submitted by the school and may be used by the Office at its discretion.

(4) Deferment of the requirement to apply for degree authorization is based on specified services from specified locations. A school receiving such deferment shall notify the Office immediately of any subsequent change in its offer of credit. Such school shall continue to supply information pertinent to its degree and credit status upon request and shall be open to inspection by the Office at any time. A deferment based on an inter-school contract or the offer of essentially non-degree credit is a temporary waiver entirely at the discretion of the Office, which may end it at any time, and it shall not be construed as an approval with right of appeal.

(5) Authorization to offer instruction or related services leading to a degree applies to specific curricula and services, offered at or from specific locations. The Office, on the basis of judgment about the relationship between a curriculum and a degree title, may require revision of title. Authorization is given for a specific degree for a fixed period of not less than two nor more than four calendar years. During any such period, the Office at its discretion may include a new location or closely related curriculum within the scope of the authorization through an abbreviated application procedure, with reduction or waiver of fee. Such abbreviated procedures generally apply to proposed changes that do not require a new faculty. At regular application junctures, several curricula leading to the same degree may be submitted as part of a single application. The Office may vary the length of approval periods by up to one year subject to the four-year limit in order to consolidate applications or renewals for the convenience of the school or the Office.

(6) Authorization to offer instruction or related services leading to a degree expires at the end of the period for which it is given, without right or presumption of renewal, except that an authorized school having submitted a complete and timely application for renewal continues to be authorized until such time as a review or revocation procedure may determine otherwise. After discontinuing its offer of an authorized degree before the end of the period of authorization, a school shall not reinstate the degree without permission from the Office. A program shall be deemed discontinued if a period of two academic years passes without any students being enrolled in the program.

(7) Authorization to offer instruction or related services leading to a degree is subject at all times to revocation for proper cause according to procedures described in OAR 583-030-0045 below.

(8) Exemption of a degree with an approved religious title from the standards in OAR 583-030-0035 as provided in OAR 583-030-0010(2) is given for an indefinite period as long as the school continues to satisfy the exemption criteria of admission requirements, faculty qualifications, and length of program. After discontinuing the offer of an exempt degree, a school shall not reinstate that degree without receiving renewed permission from the Office.

Stat. Auth.: ORS 348.594 & ORS 348.606

Stats. Implemented: ORS 348.594, ORS 348.603 & ORS 348.606

Hist.: ECC 22, f. & ef. 12-22-75; ECC 2-1980, f. & ef. 4-14-80; EPP 1-1988, f. & cert. ef. 1-7-88; EPP 1-1993, f. & cert. ef. 6-28-93; EPP 1-1995, f. & cert. ef. 10-6-95; EPP 1-1996, f. & cert. ef. 8-7-96; ODA 2-1998, f. & cert. ef. 8-12-98; ODA 1-2001, f. & cert. ef. 6-27-01; ODA 1-2003, f. & cert. ef. 4-16-03

## 583-030-0021

### Nondegree Certificates and Diplomas

(1)(a) A school that is authorized to grant a degree may also grant certificates in the same field without an independent review of the certificate, provided that the certificate is granted for completion of a specified set of courses approved in a degree curriculum as part of degree authorization.

(b) A school that is authorized to grant a degree and which wants to offer a certificate in a field in which the school is not authorized to grant a degree must apply for approval for the certificate. The process will be shorter and less elaborate than for a degree authorization and the fee will be that usually charged for external degree programs.

(c) A school that is not approved to grant any degrees in Oregon may apply for approval to grant certificates. Application must be made to the Private Career Schools office of the Oregon Department of Education, not to ODA.

(d) A school providing religious education does not require ODA approval in order to issue certificates or diplomas unless academic credit usable toward a degree is formally granted by the school.

(2) A school that can offer neither an authorized nor exempted degree to students who complete a postsecondary program may be permitted by the Office to issue a diploma or certificate under conditions that will not mislead the student or the public to think it is a degree. If such diploma or certificate represents two or more academic years of study or is titled in a way that could lead someone to confuse it with a degree, the Office at its discretion may require the school to print an approved disclaimer of degree offer on the inside front cover or facing page of its catalog.

Stat. Auth.: ORS 348.594 & ORS 348.606

Stats. Implemented: ORS 348.594, ORS 348.603 & ORS 348.606

Hist.: EPP 1-1988, f. & cert. ef. 1-7-88; EPP 1-1995, f. & cert. ef. 10-6-95; EPP 1-1996, f. & cert. ef. 8-7-96; ODA 2-1998, f. & cert. ef. 8-12-98; ODA 1-2001, f. & cert. ef. 6-27-01; ODA 1-2003, f. & cert. ef. 4-16-03

## 583-030-0025

### Eligibility to Apply for Degree Authorization

(1) To be eligible to apply for initial or renewed authorization to offer a residential or semi-residential degree to Oregon residents, or to offer any degree from within Oregon to persons anywhere, a school must ordinarily appoint a responsible administrator who resides and has a business address and telephone within the state, who may transact the essential business of application, and who in any case shall be made an informed party to all such business. Alternative liaison arrangements may be permitted at the discretion of the Office where a non-Oregon school plans an unusually small or narrowly specialized operation within this state, provided that no degree will be offered from within Oregon to students who did not receive their residential instruction here.

(2) An applicant school shall provide evidence that it can employ sufficient faculty to enable all students to begin work toward a degree at a rate equivalent to at least half-time study. The school shall have reasonable prospects of obtaining facilities and other resources consistent with its academic plans at the outset of operation.

(3) No school shall be eligible to apply for authorization to offer in or from Oregon any instruction or other services leading to a doctor's degree before it has obtained accreditation or pre-accreditation candidacy at or above the bachelor's degree level recognized by the U.S. Secretary of Education or by the Council for Higher Education Accreditation. However, offer of doctoral programs in another state by an unaccredited school will not automatically disqualify such school from authorization to offer degrees below the doctoral level in Oregon if one or more of the doctoral programs would evidently qualify to be considered for Oregon authorization immediately upon becoming accredited.

(4) A foreign (non-U.S.) school is eligible to apply for Oregon approval if it is approved to offer degrees by the appropriate agency in its home country and ODA finds that its home country has adequate oversight of academic programs. Foreign schools are not limited to offering in Oregon the same degrees for which they have approval in their home country, but may not offer degrees at a higher level in Oregon than those for which they have authorization in their home country.

Stat. Auth.: ORS 348.606

Stats. Implemented: ORS 348.603 & ORS 348.606

Hist.: ECC 22, f. & ef. 12-22-75; ECC 2-1980, f. & ef. 4-14-80; EPP 1-1988, f. & cert. ef. 1-7-88; EPP 1-1995, f. & cert. ef. 10-6-95; EPP 1-1996, f. & cert. ef. 8-7-96; ODA 2-1998, f. & cert. ef. 8-12-98; ODA 1-2003, f. & cert. ef. 4-16-03

## 583-030-0030

### Application Procedure

(1) A school seeking initial degree authorization should allow three months to prepare its application and six additional months for review by the Office. Approval of exempt degrees and abbreviated reviews for certain

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external or semi-residential degrees may require less time. To be considered timely, application for renewal of an existing authorization must be completed six months before that authorization expires, and a school seeking renewal is fully responsible for beginning the procedure.

(2) In order to be valid, application must be made by the method determined by the Office, including completion according to instruction of any forms provided for the purpose. Modification will be allowed by explicit permission only. The applicant school shall submit any information requested by the Office and may submit such supplemental information as it considers pertinent. The Office will provide advice.

(3) An applicant school shall disclose any business or other relationship with another organization or person that may influence decisions taken by the school in a matter other than content of courses. The school shall furnish such information concerning the other organization or person and the relationship as the Office may direct. Concealment of such a relationship or failure to supply relevant information as directed is a basis for rejection of an application.

(4) Resumes or biographical outlines for owners, governing board members, officers, administrators, and teachers associated with the applicant school or its parent organization shall be submitted in the form determined by the Office. After the initial application is transmitted and before the Office has acted on it, the school shall submit the resume of any new such principal or employee immediately for inclusion with the application materials. Program approval may be made conditional on approval of employees hired after the approval date.

(5) Application for authorization to offer an academic degree, or to provide services leading to a degree in whole or in part, must be accompanied by payment of the fee described in OAR 583-030-0046 or such reduced fee as is determined by the Office in special circumstances. ORS 348.606(3) prohibits fee refunds.

Stat. Auth.: ORS 348.606

Stats. Implemented: ORS 348.603 & ORS 348.606

Hist.: ECC 22, f. & ef. 12-22-75; EPP 1-1988, f. & cert. ef. 1-7-88; EPP 1-1995, f. & cert. ef. 10-6-95; EPP 1-1996, f. & cert. ef. 8-7-96; ODA 2-1998, f. & cert. ef. 8-12-98; ODA 1-2001, f. & cert. ef. 6-27-01; ODA 1-2003, f. & cert. ef. 4-16-03

## 583-030-0035

### Standards for Schools Offering Degree Programs In or From Oregon

In order to receive and hold authorization to offer in or from Oregon instruction or related services leading to one or more academic degrees, a school must remain open to inspection at all times and continuously satisfy each of the following standard requirements as written, except where the Office approves modification under OAR 583-030-0036 or substitution under OAR 583-030-0037. Standards Applicable to All Programs:

(1) Name. The school shall use for doing business publicly a name that is consistent with its purpose and educational programs.

(2) Purpose. The school shall serve a reasonably distinct general purpose useful to Oregon society.

(3) Control.

(a) All persons responsible for top management policy must be individually qualified by education, experience, and record of conduct to assure effective management, ethical practice, and the quality of degrees and services offered. Boards must collectively demonstrate financial, academic, managerial and any necessary specialized knowledge, but individual members need not have all of these characteristics. Any controlling organization or owner is subject to this standard. All board members, administrators as defined in 583-030-0035(6) below, or owners of five percent or more of shares of an applicant school or parent corporation must disclose the following:

(A) Any prior felony convictions.

(B) Any known violations of federal financial aid rules by a school of which the person was a board member or employee.

(C) Any known violations of the policies of an accreditor by a school of which the person was a board member or employee.

(D) Any previous or current ownership or administration of a school that closed or filed for bankruptcy.

(E) Such indicators of incapacity to oversee a postsecondary institution by key people may disqualify a school or administrator from approval.

(b) Persons who control a nonprofit school shall not ordinarily be operating officers or employees of the school, and their authority and role shall not be attenuated by commitment to other than the school's best interest as a public trust. The Office may at its discretion permit persons employed by the school to hold up to 20 percent of the seats on a school's board if the school can demonstrate that circumstances warrant such representation, but in no case shall a majority of board members receive a direct or indirect financial benefit from the school, its employees or its students, nor may any person obtaining such benefits be present when such benefits

are discussed or determined. Standard reimbursement for costs related to board service is permitted.

(4) Interest.

(a) A school operated for profit shall disclose fully to students and faculty, as well as to the Office, the specific financial interest of any organization or person, except that a large group of shareholders may be described generally. Any person or entity holding at least 5 percent of voting or common shares in a for-profit school must be named and the percentage of holdings disclosed. All business activities of interested organizations or persons are subject to disclosure.

(b)(A) A nonprofit school shall have a published policy that is followed in practice against conflicts of interest at all organizational levels.

(B) No governing board member, officer, or other person in a position to influence the management of a nonprofit school shall have any direct or indirect means of personal gain from the policy or activities of the school except as provided under "Control" above. However, such persons may loan money to the school at a moderate rate of return if a needed loan is not available from commercial lenders. This section does not prohibit a person who owns or is employed by an entity with which a nonprofit school does business from serving on the school's board, provided that the school can demonstrate that no personal financial gain has occurred or could occur as a result of such board service. If a board member owns or is employed by a business that is the sole practical provider within 25 miles of goods or services needed by the school, or if the school pays less than \$1,000 annually for such goods or services, the school may request an exemption in that case.

(5) Organization. The school and any parent organization shall be organized so as to distribute responsibility clearly among positions in a logical structure that is consistent with services offered and qualifications needed to fulfill the duties of the positions. An individual may occupy more than one position.

(a) There shall be located in Oregon an administrator generally responsible for school operations within the state and transaction of business with the Office, except that alternative arrangements may be permitted at the discretion of the Office where a non-Oregon school conducts a small or highly specialized operation within the state. Unless an exception is approved by the Office because of unusual compensatory qualification, that administrator shall possess a degree at least as high as any offered by the school in connection with operations in Oregon, together with appropriate administrative experience.

(b) There shall be a chief executive officer for the entire school responsible to its governing board or other corporate owner for overall management of operations in Oregon or elsewhere. Unless an exception is approved by the Office because of unusual compensatory qualification, that officer shall possess a doctor's degree or otherwise a degree higher than any offered by the school anywhere, together with postsecondary managerial experience appropriate to the level, size, and complexity of the school.

(c) There shall be an academic officer for the entire school responsible for faculty and academic programs offered in or from Oregon. Unless an exception is approved by the Office because of unusual compensatory qualification, that officer shall possess at least a master's degree and shall possess a doctor's degree if the school offers any graduate or non-baccalaureate professional degree. That officer shall have experience in teaching and academic administration, both experiences appropriate to the level, size, and complexity of the school.

(d) There shall be a business officer for the entire school responsible for accounting and managerial services. Unless an exception is approved by the Office because of unusual compensatory qualification, that officer shall possess at least a bachelor's degree in a business-related field, together with appropriate administrative experience.

(6) Administrators.

(a) The school shall satisfy the Office that all top executive officers and other administrators are individually qualified by education, experience, and record of conduct to assure competent management, ethical practices, and effective educational service. Unless an exception is approved by the Office because of unusual compensatory qualification, administrators above the entry level shall have experience related to their present duties, and all administrators shall possess appropriate academic degrees earned from schools that are regionally accredited or otherwise determined by the Office to be acceptable. At a minimum, the following functions, irrespective of formal titles, are always considered among the administrators covered by this section: president, chief academic officer, chief business officer, chief student services officer, library director, admissions director, financial aid director and director of human resources.

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(b) The school shall employ, compensate, supervise, and evaluate its administrators systematically and fairly, not arbitrarily.

(c) Administrators shall be paid by fixed salary and not by commission. Any portion of payment that is based on enrollment of students recruited by the administrator or the administrator's staff is considered payment by commission.

(d) Full-time administrators should generally be retained for at least one academic year absent cause for dismissal. The school must provide ODA with data regarding turnover of full-time administrators. In the event that over half of full-time administrators are not retained for at least one academic year, ODA may require a school to implement a mandatory minimum one-year contract if necessary to ensure program stability. Part-time administrators designated upon hiring as temporary or adjunct positions and so informed by the school have no expectation of continuing employment. ODA may limit use of part-time administrators upon finding that such use results in substandard services to students.

(e) The school shall fully inform its administrators as to whether and how they are indemnified against professional liability.

(f) The school shall demonstrate an effort when hiring administrators to avoid dependence on its own most recent graduates. If more than 20 percent of all applicant school administrators hold their highest degree from the applicant school, this standard cannot be met unless fewer than 10 schools in the United States offer the highest degree available in the field.

### (7) Teachers.

(a) The school must keep official transcripts for all teaching faculty.

(b) The school shall satisfy the Office that all teachers are individually qualified by education and experience to give expert instruction or evaluation in their specialties. Unless an exception is approved by the Office because of unusual compensatory qualification, teachers shall be qualified for the various levels of instruction or evaluation as described below, with degrees earned from schools that are regionally accredited or otherwise determined by the Office to be acceptable.

(c) Teachers shall be numerous enough and so distributed as to give effective instructional and advisory attention to students in all programs offered by the school.

(d) A school having an undergraduate FTE student-faculty ratio of greater than 30-1 or a graduate FTE student-faculty ratio of greater than 20-1 for students taught in or from Oregon must demonstrate that students and faculty have adequate opportunities for one-to-one interaction.

(e) A school that does not have at least one full-time teacher resident in Oregon or directly teaching Oregon students in each specialty must demonstrate with specific examples the adequacy of faculty contribution to organizational integrity and continuity, to academic planning, and to resident student development.

(f) The school shall employ, compensate, supervise, and evaluate its teachers systematically and fairly, not arbitrarily, and shall have a faculty development policy that continuously improves their knowledge and performance. Teachers shall be paid by fixed salary and not by commission. Any portion of payment that is based on enrollment of students recruited by the teacher is considered payment by commission.

(g)(A) In order to ensure program stability and quality of instruction, full-time teachers should generally be retained for at least one academic year absent cause for dismissal. The school must provide ODA with data regarding turnover of full-time teachers. In the event that at least half of full-time teachers are not retained for at least one academic year, ODA may require a school to implement a mandatory minimum one-year contract if necessary to ensure program stability and quality of instruction. Part-time teachers designated upon hiring as temporary or adjunct positions and so informed by the school have no expectation of continuing employment beyond the term for which they are hired. ODA may limit use of part-time teachers upon finding that such use results in substandard education of students.

(B) A full-time teacher evaluated as better than adequate and not removed for cause can expect continually renewed appointment unless the position is eliminated for documented financial or curricular reasons.

(h) The Office does not require that teachers be indemnified for activities carried out as a requirement of their positions. However, the school shall fully inform its teachers in writing upon hire as to whether and how they are indemnified against professional liability.

(i) The school shall demonstrate an effort when hiring teachers to avoid dependence on its own most recent graduates. No more than 20 percent of all applicant school teachers can hold their highest degree from the applicant school unless fewer than 10 schools in the United States offer the highest degree available in the field.

(j) A teacher of an academic or scientific discipline within an occupational or professional degree program (e.g., economics within a business program, psychology within education, anatomy within nursing) ordinarily shall possess the appropriate degree in the discipline rather than a non-disciplinary occupational or professional degree. Lower-division undergraduate courses may be taught by those with non-disciplinary degrees who have demonstrable and extensive acquaintance with the discipline.

(k) Standards applicable to specific degree levels.

(A) Standards applicable to associate degrees: A teacher on a faculty offering associate's degrees ordinarily shall possess a bachelor's degree appropriate to the subject taught or evaluated, except that compensatory nonacademic qualifications will be more readily accepted by the Office in programs leading to occupational degrees. Where the degree emphasizes transfer courses in the arts and sciences, the teacher ordinarily shall possess an appropriate master's degree.

(B) Standards applicable to bachelor's degree programs: A teacher on a faculty offering bachelor's degrees ordinarily shall possess an appropriate master's degree.

(C) Standards applicable to master's degree programs: A teacher on faculty offering master's degrees ordinarily shall possess an appropriate doctor's degree and some teaching experience, except that up to half of the teachers in an occupational or professional degree program may substitute for the doctorate a master's degree together with occupational or professional licensure or equivalent certification and related work experience. More substitutions may be permitted where the terminal degree for teachers in an occupational or professional field is not generally considered to be a doctorate.

(D) Standards applicable to doctoral programs: A teacher on a faculty offering doctor's degrees ordinarily shall possess an appropriate doctor's degree and substantial graduate or first-professional teaching experience, including experience overseeing advanced independent study or student practice, except that the doctor's degree alone may suffice for teaching courses at the master's level generally or at any level in the teacher's particular subspecialty.

(8) Curriculum. The school shall justify a degree offer by assuring the quality of all attendant teaching, learning, and faculty-student interaction. The curriculum shall have a structure that reflects faculty responsibility for what is to be learned overall, as well as in each course, and thus for the logical sequence and increasing difficulty of subjects and instructional levels. The curriculum shall reflect the distinction between the liberal disciplines and the occupations and professions, the nature of specialization in study and work, the contribution of liberal arts and sciences, and the relationship between teaching and faculty creativity. A graduate curriculum shall reflect a concept of the graduate school as a group of scholars, the faculty members of which have had extensive collegiate teaching experience and are engaged in the advancement of knowledge. Periods of study and other fundamental requirements for the four levels of academic degree are as follows.

(a) An associate's degree shall require at least two academic years in FTE postsecondary study, including general requirements as found in current guideline.

(b) A bachelor's degree, or baccalaureate, shall require at least four academic years in FTE postsecondary study, including general requirements. At least 40 semester credit hours shall be in upper-division courses, and no more than two academic years of instruction shall be from schools that do not offer baccalaureate degrees. The degree shall require distinct specialization, i.e., a "major," which should entail approximately one academic year of work in the main subject plus one year in related subjects, or two academic years in closely related subjects within a liberal arts interdisciplinary program.

(c) A master's degree shall require at least one full academic year in FTE post-baccalaureate study, except that a first-professional master's degree may be authorized for study beyond fulfillment of undergraduate requirements approved by the Office if the total period of study is at least five academic years. The curriculum shall specialize in a single discipline or single occupational or professional area and culminate in a demonstration of mastery such as a research thesis, a work of art, or the solution of a practical professional problem.

(d) A doctor's degree shall require at least three academic years in specialized post-baccalaureate FTE study, except that a first-professional doctor's degree may be authorized for four academic years of study beyond fulfillment of undergraduate requirements approved by the Office. Study for a closely related master's degree may be counted toward doctoral requirements. The doctor's degree shall represent a student's ability to perform independently basic or applied research at the level of the profession-

## ADMINISTRATIVE RULES

al scholar or to perform independently the work of a profession that involves the highest levels of knowledge and expertise. Requirements for the degree shall include demonstration of mastery of a significant body of knowledge through comprehensive examination, unless a graduate must pass a similar examination in order to be admitted to professional practice in Oregon. The curricular program of a research degree shall be appropriately broad and shall manifest full understanding of the level and range of doctoral scholarship, the function of a dissertation and its defense, the nature of comprehensive examination, and the distinction between matriculation and degree candidacy.

(e) Undergraduate Degree Components. These are the basic requirements for different kinds of degrees available in Oregon.

(A) Credit hours. This section states credit hours as semester credit hours (SCH). Colleges using the quarter system should multiply these credits by 1.5 to obtain the correct requirement in quarter credit hours (QCH) under quarter systems.

(B) Liberal Education. Fields of study within the liberal arts and sciences, or simply 'liberal arts,' are called 'disciplines' and are conventionally divided into three areas of knowledge: humanities, social studies, and natural science. A common classification of the liberal disciplines follows.

(i) Humanities: Language, literature, philosophy, religious thought; fine arts (not emphasizing performance skills).

(ii) Social studies or sciences: Anthropology, cultural geography, general history, religious history and culture, economics, political science, general psychology, sociology.

(iii) Natural sciences: Biology, biological psychology, chemistry, physics, geology and physical geography, mathematics.

(iv) The liberal disciplines do not include professional and vocational courses, such as agriculture and forestry (or wildlife management), architecture and design, business and public administration, broadcasting or journalism, computer technology, education, engineering and related technologies, health professions, home economics, law, library science, military science, parks and leisure studies, physical education and recreation, protective services, or religious services. The liberal disciplines also do not include artistic performance or physical activity courses, practical and general information courses such as personal health, career planning, human relations, public speaking, elementary writing, elementary mathematics, and computer fundamentals.

(C) General Education. General education is a term that includes not only liberal education but other courses outside a student's major field, especially in mathematics, computer science, writing, and speaking. A bachelor's degree requires one academic year of general education. Two-year degrees require less. Degrees with arts or science titles have more liberal arts requirements than do professional degrees, in which much of the general education may be non-liberal. All associate and bachelor's degrees require one year (at least 6 semester or 9 quarter credit hours or equivalent alternate term credit hours) of English composition or equivalent ODA-approved writing courses.

(D) Major Field. A bachelor's degree requires study in a major field for one academic year. Thus, the major must include 30 SCH or more, with 20 SCH in the upper division and 15 SCH (22 or 23 QCH) of upper-division hours taught by the resident faculty. A dual major simply doubles these numbers.

(E) An interdisciplinary major is permitted. It requires 60 SCH (39-40 upper division, 30 of those in residence) in either three or four disciplines, with at least 15 hours in each discipline and at least 9 upper-division hours in each, of which 6 must be in residence. A school may offer a major or an interdisciplinary option in any field in which it has more than one fully qualified teacher if at least one teaches full time. ODA may approve minor variations in order to allow programs to operate efficiently.

(F) Degrees. The following degree names, levels and types are available in Oregon.

(i) Bachelor of Arts. An arts degree, the B.A. requires competency in a foreign language and one academic year in the humanities, i.e., 30 SCH, of which 12 can be in foreign languages. The language competency requirement is equivalent to the 12 hours, the second-year level, and ESL students can satisfy it with 12 hours of English language and literature. As general education outside the major, the B.A. requires 24 SCH in the liberal arts and sciences, with at least 6 hours in each of the three areas: humanities, social studies and natural sciences.

(ii) Bachelor of Science. A science degree, the B.S. requires one academic year in the social or natural sciences, i.e., 30 SCH, of which 12 can be in mathematics and state-approved computer courses. As general education outside the major, the B.S. requires 24 SCH in the liberal arts and sci-

ences, with at least 6 hours in each of the three liberal arts and sciences areas.

(iii) Bachelor, Professional. As general education outside the major, the professional bachelor's degree requires 24 SCH hours in the liberal arts and sciences, with at least 6 hours in each of the three liberal arts and sciences areas.

(iv) Bachelor, Technical. As general education outside the major, the technical bachelor's degree requires 24 SCH in the liberal arts and sciences, or in non-vocational courses closely related to them, with at least 3 hours in each of the three areas and a total of at least 9 in the two areas most unrelated to the major.

(v) Associate of Arts. A full-transfer degree, the A.A. requires two academic years applicable to B.A. or B.S. study and fulfilling baccalaureate liberal arts requirements. A major is optional. Thus, the A.A. requires 24 SCH in the liberal arts and sciences, with at least 6 hours in each of the three liberal arts and sciences areas.

(vi) Associate of Science. A limited-transfer degree, the A.S. requires a major and two academic years applicable to professional or technical baccalaureate study. The A.S. degree requires 24 SCH in the liberal arts and sciences, or in non-vocational courses closely related to them, with at least 6 hours in each of the three areas.

(vii) Associate, Professional or Technical. A terminal degree, the professional or technical associate's degree requires a major (Degree title examples: Associate of Applied Arts, Associate of Applied Science, Associate of Technology, Associate of Occupational Studies, Associate of Business, Associate of Religion).

(9) Credit. The school shall award credit toward degrees proportionate to work done by students and consequent upon the judgment of qualified teachers and examiners. No more than one year of an academic program can be completed using any combination of the noninstructional methods set forth in (e), (f) and (g) below.

(a) A credit hour earned through nontraditional learning schedules shall have proportionate value to credit hours based on customary term lengths.

(b) Credit awarded by the school shall be based solely upon the judgment of teachers who have had extensive direct contact with the students who receive it, with the exception of methods listed in these rules if approved in advance by ODA.

(c) At least one academic year of credit toward any degree, most of it near the end, shall represent teaching or direct evaluation by faculty members employed by the school, except that the Office may approve a lesser amount for an associate's degree.

(d) Transfer credit integral to the school's approved degree curriculum may be awarded at the corresponding degree level for academic work documented by other schools that are regionally accredited, authorized to confer degrees in or from Oregon, or otherwise individually or categorically approved by the Office. Such credit must be converted as needed from semester, quarter or nontraditional calendar systems.

(e) Advanced Placement credit integral to the approved degree curriculum may be awarded in the lower-division up to a limit of one academic year for passing examinations constructed by testing organizations satisfactory to the Office.

(f) Challenge examination credit as an actual component of the approved degree curriculum may be awarded only at the undergraduate level for successful performance on a final course examination, or on a similar test covering all course content, given by the school in lieu of requiring class attendance. No more than 25 percent of an undergraduate degree program may be earned through challenge examinations.

(g) Noncollegiate learning integral to the approved degree curriculum may be awarded credit only at the undergraduate level for learning validated by a student "portfolio," a credit evaluation guide issued by the American Council on Education, or a similar criterion. Such learning must be formulated through sufficient contact between teacher and student, communicated competently in terms of ideas (e.g., concept, generalization, analysis, synthesis, proof) rather than mere description, and judged by faculty members or contracted experts demonstrably qualified to evaluate it. Upper-division credit of this type may be awarded only in academic fields in which the school employs its own faculty. No more than 25 percent of an undergraduate degree program may be earned through award of credit for noncollegiate work.

(h) Credit may be awarded for distance learning if the school demonstrates that it has adequate methods in place to ensure that student work is sufficient both in quality and quantity to meet ODA requirements, courses are developed and taught by qualified faculty and there will be sufficient interaction between students and faculty and, if possible, among students.

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The Office may limit or disallow credit awarded for any type of distance learning if the school cannot demonstrate adequate oversight and quality control measures.

(10) Admission. The school shall offer admission only on receipt of evidence that the applying student can reasonably expect to complete a degree and to benefit from the education obtained. Any student permitted to take courses within a degree curriculum has been admitted thereby unconditionally to the degree program unless individually informed otherwise in writing. Students offered unconditional admission shall have the following qualifications, unless the Office approves specific testing or other alternative method of determining applicant admissibility.

(a) A student admitted to undergraduate degree study for the first time shall have either a high school diploma or an equivalent credential. Home-schooled students without a traditional credential may be admitted provided that they can demonstrate the ability to perform college-level academic work.

(b) A student admitted to undergraduate degree study with undergraduate experience shall have a record of successful performance therein or else a record of responsibility and achievement following unsuccessful collegiate performance.

(c) A student admitted to graduate degree study shall have a baccalaureate degree from a school that is accredited, authorized to confer degrees in Oregon, or otherwise approved by the Office either individually or by category.

(d) A student admitted to first-professional degree study shall have at least three academic years of accredited or ODA-approved undergraduate credit, graded average or better, including pre-professional courses specified by the school and approved by the Office.

(11) Guidance. The school shall help students to understand the curriculum and to make the best use of it.

(a) There shall be a program of general orientation for new students.

(b) Each student shall be assigned a qualified academic advisor to assist individually in planning, course selection, learning methods, and general adjustment.

(c) The school shall provide career guidance to the extent that curriculum is related to a specific prospective occupation or profession.

(12) Learning. The school shall require each student to complete academic assignments and demonstrate learning appropriate to the curriculum undertaken.

(a) Teachers or evaluators shall inform students clearly using a syllabus or similar instrument of what should be learned in each course and how it will be measured.

(b)(A) Expectations of student performance shall be increased with each ascending step in degree level. Higher degrees must represent an increase in the difficulty of work and expectations of students, not simply a cumulation or increase in quantity of student work.

(B) Evidence of expectation (e.g., syllabi and sample exams) and performance (e.g., student grades) shall be retained for all academic courses for at least one year.

(c) The school shall require students to make continuous progress toward a degree while they are enrolled and liable for tuition and shall suspend or dismiss those who do not make such progress, except that a period of probation with guidance may be instituted in order to obviate separation of a student who can be expected to improve immediately. Continuous progress for students receiving Title IV aid shall be defined according to federal Title IV standards. Students not receiving Title IV aid shall meet the school's own published standards for satisfactory progress.

(d) Grading and appeal procedures shall be fair and administered equitably, and criteria of student progress shall be validated by research if not obviously valid.

(13) Student Affairs. Through both services and supervision the school shall demonstrate commitment to the success of individual students and to maintenance of an atmosphere conducive to learning.

(a) Rules of student conduct shall be reasonable, sufficiently specific, fully communicated, systematically and equitably enforced, and accompanied by policy and practice of disciplinary due process, including notice and hearing and related rights.

(b) Security services and fire protection shall be adequate to ensure student safety on school premises.

(c) Counseling or advising services, if provided, shall be accurately described. There shall be no suggestion of professional psychological counseling, therapy, or testing, unless provided by persons who possess directly related graduate degrees and any required licensure.

(d) Health services where provided shall be under supervision of a registered nurse or licensed physician. There shall be an arrangement for

quick and effective referral in medical or psychiatric emergencies beyond school capability. The school shall provide adequate first-aid supplies on its premises.

(e) Housing where provided or endorsed by the school shall be conducive to study and adequately supervised.

(f) Financial aid services shall be provided by qualified administrators.

(g) Placement services where provided shall be described clearly to students, and the school shall take precautions to avoid unrealistic expectation of placement.

(h) Organizations and activities where sponsored or endorsed by the school, whether using school facilities or not, are the responsibility of the school and shall be supervised if and insofar as necessary to ensure student safety and good conduct.

(i) Recreation or rest areas shall be provided on school premises and equipped appropriately in relation to student use and need.

(j) Records documenting relationships between the school and a student shall be open to that student, who may request changes or enter dissenting comments, and the content of records shall be objective and fair. The private notes of a counselor are not to be considered records and shall not be transmitted as such, either inside or outside the school. All medical records are confidential and shall not be released without permission of the patient.

(k) There shall be available to undergraduate students and responsible for student affairs an official who possesses knowledge, skill, and managerial experience particularly appropriate to the function, unless the Office waives this requirement. In general, waivers are granted only for small startup schools in their first approval cycle and for schools that mainly teach people who are of nontraditional age (23 or older) or already in the workforce.

(l) Every school shall distribute a student handbook or similar publication describing services and regulations, unless such descriptions are complete in the school's main catalog.

(14) Information. School publications, advertisements, and statements shall be wholly accurate and in no way misleading. Reference to state approval shall be limited to that described in OAR 583-030-0041. Reference to accreditation shall be limited to that defined in OAR 583-030-0015(2). A prospective student shall receive a complete description of the school and its policies, including an estimate of annual or program costs, before being enrolled. This estimate is not binding on the institution but must give prospective students a reasonable idea of their financial commitment. Where a degree implies preparation for a specific occupation, the school shall explain clearly the true relationship between its curriculum and subsequent student qualification for occupational practice, including graduates' success rates in passing licensure examinations if applicable.

(a) The school shall publish at least every two years a catalog or general bulletin. The catalog shall contain a table of contents and adequate information concerning period covered, school name and address, telephone numbers, state approval, purpose, relationship to occupational qualification, controlling structure, board membership, financially interested parties, internal organization, faculty and administrators (listing position or teaching specialization together with all earned degrees and their sources, omitting unearned degrees and not confusing professional licenses with degrees), degree requirements and curricula, academic calendar, credit policy in accordance with OAR 583-030-0035(9), transferability of credit to other schools, admission requirements and procedures, academic advising and career planning, academic policies and grading, rules of conduct and disciplinary procedure, student services (counseling, health, placement, housing, food, bookstore, activities, organizations), student records, library, facilities, fees and refunds, estimated total expenses, financial aid, and job opportunities for current students. Electronic publication meets this standard provided that a paper version of the catalog is provided to ODA, is available to students upon request and is maintained as the "official" version in order to avoid confusion if electronic versions are changed.

(b) (A) The school shall publish in its catalog or general bulletin a description of the line of authority from Oregon operations to all sources of control, including any parent or intermediary organizations.

(B) The catalog shall include membership of the school governing board and at least the officers of the governing board of any other organization that exerts direct or indirect control.

(C) A school operated for profit shall publish in its catalog a clear description of the financial interest of any organization, and it shall publish the names of persons having an interest in a closely held school corporation or parent corporation of a subsidiary school.



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(c) The school shall be scrupulously ethical in all communication with the public and with prospective students.

(A) A claim made to attract students shall be documented by evidence available to any person on request. The school shall make no attempt to attract anyone who does not appear likely to benefit from enrollment, and no attempt to attract students on any basis other than instruction and campus life appropriate to an educational institution.

(B) Outside the regular student financial aid process, there shall be no discounting of tuition as an incentive to enroll.

(d) A school without regional accreditation shall print in a separate section of its catalog titled "transfer of credit to other schools" a statement warning students verbatim that "transfer of credit is always at the discretion of the receiving school, generally depends on comparability of curricula, and may depend on comparability of accreditation." Other comments may follow concerning the school's documented experience in credit transferability, but it must be clear that a student should make no assumptions about credit transfer.

(e) Research involving human subjects shall be done only with their informed consent.

(15) Credentials. The school shall provide accurate and appropriate credit transcripts for students who enroll and diplomas for students who graduate.

(a) The school shall maintain for every past and present student, and shall issue at the request of any student who is not delinquent in fee payment, a current transcript of credits and degrees earned. The transcript shall identify the school fully and explain the academic calendar, length of term, credit structure, and grading system. It shall identify the student and show all prior degrees earned, details of any credit transferred or otherwise awarded at entry, and periods of enrollment. It shall include for each period of enrollment every completed course or module with an understandable title, number of credits earned, and grade received. The transcript shall note with or without explanation if the student is not immediately eligible to continue enrollment, e.g., for reasons of academic probation or suspension.

(b) Upon satisfaction of degree requirements and payment of all fees owed, the school shall provide the graduating student with a diploma in a form approved by the Office, appropriately documenting conferral of the degree.

(16) Records. The school shall keep accurate and safe all records affecting students. There shall be at all times complete duplicate transcript information kept in a location away from the original transcripts, such that duplicates and originals are not exposed to risk of simultaneous damage. In addition to transcripts, which may never be destroyed, the school shall maintain detailed records documenting the significant parts of its formal relationship with each student: financial transactions and accounts, admission qualifications, validation of advanced standing, instructor course records as posted to transcripts, and status changes due to unsatisfactory performance or conduct. Such supporting records shall be kept safe for a period of at least three years after a student has discontinued enrollment. Instructor course records other than those posted to transcripts shall be kept for at least one year.

(17) Library. The school shall provide or arrange for its faculty and students direct or electronic access to verbal and sensory materials sufficient in all subjects of the curriculum to support instruction and to stimulate research or independent study.

(a) The school may arrange for comprehensive privileges from libraries of other organizations, provided it can prove convenient access and extensive use, but the school shall retain full responsibility for adequacy of resources available to students.

(b) Library services shall be under the direction of a person educated professionally in library and information studies, except that the Office may waive this requirement where the range of academic fields represented is narrow.

(c) Library resources shall be current, well distributed among fields in which the institution offers instruction, cataloged, logically organized, and readily located.

(d) The school shall maintain a continuous plan for library resource development and support, including objectives and selection of materials, and shall maintain accurate information on resource collections, access, student use, faculty use, staffing, and finance.

(e) The school should conform to the following guidelines for library services unless it can justify a deviation on the basis of unusual educational requirements.

(A) With the exception of those in specialized associate's degree programs, students should receive direct, contracted or electronic access to a minimal basic collection equivalent to that held by accredited schools offer-

ing similar programs. The applicant school must demonstrate this comparability.

(B) Staff should include a professional librarian for each 1,000 students, with clerical support adequate to relieve librarians of all non-professional duties.

(C) Students should have full access to all resources for at least 40 hours per week, and all services should be available for 20 hours per week. The facility, whether provided by the college directly or by contract, should seat no less than 10 percent of the students enrolled unless the program is primarily intended to train practitioners in technical or fine arts fields, in which case a lower percentage may be requested. If the school meets the library standard largely by electronic means, electronic services must be available to a comparable portion of the student body for a comparable period.

(18) Facilities. The school shall have buildings and equipment sufficient for the achievement of all educational objectives and shall maintain a plan for facilities use and development, ordinarily including data showing utilization. A school that offers a residential or semi-residential degree shall conform to the standard criteria listed below unless the Office approves an exception based on unusual conditions. A school that does not own facilities meeting the standard shall provide them by lease or other arrangement that guarantees operational stability and continuity.

(a) Buildings in general, including student or faculty housing units, shall be uncrowded, safe, clean, well furnished, and in good repair; and they shall be well lighted, heated, ventilated, and protected from noise. School grounds where provided shall be appropriately used and adequately maintained.

(b) Instructional facilities shall be adequate and conducive to learning. There shall be no less than 15 square feet per student station in classrooms, with at least one station for every two FTE students enrolled. Total classroom and study area, including library space for reading, shall be no less than 10 square feet per FTE student.

(c) Laboratory space and instructional equipment shall be inventoried, its use explained on the resulting report, and its adequacy defended on criteria obtained from experts and documented by the school. A laboratory ordinarily shall have no less than 30 square feet per student station.

(d) Clinical facilities and other public service areas shall be appropriate for instruction of students as well as for service to patients or clients.

(e) Faculty offices shall be sufficient to prevent crowding and to allow private conversations with students.

(19) Finance. The school shall have financial resources sufficient to ensure successful continuing operation and to guarantee full refund of any unearned tuition. There shall be competent financial planning using complete and accurate records. The school shall demonstrate satisfaction of this standard upon application, and thereafter annually, by submitting independently audited financial statements with opinion by a certified public accountant. In some cases, the Office at its discretion may accept an audited balance sheet with opinion, together with annual operating statements that have been reviewed by the auditor. A school that is a subsidiary shall submit financial statements of the parent corporation on request. In unusual circumstances, the Office may require a special investigative audit and report.

(a) Financial reports shall be prepared in a format acceptable to the Office, clearly delineating assets and liabilities and informatively classifying revenues by source and expenditures by function.

(A) Operating expenditures shall be classified so as to show separately what has been spent for direct instruction, with the inclusion of strictly academic administration optional.

(B) Separate expenditures shall be shown also for library services, non-library academic support, student services, organized research, public services, and auxiliary services.

(C) Facility operating expenditures ordinarily should be shown separately. The other administrative and institutional support expenditures may be itemized or combined.

(D) Student aid must be shown separately as either an expenditure or a reduction of income.

(E) Hospitals and clinics must be accounted for as separate enterprises, with all costs allocated and fully charged back as reductions of general institutional expenditures.

(b) Current assets shall be entirely tangible and such that the school is not dependent for solvency on substantial increases in receivables collection rate, gifts, tuition rates, or enrollment. Prospective tuition for which a student is not legally liable is not an asset and shall not be shown as a receivable or other balance sheet asset. Tuition collected but still subject to refund shall be shown as a "prepaid" or "unearned" tuition liability.

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(c) A school unable to demonstrate financial strength may be permitted at the discretion of the Office to submit a surety bond in amount equal to the largest amount of prepaid tuition held at any time. The bond would be subject to claims for tuition refund only.

(d) The school shall carry casualty and general liability insurance sufficient to guarantee continuity in case of accident or negligence, and it shall provide or else require by policy professional liability insurance for all of its officers and employees.

(20) Fees and Refunds. The school shall maintain fee and refund policies that are fair, uniformly administered, and clearly explained in the school catalog as well as in any contract made with students. A student shall not be enrolled without having received the explanatory material. The school shall not change its fee policy during an academic year and shall not at any time make extreme changes affecting students already enrolled without permission from the Office.

(a) Tuition shall be charged by the credit hour or by fixed rate, for instruction during an academic semester, quarter, or shorter term. No student is obligated for tuition charged for a term that had not commenced when the student withdrew or a term that was truncated by cessation of school services.

(b) A non-refundable application fee charged by the school ordinarily shall not exceed \$100. A total of \$200, including such fee, may be kept by the school from a student who withdraws voluntarily after accepting admission but before attending classes. Any additional fees preceding admission, such as those for qualification, aptitude, or placement tests given by the school or an external testing organization, must be specifically approved by the Office.

(c) After classes begin for a term, a student who withdraws from a course is eligible for a partial refund through the 5th week or the middle week of the term, whichever comes first. Refunds shall be based on unused instructional time and shall be prorated on a weekly basis for schools using a semester, quarter or nontraditional calendar. Without specific Office approval, refund rates shall not be differentiated on the criteria of a student's source of income or loan repayment obligations except as otherwise required by law. In particular, the school shall treat federally aided and unaided students alike.

(d) Fees for credit transferred, for credit attempted or earned by examination or portfolio, or for any period when a student is not attending classes (e.g., during a field experience or a period of thesis research) shall be justified to the satisfaction of the Office, and they shall be explained fully to prospective students. Any such fee must be based on the cost of service actually provided, ordinarily less than the cost of regular instruction, and the mere award of credit does not justify a fee.

(e) Academic policies shall not artificially prolong the enrollment of a failing student with the effect of increasing financial obligation.

(f) Separation from the school for reason of discipline or other administrative action shall not cause forfeiture of ordinary refund amounts.

(g) Charges for food, housing, academic supplies, books, and activities shall ordinarily be based on time of service or exact measure of materials and services provided. Refunds for unused portions of such non-tuition items, whether payment for them was separate or included in tuition, shall be prorated on that basis upon withdrawal, except that the Office may give permission for reduced housing refund to a student whose withdrawal is essentially voluntary and creates a vacancy that cannot be filled. Commitments to purchase school services up to a full academic year may be enforced so long as the student remains in attendance.

(21) Creative Rights. Students shall retain rights to their creative academic work. The school and faculty shall give full attributive credit for any student work used in publications, classes, performances, exhibits, or elsewhere. Major portions of student creative work shall not be used without permission, except that general display may be part of a course or degree requirement. Nonliterary work shall be purchased from the student if it is not returned after a reasonable display period.

(22) Evaluation. The school shall evaluate its own educational effectiveness continually in relation to purpose and planning, including in all aspects the opinions of students. There shall be evaluation of present curriculum and instruction, of attrition and reasons for student withdrawal, and of performance by students after their graduation. In addition to the comments of graduates, employer opinions and licensing examination records should be used in the post-graduation study.

(23) Fair Practice. Notwithstanding the absence of a specific standard or prohibition in this rule, no school authorized to offer academic degrees or seeking to qualify for such authorization shall engage in any practice that the Office, accepting the burden of proof in due process, finds to be in contravention of statutory intent by reason of being fraudulent, dishonest,

unethical, unsafe, exploitive, irresponsible, deceptive, or inequitable and thus harmful or unfair to persons with whom it deals.

Stat. Auth.: ORS 348.606

Stats. Implemented: ORS 348.603 & ORS 348.606

Hist.: ECC 22, f. & ef. 12-22-75; ECC 2-1980, f. & ef. 4-14-80; ECC 3-1981, f. & ef. 12-16-81; EPP 1-1988, f. & cert. ef. 1-7-88; EPP 1-1995, f. & cert. ef. 10-6-95; EPP 1-1996, f. & cert. ef. 8-7-96; ODA 2-1998, f. & cert. ef. 8-12-98; ODA 1-2001, f. & cert. ef. 6-27-01; ODA 1-2002, f. & cert. ef. 2-19-02; ODA 1-2003, f. & cert. ef. 4-16-03

## 583-030-0036

### Schools Without Significant Resident Instruction in Oregon

(1) The Office may adapt the standards and procedures described above when reviewing the application of a non-Oregon school, if it has accreditation or comparable assurance of quality, to offer a degree without significant resident instruction in Oregon.

(a) Some classroom courses and all supervised clinical or other internships, either restricted or open, may be permitted within the state.

(b) Modification of standards and procedures is available to schools that have no facility or regular employees in Oregon, and authorization of a degree in this way thus includes waiver of the requirement to have a resident Oregon administrator.

(2) Schools offering no resident instruction in Oregon are likely to be reviewed using modified standards and procedures when most or all of the following conditions exist:

(a) Degrees are highly specialized;

(b) Information from the school is clear;

(c) Advice and assistance are accessible for students;

(d) Tuition refund policies are generous;

(e) Program evaluation is done systematically by the school;

(f) Curricula for Oregon residents are identical to those at a main campus;

(g) Instruction relayed either live or on recordings is received in Oregon just as it was presented during resident instruction;

(h) Academic assignments and testing and grading policies for Oregon students are identical to those for students on a main campus;

(i) All or nearly all members of the faculty hold degrees meeting Oregon standards.

(3) If a restricted degree is authorized under modified standards, the client organization must ensure full library services, employ persons qualified by a higher degree and experience to judge the quality of the degree program, and appoint a site coordinator who will assist with any inspections and provide information continually to the Office.

Stat. Auth.: ORS 348.606

Stats. Implemented: ORS 348.603 & ORS 348.606

Hist.: EPP 1-1996, f. & cert. ef. 8-7-96; ODA 2-1998, f. & cert. ef. 8-12-98; ODA 1-2003, f. & cert. ef. 4-16-03

## 583-030-0040

### Review Procedures for Degrees

(1) Review and evaluation begin upon receipt of an application found by the Office to be complete. The Office will return an incomplete application for revision by the applicant. The office will assist applicants who have questions about how to prepare the material. After formal evaluation begins, the Office will request additional information where needed.

(2) In the course of evaluation, the Office will ordinarily inspect the facilities and records of an applicant school and interview officials, employees, or students of the school as necessary to obtain sufficient information. The Office may interview employers of school graduates and representatives of organizations that appear closely related to the school. Where competency in a particular academic discipline is essential to an evaluation, the Office may seek expert advice in that discipline. However, adequacy of instruction in a discipline will ordinarily be judged by faculty credentials in relation to the standards, by curricular content in comparison with similar programs of established quality, and by educational resources and student performance. Where competency in a particular occupation or profession is needed for an evaluation, the Office will seek expert advice from the corresponding state licensing board. Approval of a degree by ODA does not constitute approval of the program as training for professional practice when the state licenses or otherwise regulates professional practice. Applicants must also seek approval from the appropriate state licensing entity.

(3) Review of an application to offer instruction or related services leading to a degree or certificate includes evaluation of the school and its proposed programs in relation to each of the state academic standards set forth in OAR 583-030-0035, which may be modified under OAR 583-030-0036 for a non-Oregon school that will offer minimal resident instruction in Oregon. Review of free-standing certificate programs will generally follow the model for external degrees. The review culminates in preparation

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of findings, including explanation of any failure to satisfy a standard. If the applicant school believes there are errors of fact in the report, it may request correction based on clear evidence. Ultimate findings of fact and all conclusions of judgment are the responsibility of the Office, notwithstanding opinions received and duly considered in the course of the evaluation.

(4) Pursuant to a modification of standards under OAR 583-030-0036, the Office at its discretion may employ an abbreviated review procedure with adjusted fee for a non-Oregon school offering limited or no resident instruction in Oregon. In place of a completed degree application form, abbreviated review entails study of information already published by the school, augmented by answers to any remaining questions.

(5) Refusal to authorize an applicant school to offer instruction or related services leading to a degree is subject to right of review as provided in ORS 348.615 by an action brought for trial without jury in the circuit court of the county in which the school is located. A school or putative school having no location in Oregon at which students are actually served must bring any such action in the circuit court of Marion County.

Stat. Auth.: ORS 348.606

Stats. Implemented: ORS 348.603 & ORS 348.606

Hist.: ECC 22, f. & ef. 12-22-75; ECC 26, f. & ef. 6-8-77; ECC 2-1980, f. & ef. 4-14-80; EPP 1-1988, f. & cert. ef. 1-7-88; EPP 1-1995, f. & cert. ef. 10-6-95; EPP 1-1996, f. & cert. ef. 8-7-96; ODA 2-1998, f. & cert. ef. 8-12-98; ODA 1-2001, f. & cert. ef. 6-27-01; ODA 1-2003, f. & cert. ef. 4-16-03

## 583-030-0042

### Reporting Requirements

(1) A school authorized to offer instruction or related services leading to one or more academic degrees under the standards in OAR 583-030-0035 shall submit to the Office annually, with a form provided in the fall, a brief report of activities and planning in the academic or fiscal year just ended. In its report, the school shall describe any important changes in academic or administrative policies, facilities or locations of instruction, and organization or personnel. The school shall also supply data requested on state and federal forms provided by the Office, including forms for the Integrated Postsecondary Education Data System (IPEDS), together with current catalogs and the latest independent financial audit not previously submitted. Between annual reports, the school shall send to the Office promptly the resumes of new owners, governing board members, officers, or administrators or teachers serving Oregon students, and shall send immediately the details of any possible or anticipated change of ownership or governance or any other matter having extensive effect on the school.

(2) A school authorized to offer instruction or related services leading to one or more academic degrees under the substitute standards provided by OAR 583-030-0037 shall report as described in the preceding paragraph, except that immediate reporting of new governing board members, officers, administrators, or teachers is not required. The reporting of any possible or anticipated change of ownership or governance or other major change should be immediate.

(3) A non-Oregon school authorized to offer instruction or related services leading to one or more academic degrees but without resident instruction in Oregon, under OAR 583-030-0036, shall submit to the Office annually, with a form provided in the fall, a brief report of activities and planning in the academic or fiscal year just ended, insofar as Oregon students would be affected. In its report, the school shall describe as they might affect Oregon residents any important changes in academic or administrative policies, facilities or locations of instruction, and organization or personnel. The school shall also supply Oregon enrollment and degrees-granted data on a state form provided by the Office, together with current catalogs and the latest independent financial audit not previously submitted. IPEDS reports will not be made through Oregon. Between annual reports, the school shall send to the Office immediately details of any possible or anticipated change of ownership, governance, curriculum, Oregon site coordinator, or other matter having potential importance to Oregon students.

(4) A school approved to offer exempt religious degrees under OAR 583-030-0010(2) will be asked on a special form supplied by the Office to describe changes in address, organization, degree curricula, officers or faculty, together with any plans to seek exemption for new degree titles, current full-time and part-time enrollment, degrees issued in the preceding academic year, and important recent developments the school may wish to relate. Federal IPEDS information will not be sought from exempt schools, which offer sectarian rather than general public credentials.

(5) An authorized or exempted degree-granting school shall continue during the period of its authorization or approved exemption to respond promptly to Office requests for general or particular information and shall supply the information as directed.

(6) A school that ceases to offer any authorized or exempted degree or the instruction related thereto, other than during regular academic recesses, shall notify the Office immediately and not reinstate the degree program without permission.

Stat. Auth.: ORS 348.594 & ORS 348.606

Stats. Implemented: ORS 348.594, ORS 348.603 & ORS 348.606

Hist.: EPP 1-1988, f. & cert. ef. 1-7-88; EPP 1-1995, f. & cert. ef. 10-6-95; EPP 1-1996, f. & cert. ef. 8-7-96; ODA 2-1998, f. & cert. ef. 8-12-98; ODA 1-2003, f. & cert. ef. 4-16-03

## 583-030-0045

### Revocation of Authorization

(1) The Oregon Student Assistance Commission on recommendation by the Office, after a hearing before a hearing officer appointed by the Commission, may under ORS 348.612 revoke or suspend authorization given to a school to confer or offer to confer degrees in or from Oregon, or to offer instruction or related services in or from Oregon purporting to lead to a degree in whole or in part.

(2) A hearing to consider a proposed revocation or suspension shall be held only after the affected school has been given written notice of the time and place of such hearing 20 days in advance.

(3) Revocation or suspension of degree authorization applies to a school as a whole, inasmuch as failure to satisfy any state requirement for offer of any degree constitutes failure to satisfy all requirements applicable to the school. Refusal by a school to discontinue any substandard offer or practice, regardless of the quality of any other offer or practice, will lead ODA to propose revocation or suspension of approval and/or civil or criminal action.

(4) A school whose degree authorization is revoked shall be considered for reinstatement only after one year and only when the Office is satisfied that causes of the revocation have been entirely removed. Application for reinstatement from a school in revoked status shall comply with all requirements for a new applicant.

(5) A school whose degree authorization is suspended shall be considered for reinstatement only when the Office is satisfied that causes of the suspension have been entirely removed. Application for reinstatement from a school in suspended status shall comply with all requirements for a renewing applicant.

(6) Grounds for revoking or suspending the degree authorization of a school include its failure to provide services it has guaranteed to students in writing; failure to supply records and other information to the Office as directed; falsification of any information supplied to the Office, students, or the public; failure to comply with all requirements of OAR 583-030-0016, 583-030-0020, 583-030-0021, 583-030-0022, 583-030-0030, 583-030-0035, 583-030-0036, 583-030-0037, 583-030-0041, 583-030-0042, 583-030-0043, 583-030-0044, and 583-030-0046; and failure to prove to the satisfaction of the Office on request compliance with any such requirement with respect to which the school's current performance is questioned specifically by the Office as a result of routine monitoring or individual complaint.

(7) Revocation or suspension requires a school immediately to cease and desist from offering in or from Oregon any degree, or instruction or related services purporting to lead to a degree in whole or in part, except that the Commission at its discretion may permit a revoked or suspended school to complete an academic term already in progress on the date of the action. During such period of completion the school may not enroll new students, and it may not offer to those already enrolled any instruction or services purporting to lead to a degree that would be earned and conferred later than the immediate end of the term in progress. Completion of such term with good faith and fair dealing toward currently enrolled students, or reasons for failure to so complete the term, shall be factors in any subsequent consideration of a revoked or suspended school for reinstatement.

Stat. Auth.: ORS 348.606

Stats. Implemented: ORS 348.603, ORS 348.606 & ORS 348.612

Hist.: ECC 22, f. & ef. 12-22-75; EPP 1-1988, f. & cert. ef. 1-7-88; EPP 1-1995, f. & cert. ef. 10-6-95; EPP 1-1996, f. & cert. ef. 8-7-96; ODA 2-1998, f. & cert. ef. 8-12-98; ODA 2-2000, f. 7-7-00, cert. ef. 7-20-00; ODA 1-2003, f. & cert. ef. 4-16-03

## 583-030-0046

### Fees and Expenses

(1) Each application from a school seeking new or renewed authorization to confer or offer to confer a degree, or through instruction or related services to provide academic credit applicable to a degree, shall be accompanied by payment of a fee to the "State of Oregon ODA." There is no entitlement to refund of a paid fee under any circumstances. The fee is intended to recover some of the expenses of carrying out a review and providing services to a school during its period of authorization.

(2) The fees reflect proportionately, though not in sum, the usual demands of adequate review plus subsequent service.

# ADMINISTRATIVE RULES

Basic fee schedule for ODA reviews  
Doctoral degrees — \$4,800  
Masters degrees — \$3,600  
Bachelors degrees — \$3,600  
Associate degrees — \$2,400  
External degrees — \$250 minimum, \$1000 maximum, one-time fee

(a) External degrees. The base fee for an external degree or free-standing certificate is \$250, with a higher fee not to exceed a total of \$1000 possible if the application appears likely to pose complex questions requiring additional staff time or professional consultation.

(b) Certificates. No fee is charged when an institution with an approved degree wants to add a certificate in the same field.

(c) Fee discounts.

(A) In reviewing simultaneous application for two or more degrees, the Office at its discretion may reduce the fee for review of a degree that is closely related in type and content to one for which the full fee is paid. Such a reduction ordinarily depends on the provision of instruction by a single faculty for both degrees.

(B) The Office at its discretion may also reduce the fee for an approved college seeking renewal of authorization when low faculty and administrative turnover, stability of ownership or board membership or other factors substantially reduce staff time required for evaluation and subsequent oversight and service. Such reductions are limited to 20 percent below the basic fee.

(3) Application from a school for authorization to offer instruction or related services providing academic credit applicable to a degree offered only by another school or schools shall be accompanied by fees proportionate to those established in the paragraph immediately above. However, such fees may be discounted at the discretion of the Office to reflect a program of reduced dimension if and only when the necessary review analysis is concomitantly reduced.

(4) When the Office finds it necessary to pay an expert outside consultant for assistance in reviewing an application, or when it incurs other unusual expenses in the course of review, all costs thus incurred may be charged to the applicant school in addition to the basic fee.

Stat. Auth.: ORS 183 & ORS 348

Stats. Implemented: ORS 348

Hist.: ECC 1-1982(Temp), f. & cert. ef. 3-12-82; ECC 2-1982, f. & cert. ef. 9-8-82; EPP 1-1988, f. & cert. ef. 1-7-88; EPP 1-1993, f. & cert. ef. 6-28-93; EPP 1-1995, f. & cert. ef. 10-6-95; EPP 1-1996, f. & cert. ef. 8-7-96; SSC 1-1997(Temp), f. & cert. ef. 8-25-97; ODA 2-1998, f. & cert. ef. 8-12-98; ODA 1-2000, f. & cert. ef. 2-29-00; ODA 1-2001, f. & cert. ef. 6-27-01; ODA 1-2003, f. & cert. ef. 4-16-03

## 583-030-0049

### Criminal and Civil Penalties

(1) Without authorization from the Office as provided in this rule, any offer of an academic degree or of services purporting to lead to a degree in whole or in part is a Class B misdemeanor under ORS 348.992. Complaints may be brought to a prosecutor against any person acting individually or in concert with others, including any person assisting a school as defined in OAR 583-030-0015(6).

(2) Without authorization from the Office as provided in this rule, any offer of an academic degree or of services purporting to lead to a degree in whole or in part may be a violation of ORS 646.608, the Unlawful Trade Practices Act (UTPA). ODA may in addition request injunctive relief or a civil penalty against violators. Complaints may be brought to the Department of Justice against any person acting individually or in concert with others, including any person assisting a school as defined in OAR 583-030-0015(6).

Stat. Auth.: ORS 348.606 & ORS 348.992

Stats. Implemented: ORS 348.603 & ORS 348.606

Hist.: EPP 1-1993, f. & cert. ef. 6-28-93; EPP 1-1995, f. & cert. ef. 10-6-95; EPP 1-1996, f. & cert. ef. 8-7-96; SSC 1-1997(Temp), f. & cert. ef. 8-25-97; ODA 2-1998, f. & cert. ef. 8-12-98; ODA 1-2001, f. & cert. ef. 6-27-01; ODA 1-2003, f. & cert. ef. 4-16-03

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

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

**Filed with Sec. of State:** 4-16-2003

**Certified to be Effective:** 4-16-03

**Notice Publication Date:** 3-1-03

**Rules Amended:** 573-040-0005, 573-071-0005

**Rules Repealed:** 573-071-0030

**Subject:** Rule 573-040-0005: The proposed rule amendments will eliminate fees that are no longer necessary and establish, increase,

or decrease fees to more accurately reflect actual costs of instruction not otherwise funded through the institution's operating budget.

Rule 573-071-0030 is being repealed, and the family housing fees incorporated into rule 573-071-0005.

**Rules Coordinator:** Deborah S. Drost—(541) 552-8550

## 573-040-0005

### Special Fees

The Special Fees for certain courses and general services approved by Southern Oregon University are hereby adopted by reference.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070 & OAR 580-040-0010

Hist.: SOSC 4, f. & cert. ef. 9-2-76; SOSC 10, f. & cert. ef. 5-9-77; SOSC 6-1978, f. & cert. ef. 6-2-77; SOSC 8-1978, f. & cert. ef. 12-15-78; SOSC 2-1979, f. & cert. ef. 6-20-79; SOSC 4-1980, f. & cert. ef. 5-20-80; SOSC 4-1980, f. & cert. ef. 5-20-80; SOSC 2-1981, f. & cert. ef. 6-2-81; SOSC 3-1982, f. & cert. ef. 7-1-82; SOSC 4-1983, f. & cert. ef. 5-26-83; SOSC 1-1984, f. & cert. ef. 6-20-84; SOSC 4-1985, f. & cert. ef. 6-3-85; SOSC 9-1985, f. & cert. ef. 12-17-85; SOSC 2-1986, f. & cert. ef. 5-30-86; SOSC 1-1987, f. & cert. ef. 6-5-87; SOSC 4-1987, f. & cert. ef. 9-4-87; SOSC 1-1988, f. & cert. ef. 5-19-88; SOSC 2-1988(Temp), f. & cert. ef. 9-2-88; SOSC 4-1988, f. & cert. ef. 11-23-88; SOSC 3-1989, f. & cert. ef. 6-1-89; SOSC 3-1990, f. & cert. ef. 5-31-90; SOSC 3-1991, f. & cert. ef. 5-30-91; SOSC 1-1992, f. & cert. ef. 6-3-92; SOSC 3-1993, f. & cert. ef. 5-21-93; SOSC 2-1994, f. & cert. ef. 6-10-94; SOSC 1-1995, f. & cert. ef. 6-7-95; SOSC 1-1996, f. & cert. ef. 6-5-96; SOU 1-1997, f. & cert. ef. 5-20-97; SOU 1-1998, f. & cert. ef. 4-23-98; SOU 2-1999, f. & cert. ef. 5-7-99; SOU 1-2000, f. & cert. ef. 4-10-00; SOU 1-2001, f. & cert. ef. 4-4-01; SOU 1-2002, f. & cert. ef. 4-11-02; SOU 1-2003, f. & cert. ef. 4-16-03

## 573-071-0005

### Family Housing Application Deposit

All students who apply for Southern Oregon University family housing shall be charged a non-refundable application fee. Monthly rental rates; security deposits, charges for late payment of rent; cleaning fees; and other miscellaneous fees, fines, and penalties are published annually as a subsection of Schedule of Fees OAR 573-040-0005. The Family Housing Office shall have discretion to waive any fees based upon unusual circumstances.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: SOSC 2-1990, f. & cert. ef. 2-13-90; SOSC 4-1994, f. & cert. ef. 7-29-94; SOU 1-1998, f. & cert. ef. 4-23-98; SOU 1-2000, f. & cert. ef. 4-10-00; SOU 1-2001, f. & cert. ef. 4-4-01; SOU 2-2002, f. & cert. ef. 6-28-02; SOU 1-2003, f. & cert. ef. 4-16-03

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**Public Utility Commission  
Chapter 860**

**Adm. Order No.:** PUC 6-2003

**Filed with Sec. of State:** 4-28-2003

**Certified to be Effective:** 4-28-03

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

**Rules Adopted:** 860-012-0040

**Subject:** The purpose of this rule is to insure that all Commissioners are in attendance when the Commission approves a major rate change. The rule is intended to reduce the possibility that major rate changes could take effect on a tie vote, and defines major rate change.

**Rules Coordinator:** Lauri Salsbury—(503) 378-4372

## 860-012-0040

### Public Meetings

Except in cases of emergency, for all votes of the Public Utility Commission of Oregon at a public meeting that approve a major rate change for an electric or natural gas utility under ORS 757.205, a quorum is the full commission. For purposes of this rule, a major rate change is an increase of two percent or more for any customer class.

Stat. Auth.: ORS 183, ORS 192, ORS 756 & ORS 757

Stats. Implemented: ORS 192.610 et seq. & ORS 757.205

Hist.: PUC 6-2003, f. & cert. ef. 4-28-03

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**Adm. Order No.:** PUC 7-2003

**Filed with Sec. of State:** 4-28-2003

**Certified to be Effective:** 4-28-03

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

**Rules Adopted:** 860-032-0670

**Subject:** The rule establishes the procedure for allowing pay telephone providers to apply for a refund of the Oregon Universal Fund surcharges paid on or after July 1, 2003.

**Rules Coordinator:** Lauri Salsbury—(503) 378-4372

# ADMINISTRATIVE RULES

860-032-0670

## Refund of Oregon Universal Service Surcharge

(1) A Pay Telephone provider may apply for a refund of the Oregon Universal Service (OUS) surcharge imposed on, and paid by, the provider under ORS 759.425(4) for the provision of Pay Telephone service.

(2) An application for a refund of the OUS surcharge under this rule shall be on forms prescribed by the Public Utility Commission.

(a) An application shall contain the applicant's:

- (A) Name;
- (B) Address;
- (C) Telephone number;
- (D) Time period for which the application is made;
- (E) Name of Pay Telephone provider;
- (F) Contact person;
- (G) Requested refund;
- (H) Number of Pay Telephones located in Oregon;
- (I) Signature of responsible party;
- (J) Affidavit of charges and payment; and
- (K) Mailing address for refund.

(b) The Pay Telephone provider shall be responsible for contacting the Commission to obtain an application form. Forms are available on the Commission's website or by contacting the Commission by telephone.

(3) Applications shall be made on a quarterly basis. Applications must be received by the Commission no later than 180 days after the end of each time period for which a refund is claimed. The quarterly time periods are July 1 through September 30, October 1 through December 31, January 1 through March 31, and April 1 through June 30. The initial period begins July 1, 2003, and ends September 30, 2003.

(a) For good cause shown, the Commission may allow a pay telephone provider to submit its application for refund beyond the 180-day deadline.

(b) Applications for service rendered and payments made prior to July 1, 2003, will not be considered.

(4) A Pay Telephone provider shall produce for inspection or audit upon request of the Commission, or its authorized representative, all records supporting its application for refund. The Commission, or its authorized representative, shall allow the Pay Telephone provider a reasonable time to produce the records for inspection or audit. A Pay Telephone provider must keep all records supporting each refund application for three years, or until a Commission review or audit is complete, whichever is later.

Stat. Auth.: ORS 183, ORS 192, ORS 756 & ORS 759

Stats. Implemented: ORS 759.425(8)

Hist.: PUC 7-2003, f. & cert. ef. 4-28-03

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**Adm. Order No.:** PUC 8-2003

**Filed with Sec. of State:** 4-28-2003

**Certified to be Effective:** 4-28-03

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

**Rules Adopted:** 860-021-0037, 860-032-0097, 860-034-0097

**Rules Amended:** 860-021-0036, 860-032-0095, 860-034-0095

**Subject:** This rulemaking updates the Commission's rules to address late-filed PUC fee statements and late PUC fee payments, improve the collection and refund processes for PUC fees. It establishes parameters for PUC fee audits and hearings, and makes the confidentiality portion of the PUC fee rules consistent with other rules and should aid the Commission in collecting and writing off overdue PUC fees.

**Rules Coordinator:** Lauri Salisbury—(503) 378-4372

860-021-0036

## Annual Fees Payable to the Commission by a Large Telecommunications Utility

(1) On statement forms prescribed by the Commission, each large telecommunications utility shall provide the requested information for the subject year.

(2) Each large telecommunications utility shall pay:

(a) An annual fee in compliance with OARs 860-011-0020 and 860-011-0023. The annual fee shall be no less than \$100. The payment must be received by the Commission no later than 5 p.m. on the due date;

(b) A late statement fee of \$100, if the Commission has not received the utility's statement form on or before 5 p.m. on the fifth business day following the due date;

(c) A penalty fee for failure to pay the full amount when due, as required under ORS 756.350 and OAR 860-032-0008(1);

(d) A service fee of \$25 for each payment returned for non-sufficient funds; and

(e) All costs incurred by the Commission to collect a past-due annual fee from the utility.

(3) For retail intrastate service rendered on or after January 1, 2000, each large telecommunications utility must:

(a) Collect the annual fee by charging an equitable amount to each retail customer, using apportionment methods that are consistently applied by the utility throughout Oregon; and

(b) Describe the amount of the apportioned charge upon each retail customer's bill.

(4) If the annual fee charge is embedded in the large telecommunications utility's Commission-approved retail rates, and the utility does not separately charge the customer an additional amount for the apportioned annual fee, then the utility may comply with subsection (3) of this rule by merely describing the apportioned amount of the charge on the retail customer's bill.

(5) For any year in which a large telecommunications utility's statement form was due, the Commission may audit the utility as the Commission deems necessary and practicable:

(a) The Commission's audit must begin no later than three (3) years after the statement form's due date;

(b) If the Commission determines that the utility has underreported its subject revenues, the Commission may assess an additional annual fee, along with a penalty fee for failure to pay under ORS 756.350; and

(c) If the Commission determines that the utility has overpaid its annual fee, the Commission shall, at its discretion, recompense the utility with a refund or a credit against annual fees subsequently due.

(6) If the annual fee charge is embedded in the large telecommunications utility's Commission-approved retail rates, and the utility separately charges the customer an additional amount for the apportioned annual fee, then the utility must comply with ORS 756.310(6)(c).

(7) Each large telecommunications utility shall:

(a) Maintain its records in sufficient detail to readily provide gross retail intrastate revenue from Oregon telecommunications services, as defined in OAR 860-032-0080;

(b) Follow the revenue allocation procedures in OAR 860-032-0090; and

(c) Make its revenue accounting records available to the Commission upon the Commission's request.

(8) If the Commission receives a public record request for the confidential information required by this rule, the Commission shall assert that, subject to the limitations of the Public Records Law, the materials are trade secrets and, therefore, exempt from disclosure. The material shall be marked "EXEMPT FROM PUBLIC DISCLOSURE AS TRADE SECRETS."

Stat. Auth.: ORS 183, ORS 192, ORS 756 & ORS 759

Stats. Implemented: ORS 756.310, ORS 756.320 & ORS 756.350

Hist.: PUC 13-1999, f. & cert. ef. 12-7-99; PUC 16-2001, f. & cert. ef. 6-21-01; PUC 8-2003, f. & cert. ef. 4-28-03

860-021-0037

## Estimated Annual Fees Payable to the Commission

(1) For any year in which a large telecommunications utility fails to file a statement form, the Commission may determine a proposed annual fee based upon any information available to the Commission. The proposed annual fee shall:

(a) Include a penalty fee for failure to pay as required by ORS 756.350;

(b) Include a late statement fee of \$100; and

(c) Be paid no later than three (3) years after the statement form's due date.

(2) The Commission shall provide written notice of the proposed annual fee to the large telecommunications utility.

(3) Within 30 days after service of the notice of proposed annual fee, the large telecommunications utility may file a petition with the Commission for a hearing. In its petition, the utility must specify its reasons for disputing the proposed annual fee. The Commission may conduct a hearing on the petition under its rules governing hearings and proceedings.

(4) If the large telecommunications utility has not filed a petition by the end of the 30-day period, the proposed annual fee is due and payable.

(5) During the 30-day period allowed for filing a petition, the large telecommunications utility may file its statement form and pay the annual fee, penalties, and late statement fee. The Commission shall accept the statement form, fees, and penalties in accordance with the original due date for that year's statement form and payment.

Stat. Auth.: ORS 183, 192, ORS 756 & ORS 759

# ADMINISTRATIVE RULES

Stats. Implemented: ORS 756.040, ORS 756.310, ORS 756.320 & 756.350  
Hist.: PUC 8-2003, f. & cert. ef. 4-28-03

## 860-032-0095

### Annual Fees Payable to the Commission by a Competitive Provider

(1) On statement forms prescribed by the Commission, each competitive provider shall provide the requested information for the subject year.

(2) Each competitive provider shall pay:

(a) An annual fee in compliance with OARs 860-011-0020 and 860-011-0023. The annual fee shall be no less than \$100. The payment must be received by the Commission no later than 5 p.m. on the due date;

(b) A late statement fee of \$100, if the Commission has not received the competitive provider's statement form on or before 5 p.m. on the fifth business day following the due date;

(c) A penalty fee for failure to pay the full amount when due, as required under ORS 756.350 and OAR 860-032-0008(1);

(d) A service fee of \$25 for each payment returned for non-sufficient funds; and

(e) All costs incurred by the Commission to collect a past-due annual fee from the competitive provider.

(3) For retail intrastate service rendered on or after January 1, 2000, each competitive provider must:

(a) Collect the annual fee by charging an equitable amount to each retail customer, using apportionment methods that are consistently applied by the competitive provider through Oregon; and

(b) Describe the amount of the apportioned charge upon each retail customer's bill.

(4) Each competitive provider shall:

(a) Maintain its records in sufficient detail to readily provide gross retail intrastate revenue from Oregon telecommunications services, as defined in OAR 860-032-0080;

(b) Follow the revenue allocation procedures in OAR 860-032-0090; and

(c) Make its revenue accounting records available to the Commission upon the Commission's request. A competitive provider must keep all records supporting each statement form for three (3) years, or until a Commission review or audit is complete, whichever is later.

(5) For any year in which a competitive provider's statement form was due, the Commission may audit the competitive provider as the Commission deems necessary and practicable:

(a) The Commission's audit must begin no later than three (3) years after the statement form's due date. However, if the competitive provider failed to obtain a certificate of authority, an audit may occur at any time;

(b) If the Commission determines that the competitive provider has underreported its subject revenues, the Commission may assess an additional annual fee, along with a penalty fee for failure to pay under ORS 756.350; and

(c) If the Commission determines that the competitive provider has overpaid its annual fee, the Commission shall, at its discretion, recompense the competitive provider with a refund or a credit against annual fees subsequently due.

(6) If the Commission receives a public record request for the confidential information required by this rule, the Commission shall assert that, subject to the limitations of the Public Records Law, the materials are trade secrets and, therefore, exempt from disclosure. The material shall be marked "EXEMPT FROM PUBLIC DISCLOSURE AS TRADE SECRETS."

(7) A cooperative that is a competitive provider shall pay an annual fee only on the gross retail intrastate revenue from telecommunications services that are provided under the cooperative's ORS 759.020 certificate of authority. A cooperative shall not pay an annual fee on revenue from telecommunications services that are provided under the cooperative's ORS 759.025 certificate of authority.

Stat. Auth.: ORS 183, ORS 192, ORS 756 & ORS 759

Stats. Implemented: ORS 756.310, ORS 756.320 & ORS 756.350

Hist.: PUC 13-1999, f. & cert. ef. 12-7-99; PUC 8-2003, f. & cert. ef. 4-28-03

## 860-032-0097

### Estimated Annual Fees Payable to the Commission

(1) For any year in which a competitive provider fails to file a statement form, the Commission may determine a proposed annual fee based upon any information available to the Commission. The proposed annual fee shall:

(a) Include a penalty fee for failure to pay as required by ORS 756.350;

(b) Include a late statement fee of \$100; and

(c) Be paid no later than three (3) years after the statement form's due date. However, if the competitive provider failed to obtain a certificate of authority, an audit may occur at any time.

(2) The Commission shall provide written notice of the proposed annual fee to the competitive provider.

(3) Within 30 days after service of the notice of proposed annual fee, the competitive provider may file a petition with the Commission for a hearing. In its petition, the competitive provider must specify its reasons for disputing the proposed annual fee. The Commission may conduct a hearing on the petition under its rules governing hearings and proceedings.

(4) If the competitive provider has not filed a petition by the end of the 30-day period, the proposed annual fee is due and payable.

(5) During the 30-day period allowed for filing a petition, the competitive provider may file its statement form and pay the annual fee, penalties, and late statement fee. The Commission shall accept the statement form, fees, and penalties in accordance with the original due date for that year's statement form and payment.

Stat. Auth.: ORS 183, ORS 192, ORS 756 & ORS 759

Stats. Implemented: ORS 756.040, ORS 756.310, ORS 756.320 & ORS 756.350

Hist.: PUC 8-2003, f. & cert. ef. 4-28-03

## 860-034-0095

### Annual Fees Payable to the Commission by a Small Telecommunications Utility

(1) On statement forms prescribed by the Commission, each small telecommunications utility shall provide the requested information for the subject year.

(2) Each small telecommunications utility shall pay:

(a) An annual fee in compliance with OARs 860-011-0020 and 860-011-0023. The annual fee shall be no less than \$100. The payment must be received by the Commission no later than 5 p.m. on the due date;

(b) A late statement fee of \$100, if the Commission has not received the utility's statement form on or before 5 p.m. on the fifth business day following the due date;

(c) A penalty fee for failure to pay the full amount when due, as required under ORS 756.350 and OAR 860-032-0008(1);

(d) A service fee of \$25 for each payment returned for non-sufficient funds; and

(e) All costs incurred by the Commission to collect a past-due annual fee from the utility.

(3) For retail intrastate service rendered on or after January 1, 2000, each small telecommunications utility must:

(a) Collect the annual fee by charging an equitable amount to each retail customer, using apportionment methods that are consistently applied by the utility throughout Oregon; and

(b) Describe the amount of the apportioned charge upon each retail customer's bill.

(4) Each small telecommunications utility shall:

(a) Maintain its records in sufficient detail to readily provide gross retail intrastate revenue from Oregon telecommunications services, as defined in OAR 860-032-0080;

(b) Follow the revenue allocation procedures in OAR 860-032-0090; and

(c) Make its revenue accounting records available to the Commission upon the Commission's request.

(5) For any year in which a small telecommunications utility's statement form was due, the Commission may audit the utility as the Commission deems necessary and practicable:

(a) The Commission's audit must begin no later than three (3) years after the statement form's due date;

(b) If the Commission determines that the utility has underreported its subject revenues, the Commission may assess an additional annual fee, along with a penalty fee for failure to pay under ORS 756.350; and

(c) If the Commission determines that the utility has overpaid its annual fee, the Commission shall, at its discretion, recompense the utility with a refund or a credit against annual fees subsequently due.

(6) If the Commission receives a public record request for the confidential information required by this rule, the Commission shall assert that, subject to the limitations of the Public Records Law, the materials are trade secrets and, therefore, exempt from disclosure. The material shall be marked "EXEMPT FROM PUBLIC DISCLOSURE AS TRADE SECRETS."

Stat. Auth.: ORS 183, ORS 192, ORS 756 & ORS 759

Stats. Implemented: ORS 756.310, ORS 756.320 & ORS 756.350

Hist.: PUC 13-1999, f. & cert. ef. 12-7-99; PUC 15-2001, f. & cert. ef. 6-21-01; PUC 8-2003, f. & cert. ef. 4-28-03

# ADMINISTRATIVE RULES

## 860-034-0097

### Estimated Annual Fees Payable to the Commission

(1) For any year in which a small telecommunications utility fails to file a statement form, the Commission may determine a proposed annual fee based upon any information available to the Commission. The proposed annual fee shall:

(a) Include a penalty fee for failure to pay as required by ORS 756.350;

(b) Include a late statement fee of \$100; and

(c) Be paid no later than three (3) years after the statement form's due date.

(2) The Commission shall provide written notice of the proposed annual fee to the small telecommunications utility.

(3) Within 30 days after service of the notice of proposed annual fee, the small telecommunications utility may file a petition with the Commission for a hearing. In its petition, the utility must specify its reasons for disputing the proposed annual fee. The Commission may conduct a hearing on the petition under its rules governing hearings and proceedings.

(4) If the small telecommunications utility does not file a petition within the 30-day period, the proposed annual fee is due and payable.

(5) During the 30-day period allowed for filing a petition, the small telecommunications utility may file its statement form and pay the annual fee, penalties, and late statement fee. The Commission shall accept the statement form, fees, and penalties in accordance with the original due date for that year's statement form and payment.

Stat. Auth.: ORS 183, ORS 192, ORS 756 & ORS 759

Stats. Implemented: ORS 756.040, ORS 756.310, ORS 756.320 & ORS 756.350

Hist.: PUC 8-2003, f. & cert. ef. 4-28-03

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**Adm. Order No.:** PUC 9-2003

**Filed with Sec. of State:** 5-15-2003

**Certified to be Effective:** 5-15-03

**Notice Publication Date:** 3-1-03

**Rules Adopted:** 860-036-0250, 860-036-0365, 860-036-0716, 860-036-0756

**Subject:** The PUC had adopted the following recommendations of the Water Issues Steering Committee: Establishing procedures for third-party operational control of a water utility when the operator has abandoned the system: Encourage consolidation of water utilities by allowing an acquisition adjustment in rates contingent on a showing that customers benefit overall: improve long-term financial health of water utilities by no longer including contributed plant in rates.

Additionally, in late 2002, a regulated water utilities requested that the Commission implement a rule to address theft of service. The Commission adopted OAR 860-036-0250 to address that issue.

**Rules Coordinator:** Lauri Salisbury—(503) 378-4372

## 860-036-0250

### Unapproved Diversion of Irrigation Water by Tampering with or Damaging Water Utility Equipment

(1) A customer may not tamper with or damage water utility equipment in order to divert irrigation water flow without written permission of the water utility.

(2) If the water utility's equipment is tampered with or damaged by a customer, it may take any of the following actions:

(a) Replace or repair the equipment and require the customer to reimburse the water utility for the actual reasonable cost to replace or repair.

(b) Require the customer to pay a reconnection fee in compliance with OAR 860-036-0240.

(c) Require the customer pay a deposit up to \$250 for the restoration of irrigation service. The payment of this deposit will be made in compliance with OAR 860-036-0045(4) and OAR 860-036-0055(4).

(d) For repeat offenses, require the customer to pay an additional deposit of \$250. Notwithstanding the requirements of OAR 860-036-0045, no installment payment plan will be available to the customer to restore services. Such additional deposits must be made immediately at the time irrigation service is restored.

(e) Refuse irrigation service to the customer pursuant to OAR 860-036-0080.

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

Stats. Implemented: ORS 756.040, ORS 757.105, ORS 7757.120, ORS 7757.125 & ORS 7757.135

Hist.: PUC 9-2003, f. & cert. ef. 5-15-03

## 860-036-0365

### Compliance Enforcement by Commission Appointment of Regent(s) to Operate and Manage a Water System

(1) In extreme circumstances when the water utility owner, operator, or representative demonstrates to the Commission's satisfaction an unwillingness or incapacity or refusal to effectively operate and manage the water system to provide safe and adequate service to its customers in compliance with Oregon statutes, rules, and standards, the Commission may appoint a regent(s) to operate and manage the water system. This procedure will be accomplished under an Interim Operating Agreement until long-term water provision can be ensured.

(2) The regent(s) appointed to operate, maintain, and repair the system must be a certified operator(s) or a qualified water utility(ies).

(3) The appointment of the regent(s) may also include responsibility for billing and collection, customer service, and administration of the system.

(4) If the Commission authorizes an operating account for receiving and dispersing funds by the regent(s), a Commission staff member will be a signator on such account to monitor all transactions.

(5) The regent will record all transactions in a general ledger and shall supply a copy of the ledger and bank statement to Commission staff member each month.

(6) At the end of the Interim Operating Agreement, Commission staff will make a final accounting of all monies received and transacted. Disbursement of surplus funds will be determined by the Commission.

Stat. Auth.: ORS 183, 756 & 757

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

Hist.: PUC 9-2003, f. & cert. ef. 5-15-03

## 860-036-0716

### Acquisition Adjustments

(1) A rate-regulated water utility may petition the Commission for approval of an acquisition adjustment in rates for acquiring a water system when the benefits of the acquisition outweigh the increase to customers' rates resulting from an acquisition adjustment.

(2) The Commission will consider the merits of the utility's petition based on the benefit to the customers being acquired and the public interest on a case-by-case basis.

(3) The approval and determination of an acquisition adjustment is at the sole discretion of the Commission.

Stat. Auth.: ORS 183, 756 & 757

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

Hist.: PUC 9-2003, f. & cert. ef. 5-15-03

## 860-036-0756

### Accounting for Contributions in Aid of Construction (CIAC)

(1) Each water utility shall provide an accounting of CIAC upon Commission request in its annual reports and in its rate application. CIAC accounting shall include contributions in any form including, but not limited to, contributed utility plant. CIAC record keeping will identify the contributed plant, original date of installation, and original cost.

(2) Each water utility must keep a record as described in section (1) of this rule and record CIAC on a separate plant and depreciation schedule.

(3) As of November 2002, CIAC and its resulting depreciation will be excluded from water utility ratemaking. CIAC will be separated from utility plant and accounted for and depreciated on a separate schedule outside the ratemaking process.

(4) In cases where previous CIAC depreciation was included in rates and removing it all at once would cause irreparable harm to the water utility, the Commission may systematically remove CIAC from rates over a period of time set forth in a schedule to be approved by the Commission.

Stat. Auth.: ORS 183, 756 & 757

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

Hist.: PUC 9-2003, f. & cert. ef. 5-15-03

## Racing Commission Chapter 462

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

**Filed with Sec. of State:** 4-23-2003

**Certified to be Effective:** 4-23-03

**Notice Publication Date:** 4-1-03

**Rules Adopted:** 462-200-0630

**Rules Amended:** 462-110-0010

# ADMINISTRATIVE RULES

**Subject:** Amends definition of simulcast/simulcasting and provides new rule for electronic 1-2-3 with Pick N wager.

**Rules Coordinator:** Carol N. Morgan—(503) 731-4052

## 462-110-0010

### General

The following definitions and interpretations shall apply in these rules unless otherwise indicated or text otherwise requires (Words of the masculine gender include the feminine and neuter. Words in the singular include the plural and vice versa.):

(1) "Authorized User": A person authorized by the Oregon Racing Commission to receive, to decode and to use for legal purposes the encrypted signal of racing events in Oregon.

(2) "Combined Pari-Mutuel Pools", "Combined Pools": The pari-mutuel wagers at one or more off-track wagering facilities being contributed into the pari-mutuel pools of an Oregon host race meet licensee.

(3) "Commission": Oregon Racing Commission. Commissioner is a member of the commission.

(4) "Day" "Race Day" and "Simulcast Day": Any 24 hour period beginning at 12:01 a.m. and ending at midnight. "Racing Day" is a day on which live races are conducted at a race track in Oregon. "Calendar Days" are those consecutive days counted irrespective of number of racing days. "Simulcast Day" is a day that races from an out-of-state track are being simulcast into a track in Oregon on a day that there is no live races being run at the Oregon track. Simulcast days may only occur on days within the live racing season of the Oregon track. Unless otherwise specified, use of the word "day" shall mean a calendar day. In calculating the average daily handle for race meets, any race day in which some of the day's races are canceled due to natural occurrences, as determined by the commission, will be counted as a partial race day in the same proportion as the number of races actually run by the number of races carded to be run in the day's racing program.

(5) "Decoder": A device and/or means to convert encrypted audiovisual signals and/or data into a form recognizable as the original content of the signals.

(6) "Drug": As defined in ORS 462.010(7).

(7) "Encryption", "Encrypted", "Encoded": The scrambling or other manipulation of the audiovisual signals to mask the original video content of the signal and so cause such signals to be indecipherable and unrecognizable to any person receiving such signal without using a decoder.

(8) "Exotic Wager": Any single wager where three or more separate wagering interests are required to be selected.

(9) "Host", "Host Association", "Host Track": The race track licensee conducting a licensed race meet when it is authorized by the Oregon Racing Commission to simulcast racing programs.

(10) "Intrastate Wagering": Pari-mutuel wagering at an off-track wagering facility on Oregon racing events being run at an Oregon host race meet licensee.

(11) "Licensee": Any person or entity holding a currently valid Oregon Racing Commission license to engage in racing or related regulated activities.

(12) "Month": A calendar month.

(13) "Off-Track Enclosure", "Enclosure-Public": All areas of the off-track wagering facility.

(14) "Off-Track Wagering": Pari-mutuel wagering conducted on a race at a location other than the race course where the race is actually held.

(15) "Off-Track Wagering Facility", "Intrastate Wagering Facility", "Extended Wagering Facility": The physical premises, including parking areas, structures and equipment utilized by a race meet licensee for the conduct of pari-mutuel wagering on racing events being run elsewhere.

(16) "Out-of-State Wagering": Acceptance of wagers by a race meet licensee authorized by ORS 462.062 or 462.067 on a race or races run outside of the State of Oregon.

(17) "Person": Unless the context clearly shows otherwise, person as used in these rules includes individuals, partnerships, corporations, political subdivisions and municipal corporations.

(18) "Post Position": The starting position assigned to a horse/greyhound at the time the race is drawn.

(19) "Purse": The gross cash portion of the prize for which a race is run.

(20) "Race": An official contest among racing animals for purse or other prize at any recognized race meet and in the presence of the officials of the track as defined by ORS 462.020(6).

(21) "Race Meet Licensee": A person, partnership, corporation, or any other body conducting a licensed race meeting in Oregon.

(22) "Racecourse": The entire area licensed to the race meet licensee, as defined in ORS 462.010(5).

(23) "Recognized Race Meet": Any race meet which is under the jurisdiction of an official racing commission or other official racing body.

(24) "Runner": As used in many places designates either a horse or a greyhound.

(25) "Sending Track": The race track from which a simulcast emanates for interstate wagering.

(26) "Simulcast", "Simulcasting":

(a) Live audiovisual electronic signals emanating from a licensed race meeting and transmitted simultaneously with the running of the racing events at that meeting, and includes the transmission of pari-mutuel wagering odds, amounts wagered and payoff on such events, and other racing programming relating to the race animals or participants, or

(b) Such other form of electronic signals of animal racing as is approved by the commission.

(27) "Simulcast Operator": A person with a contract with the host race meet licensee, and authorized by the Oregon Racing Commission to operate a simulcast wagering system.

(28) "Simulcast Service Supplier": A person engaged in providing service, supplies or equipment necessary to the operation of intrastate or out-of-state simulcast wagering for use by the host race meet licensee, authorized user, including pari-mutuel wagering terminals, television receivers and related equipment.

(29) "Suspension": The withdrawal of license privileges for a period of time. Suspensions also include denial of access to all areas of the racecourse and all off-track wagering sites in Oregon and all other areas under the jurisdiction of the commission unless otherwise stated in the order.

Stat. Auth.: ORS 462.270(3)

Stats. Implemented: ORS 462.270

Hist.: RC 3-2000, f. 3-27-00, cert. ef. 5-1-00; RC 5-2002, f. 12-8-02, cert. ef. 1-1-03; RC 2-2003, f. & cert. ef. 4-23-03

## 462-200-0630

### Electronic 1-2-3 with Pick N

(1) Summary: Electronic 1-2-3 with Pick N is a method of pari-mutuel wagering which requires selection of the first three finishers for a single contest selected from a historical library of previously run contests that are replayed from a central video server according to the following procedures:

(a) The contest from the historical library is selected at random before the player enters any selection.

(b) The player may examine one or more charts including past performance information showing the relative merits of the contestants as they actually were on the day of the contest.

(c) After the player's selections are registered, the identity of the contest is revealed, a video segment of the contest finish is shown, and the actual official results are displayed.

(d) A player wins by matching some or all of the first three finishers in one of several different ways. Any winnings may be collected instantly.

(e) A player must risk a second unit bet in the wager to qualify for the highest value pool(s), (for example the Pick N, matching the first finisher in N consecutive contests).

(2) Wager Amount:

(a) Absent prior approval by the commission, acceptable wagering units shall be no lower than \$0.25 and no higher than \$20.

(b) The player may enter only one or two unit bets per play.

(3) Pool Split: After the applicable takeout has been deducted from the wager, the remaining amount shall be apportioned among several separate pools which have been carried over from previous contests played by all players:

(a) The remaining amount (after takeout) of the first unit bet shall be apportioned among the first unit bet pools, including one pool for each of several ways to win, and to the first Seed Pool when it is below its designated cap amount.

(b) The remaining amount (after takeout) of the second unit bet, if wagered, shall be apportioned among the second unit bet pools (for example the Pick N), and to the second Seed Pool when it is below its designated cap amount.

(4) Ways to Win for the First Unit Bet: For players who risked either one or two unit bets in each wager, some or all of the following ways to win, or other similar ways, may be declared:

(a) 3 Exact Order: The player's selections correctly match the first three finishers in exact order.

(b) 3 Any Order: The player's selections correctly match the first three finishers in any order.



# ADMINISTRATIVE RULES

(c) Top 2 Exact Order: The player's top two selections correctly match the first two finishers in exact order.

(d) 3 to get Top 2: Any of the player's three selections correctly match the first two finishers in any order.

(e) Top Pick Wins Contest: The player's top selection correctly matches the first (winning) finisher.

(f) Any 2 of 3:

(A) The player's selections correctly match any two of the first three finishers in any order.

(B) Second Pick Wins Contest: The player's first or second selection correctly matches the first (winning) finisher.

(g) Any Pick Wins Contest: Any one of the player's selections correctly matches the first (winning) finisher.

(5) Ways to Win for the Second Unit Bet: For players who risked two unit bets in each wager, some or all of the following ways to win, or other similar ways, may be declared:

(a) Pick N: The player has won the Top Pick Wins Contest pool in N consecutive plays, with two unit bets in each wager. After winning the Pick N pool, the player must start over accumulating wins to be eligible for either the Pick N pool or the Pick N-1 pool again.

(b) Pick N-1: The player has won the Top Pick Wins Contest pool in N-1 consecutive plays, with two unit bets in each wager.

(c) Pick N Consolation: The player has won the Top Pick Wins Contest pool in N-1 consecutive plays and then has lost in the next, with two unit bets in each wager. The Pick N Consolation shall be declared as a way to win only when the Pick N-1 pool has not been.

(6) Payment Calculation:

(a) For each way to win except the Pick N Consolation, the winning price shall be the entire amount in the pool for which the wager qualifies, less the price round-off (breakage).

(b) For the Pick N Consolation, the winning price shall be a designated percentage of the amount in the Pick N pool, less the price round-off (breakage). The remaining amount of the Pick N pool carries forward for the next Pick N winner.

(c) When the first unit bet qualifies to win more than one of its ways to win, only the largest single pool amount qualified for shall be paid.

(d) When the second unit bet qualifies to win more than one of its ways to win, only the largest single pool amount qualified for shall be paid.

(e) When the second unit bet qualifies to win, its winning price shall be added to the winning price from the first unit bet.

(f) Each way to win has a minimum payout amount for winning wagers, which shall be posted.

(g) In the case of a minus pool, the minimum payout amount shall not be less than the amount of one unit bet wagered.

(h) If two players qualify to win the same pool within a short time, the first winner shall be paid the current pool and the second shall be paid the new pool, which begins with the minimum payout amount.

(7) Dead Heat: A contest that has a dead heat for first, second, or third shall not be used for Electronic 1-2-3 with Pick N wagering.

(8) Coupled Entries, Mutuel Fields:

(a) A contest involving coupled entries or mutuel fields shall not be used for Electronic 1-2-3 with Pick N wagering if there are two or more betting interests live for a single contestant number.

(b) The one remaining live betting interest of a coupled entry or mutuel field shall be represented by its contestant number without a letter. For example, contestant number "1" represents either contestant "1" or "1A".

(9) Seed Pool: To cover the cases when one of the minimum payout amounts is paid, the Seed Pool is accumulated from a designated percent of wagers.

(a) Each time a pool's minimum payout amount is paid in excess of the actual amount available in the pool, the shortfall shall be deducted from the Seed Pool.

(b) After a pool is paid, the actual amount of the pool may be seeded from the Seed Pool to a specified initial amount less than or equal to its minimum payout amount.

(c) While the Seed Pool is below a designated cap amount, the allotments to the other pools are each decreased and the difference shall be allotted to the Seed Pool.

(d) The Seed Pool of the first unit bet shall be kept separate from that of the second unit bet.

(10) Commission Approval:

(a) The takeout rate may not exceed a maximum rate approved by the commission. Subject to that restriction, the takeout rate shall be set by the race meet licensee and reported to the commission.

(b) The method of apportioning wagers to each of the pools shall be approved by the commission.

(c) The method of seeding pools shall be approved by the commission.

(d) The number of pools and specific "Ways to Win", declared from time to time by the race meet licensee from the list set forth above or other similar ways, shall be approved by the commission.

(e) When a Pick N Consolation has been declared as a way to win, the percentage of the Pick N pool to be paid as a consolation shall be approved by the commission.

(f) Should the Electronic 1-2-3 with Pick N pools be designated for termination or mandatory distribution on a specific date, a method approved by the commission shall be used.

(g) The method of picking the random numbers used for selecting contests and past performance charts shall be certified by an independent authority that is approved by the commission.

(11) Additional Requirements:

(a) Contests shall be randomly selected from a historical library of actual contests that were previously run. Only contests that were run at licensed racetracks may be used.

(b) The total amount in each pari-mutuel pool shall be posted at all times.

(c) Minimum payouts shall be posted at all times.

(12) Interpretation:

(a) Electronic 1-2-3 with Pick N shall be considered a form of interstate simulcast wagering.

(b) In the event of any inconsistency between the provisions of this rule regarding Electronic 1-2-3 with Pick N and the provisions of any other rule, the provisions of this rule shall control.

Stat. Auth.: ORS 462.270(3)

Stats. Implemented: ORS 462.270(3)

Hist.: RC 2-2003, f. & cert. ef. 4-23-03

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## Secretary of State, Elections Division Chapter 165

**Adm. Order No.:** ELECT 4-2003

**Filed with Sec. of State:** 4-25-2003

**Certified to be Effective:** 4-25-03

**Notice Publication Date:** 3-1-03

**Rules Amended:** 165-014-0005, 165-020-0005

**Subject:** This rule permanently adopts the temporary amendments to 165-014-0005 and 165-020-0005 that were filed December 5, 2002. Measure 26, adopted by the people of Oregon at the November 5, 2002 General Election amended the Oregon Constitution to prohibit the compensation or receipt of compensation on a per-signature basis for signatures obtained on an initiative or referendum petition. The State and County Initiative and Referendum Manuals and City and District Election Manuals, including forms, are produced by the Secretary of State to assist chief petitioners and election officials with the initiative and referendum election processes and procedures. The manuals and forms have been revised in order to implement Measure 26. Form SEL 301 is a new form to be signed by all chief petitioners of an initiative or referendum petition, upon filing and upon completion, requiring each chief petitioner to attest, under oath, that the chief petitioners did not compensate circulators on a per-signature basis. Language has been added to the instructions for circulators, indicating the prohibition on accepting compensation on a per-signature basis, on existing forms SEL 310, SEL 370 and the State and Local Cover Sheet Samples. The circulator's oath has been changed to add a certification that the circulator has not accepted compensation on a per-signature basis, on forms SEL 312, SEL 314, SEL 371 and SEL 373 in addition to a Date Signed field. The text of the State and County Initiative and Referendum Manuals and City and District Election Manuals has been revised to reflect the application of Measure 26 to the state and local initiative and referendum processes.

**Rules Coordinator:** Brenda Bayes—(503) 986-1518

# ADMINISTRATIVE RULES

## 165-014-0005

### Designating the Initiative, Referendum and Recall Manuals and Forms

(1) ORS 246.150 requires the Secretary of State to adopt rules to facilitate correctness, impartiality and efficiency in administering election laws.

(2) ORS 250.015 requires that the Secretary of State designate the form of a prospective petition.

(3) The Secretary of State designates the *2002 State Initiative and Referendum Manual* and associated forms (as amended by permanent rule dated April 25, 2003), as the procedures and forms to be used for the state initiative and referendum process.

(4) The Secretary of State designates the *2002 Recall Manual* and associated forms as the procedures and forms to be used for the recall process.

(5) The Secretary of State designates the *2002 County Initiative and Referendum Manual* and associated forms (as amended by permanent rule dated April 25, 2003), as the procedures, except where state law permits the procedure to be otherwise under local charter or ordinance, and forms to be used for the county initiative and referendum process.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 264.120, ORS 246.150 & ORS 250.015

Stats. Implemented: ORS 246.120, ORS 246.150 & ORS 250.015

Hist.: SD 120, f. & ef. 12-21-77; SD 7-1979(Temp), f. & ef. 11-5-79; SD 31-1980, f. & ef. 3-6-80; SD 10-1984, f. & ef. 6-19-84; SD 21-1984(Temp), f. & ef. 10-8-84; SD 4-1986, f. & ef. 2-26-86; ELECT 33-1988(Temp), f. & cert. ef. 8-26-88; ELECT 4-1989(Temp), f. & cert. ef. 8-11-89; ELECT 4-1991 (Temp), f. & cert. ef. 3-18-91; ELECT 10-1992(Temp), f. & cert. ef. 4-9-92; ELECT 19-1992(Temp), f. & cert. ef. 7-1-92; ELECT 39-1992, f. & cert. ef. 12-17-92; ELECT 3-1993 (Temp), f. & cert. ef. 1-22-93; ELECT 10-1993, f. & cert. ef. 3-25-93; ELECT 35-1993, f. & cert. ef. 11-1-93; ELECT 1-1996, f. & cert. ef. 1-3-96; ELECT 8-1997, f. & cert. ef. 10-3-97; ELECT 3-1998, f. & cert. ef. 2-11-98; ELECT 10-1999, f. & cert. ef. 10-18-99; ELECT 3-2002, f. & cert. ef. 3-13-02; Elect 9-2002(Temp), f. & cert. ef. 12-5-02 thru 6-3-03; ELECT 4-2003, f. & cert. ef. 4-25-03

## 165-020-0005

### Designating the City and District Elections Manuals and Forms

(1) ORS 246.120 requires the Secretary of State to prepare and distribute to each county clerk detailed and comprehensive written directives and instructions on elections procedures.

(2) ORS 246.150 requires the Secretary of State to adopt rules to facilitate correctness, impartiality and efficiency in administering election laws.

(3) The Secretary of State designates the *2002 City Elections Manual* and associated forms (as amended by permanent rule dated April 25, 2003), as the procedures and forms to be used for city elections processes.

(4) The Secretary of State designates the *2002 District Elections Manual* and associated forms (as amended by permanent rule dated April 25, 2003), as the procedures and forms to be used for district elections processes.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 246.120 & ORS 246.150

Stats. Implemented: ORS 246.120 & ORS 246.150

Hist.: SD 33-1980, f. & ef. 3-6-80; SD 47-1980, f. & ef. 10-17-80; SD 12-1984, f. & ef. 6-20-84; SD 40-1985, f. & ef. 11-15-85; SD 12-1986, f. & ef. 4-3-86; ELECT 34-1988(Temp), f. & cert. ef. 8-26-88; ELECT 4-1991(Temp), f. & cert. ef. 3-18-91; ELECT 11-1992(Temp), f. & cert. ef. 4-14-92; ELECT 33-1992, f. & cert. ef. 10-8-92; ELECT 36-1993, f. & cert. ef. 11-1-93; ELECT 1-1996, f. & cert. ef. 1-3-96; ELECT 8-1997, f. & cert. ef. 10-3-97; ELECT 3-1998, f. & cert. ef. 2-11-98; ELECT 10-1998, f. & cert. ef. 11-3-98; ELECT 4-1999, f. & cert. ef. 3-1-99; ELECT 10-1999, f. & cert. ef. 10-18-99; ELECT 3-2002, f. & cert. ef. 3-13-02; Elect 9-2002(Temp), f. & cert. ef. 12-5-02 thru 6-3-03; ELECT 4-2003, f. & cert. ef. 4-25-03

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## Teacher Standards and Practices Commission

### Chapter 584

**Adm. Order No.:** TSPC 3-2003

**Filed with Sec. of State:** 5-15-2003

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**Rules Adopted:** 584-060-0210

**Rules Amended:** 584-005-0005, 584-017-0150, 584-060-0071, 584-065-0050

**Subject:** 1. Establishes an Emergency license, not to exceed one year, when a school district demonstrates extenuating circumstances

that merit the issuance of the license in order to protect the district's programs or students.

2. Revises the Reading endorsement content area to align with the International Reading Standards.

3. Stipulates the number of practica required to obtain authorization for K-12 in the specialty areas.

**Rules Coordinator:** Janet Madland—(503) 373-1060

## 584-005-0005

### Definitions

These definitions become effective on January 15, 1999, and apply thereafter to Divisions 001-090 unless otherwise indicated by the context:

(1) "Action Research Project": An Action Research Project is a substantial study, and culminates in a report of findings and implications for school improvement.

(2) "Administrators": Principals, vice principals, and such other personnel, regardless of title, whose positions require them to evaluate other licensed personnel.

(3) "Alternative Assessment": Procedures established by the Commission for candidates seeking an Oregon teaching license who fail to achieve a passing score on licensure test of basic skills of reading, writing and computation; subject matter or specialty area for teaching endorsement, and/or professional knowledge.

(4) "Alternative Education Program": A private alternative education program registered with the Oregon Board of Education or a public alternative education program operated by a school district, education service district, or community college, which is established to serve students identified under ORS 339.250(6) and other students whose academic or professional technical interests and needs are best served through participation in such programs. All public and private alternative education programs operated or contracted by districts must be approved by the local school board.

(5) "American Speech and Hearing Association": A professional association which awards the Certificate of Clinical Competency to qualified educators.

(6) "Annual Report": A descriptive document, including supportive data, that reflects upon the activities and curriculum modifications, planned and/or implemented by the unit during the prior year.

(7) "Application": A request for an Oregon license authorizing service in public schools or a request for reinstatement or renewal of such license. As used in these rules, "application" includes the Application Form, C-1, the fee, and all supporting documents necessary for the evaluation for the license.

(8) "Appropriately Assigned": Assigned to teaching, administrative, or personnel service duties for which the person involved holds the proper license and endorsement(s).

(9) "Approval": Systematic evaluation and approval of teacher education program under rules established by the Commission. An institution which has Commission approval may recommend candidates for the licensures and endorsements so authorized.

(10) "Approved Institution": Oregon public community colleges, Oregon regionally accredited colleges and universities, and other regionally accredited colleges or universities approved to prepare licensed personnel by the state or governmental jurisdiction in which the institutions are located. All approved institutions must be accredited by the appropriate regional accrediting association. See definition of "Regional Accrediting Associations" in this rule for a list of these associations.

**NOTE:** Only lower-division courses eligible for transfer to four-year institutions are accepted from Oregon public community colleges. Only credits in arts and sciences and in technical courses applicable to selected teaching endorsements are accepted from Oregon Institute of Technology.

(11) "Approved Teacher Education Institution": An Oregon institution with one or more programs approved by TSPC as a basis for licensure or regionally accredited college or university approved to prepare licensed personnel by the state or governmental jurisdiction in which the institution is located.

(12) "Approved Professional Technical Education Program": A professional technical program, normally at grades nine through twelve, approved by the State Board.

(13) "Assistant Superintendent": A superintendent's immediate subordinates who evaluate licensed personnel. May also be designated Deputy or Associate Superintendent.

(14) "Athletic Coaches": Licensed personnel employed full time or part time and whose duties include instruction of students, preprimary through grade twelve, for purposes of participation in interscholastic athletics. A student teacher or intern may serve as an assistant coach without

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licensure if assigned for a full-time practicum in the school in which he or she is coaching.

(15) "Attendance Unit": A single school building or combination of buildings which the school board designates as a school.

(16) "Authorization": The grade levels which a person may teach, i.e., early childhood, elementary, middle level and high school.

(17) "Basic Teaching License": A Basic Teaching License is issued to an applicant who meets the requirements set forth in OAR 584-038-0005. It is valid for three years and may be renewed under conditions set forth in Division 048.

(18) "Beginning Teacher Assessment (BTA)": A program conducted by TSPC in close cooperation with the Oregon Department of Education, teacher education institutions, and school districts. Over the course of a two- or three-year period the BTA process leads to a portfolio of evidence about both a beginning teacher's job performance and his or her continued growth as a professional. A Continuing Teaching License is granted upon documentation of a teacher's effectiveness and continued growth as a professional.

(19) "Certificate or License Issued by Another State": A certificate or license valid for full-time employment, at least equivalent to the Oregon license being requested, issued by one of the United States, a U.S. jurisdiction (American Samoa, Commonwealth of Northern Marianas, District of Columbia, Guam, Puerto Rico, and Virgin Islands), or the U.S. Department of Defense.

(20) "Commission": Teacher Standards and Practices Commission (TSPC).

(21) "Competencies": Ability to apply knowledge and skills appropriately and effectively in achieving the expected outcomes of a public school curriculum including fostering of pupils' achievement.

(22) "Competent": Discharging required duties as set forth in Division 020 of these rules.

(23) "Completion of Approved Program": The applicant has met the institution's academic requirements and has obtained the institution's recommendation for the license.

(24) "Comprehensive Counseling Program": A program of services provided by qualified personnel through individual planning, responsive services, guidance curriculum and system support and focusing on the academic/educational, personal/social and life role/career success of each student.

(25) "Conditional Assignment": Assignment of a licensed person to a position for which he or she does not hold the subject or specialty area endorsement or authorization level required by the Rules for Licensure. See definition of "Without Proper Licensure".

(26) "Consortium": An advisory body to the institution in reviewing, evaluating, and making recommendations on the design, implementation, evaluation, and modification of the program.

(27) "Continued Professional Growth": A plan for personal professional growth during a licensure cycle which meets the criteria in OAR 584-090-0001.

(28) "Continuing Administrator License": The second stage administrator license for building level administrators which must be obtained by the end of the sixth year of administration in Oregon schools. This license also serves as the initial license for superintendents.

(29) "Continuing Professional Development (CPD)": Additional academic and practical experience that leads to increased knowledge and skills related to the educator's assignment.

(30) "Continuing Professional Development Advisor": A person selected by an educator and approved by the educator's supervisor, such as a college or university advisor, a peer coach, or a qualified member of an agency or professional organization.

(31) "Continuing School Counselor License": The second stage school counselor license which must be obtained by the end of the sixth year of counseling in Oregon schools.

(32) "Continuing School Psychologist License": The second stage school psychologist license which must be obtained by the end of the sixth year as a school psychologist in Oregon schools.

(33) "Continuing Superintendent License": The third stage administrative license for school superintendent which must be obtained by the end of the third year of experience as a school superintendent in Oregon.

(34) "Continuing Teaching License": The second stage teaching license which must be obtained by the end of the sixth year of teaching in Oregon schools. The candidate chooses one of three options-an approved professional development program, certification by NBPTS, or BTA.

(35) "Distance Learning Teacher": A teacher who provides live, interactive instruction transmitted from a remote location either from within

Oregon or from another state and who is employed by one or more Oregon public school districts to teach public school students.

(36) "Domain": An area of professional competency.

(37) "Early Childhood Authorization": Valid for teaching from age three to grade four.

(38) "Educational Media": Printed, audio-visual, and electronic forms of communication and their accompanying technologies.

(39) "Education Service District": A district established to assist the State Board of Education in providing state-level services and at the local level to provide professional services and facilities on a cooperative basis with local districts.

(40) "Educator": Any licensed person who is authorized to be engaged in the instructional program including teaching, counseling, administering, and supervising.

(41) "Elementary Authorization": Valid for teaching in grades three to eight in an elementary, middle or junior high school.

(42) "Emergency License": Issued by TSPC when a school district demonstrates extenuating circumstances that merit the issuance of the license in order to protect the district's programs or students.

(43) "Endorsement": The subject matter or specialty education field and authorization in which the individual is licensed to teach. Licenses are endorsed for fields in which the candidates have achieved passing scores on PRAXIS Specialty Area Tests or other Commission-approved tests of subject matter knowledge.

(44) "Ethical": Conforming to the professional standards of conduct set forth in Division 020 of these rules.

(45) "Evaluation": Appraising performance or outcome in terms of objectives.

(46) "Executive Director": The Executive Director of the Commission.

(47) "Experimental Program": Programs that respond to current needs by developing programs to prepare teachers with special competencies or to prepare new types of teachers.

(48) "Expired License": A license for which an application for renewal was not received by TSPC prior to the date of expiration stated on the license.

(49) "Field Experience": Learning activities designed to develop professional competence through observing, assisting, or teaching in a public or approved non-public school.

(50) "Goals": Broad aims of a program.

(51) "Handicapped Learner": A student who is certified by the Oregon Department of Education as requiring an individualized educational program (IEP) because of mental, physical, emotional, or learning problems in order to attain the skills and competencies of which he or she is capable.

(52) "Hearing Impaired": A student with a hearing impairment which, even with amplified sound, adversely affects the student's educational performance.

(53) "High School Authorization": Valid for teaching in integrated subjects and departmental assignments in grades 7-12 in a high school.

(54) "Initial Administrator License": The Initial License is valid for three years and may be renewed once upon verification of successful recent experience.

(55) "Initial School Counselor License": The Initial License is valid for three years and may be renewed once upon verification of successful recent experience.

(56) "Initial School Psychologist License": The license is valid for three years and may be renewed once upon verification of successful recent experience.

(57) "Initial Teaching License": The Initial Teaching License is a first-stage teaching license valid for three years and is renewable once upon verification of successful, recent educational experience.

(58) "Institution": The college or university that offers the teacher education program.

(59) "Instruction": Direction of learning in classes, small groups, individual situations, and the library.

(60) "Instructional Assistant": A non-licensed position of employment in a school district assigned to assist a licensed teacher in a supportive role in the classroom working directly with students.

(61) "Instructional Faculty": Full-time and part-time faculty who teach professional courses and/or supervise field-centered activities and student teachers.

(62) "Instructor Appraisal Committee": A seven-member committee appointed by a school board to evaluate applicants and make recommendations to the Commission and the employing superintendent or school board

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relative to their licensure and assignment as professional technical teachers. Five members of the committee must be employers and employees currently engaged in an occupation related to the professional technical program area. These five public members must all possess current and substantial knowledge of the technical, environmental, and attitudinal requirements of the occupational field, and one of the five should also represent the school district's occupational advisory committee for the instructional program to be offered. One of the two remaining committee members shall be the regional coordinator of professional technical education or an appropriate Oregon Department of Education program area specialist. The seventh member shall be a district administrator or a director of professional technical education. Ex officio members may also be appointed. A facilitator must be chosen and inserviced in operating an instructor appraisal committee. Reports of evaluations that are satisfactorily completed shall be verified by the signatures of the chair of the occupational advisory committee, the chair of the district's Instructor Appraisal Committee, and the regional coordinator of professional technical education.

(63) "Intern": A student of an approved institution who serves as a teacher, personnel specialist, or administrator under the supervision of the institution and of the school district in order to acquire practical experience in lieu of student teaching or supervised practica. Interns may receive both academic credit from the institution and financial compensation from the school district. Interns may serve as assistant coaches.

(64) "Joint Application": Submitted by the school board or school superintendent in cooperation with the applicant.

(65) "Liaison Officer": The person designated by the unit to submit all program modifications for TSPC approval, issue all recommendations for licensure under the approved program, authorize all waivers of professional courses for students enrolled in the program, and handle all correspondence between TSPC and the unit.

(66) "Licensure Tests": Licensure tests of basic skills of reading, writing, and computation; subject matter or specialty area for teaching endorsement.

(67) "Major Modifications": Changes of program philosophy, curricula, practica, resources, personnel, and/or performance standards.

(68) "Major Traffic Violation": Includes driving while under the influence of intoxicants (ORS 487.540); reckless driving (487.550); fleeing or attempting to elude a police officer (487.555); driving while license is suspended or revoked or beyond license restrictions (487.560); or failure to perform the duties of a driver or witness at an accident (483.602).

(69) "Middle Level Authorization": Valid for teaching in grades five through ten.

(70) "National Association of School Psychologists": A professional association which awards the National School Psychology Certificate to qualified educators.

(71) "National Board For Professional Teaching Standards (NBPTS)": A professional board established to award a National Teaching Certificate to qualified educators.

(72) "NCATE": The National Council for Accreditation of Teacher Education, an organization established to accredit programs for the preparation of school personnel.

(73) "Nine Quarter Hours of Preparation": Required to renew a license when the applicant does not have experience on the current license. The credit must be completed in an approved institution, be germane to the endorsement(s) held, and/or reflect State Board priorities. See "State Board Priorities".

(74) "Northwest Association of Schools and Colleges": The regional accrediting association for Alaska, Idaho, Montana, Nevada, Oregon, Utah and Washington.

(75) "Objectives": Specific aims of a program which support program goals.

(76) "Option": One of two ways to complete CPD — district plan or individual professional growth plan including action research projects.

(77) "Oregon Administrative Rule": An administrative rule adopted by the Commission in accordance with ORS Chapter 183. Rules have the force of law.

(78) "Oregon Revised Statutes (ORS)": Laws established by the legislature and Governor of the State of Oregon.

(79) "Oregon Schools": Includes public school districts, Oregon education service districts, registered private schools preprimary through grade twelve, state and federal schools in Oregon, special state-supported schools in Oregon serving students ages three through twenty-one, private schools accredited by the Northwest Association of Schools and Colleges, and private proprietary career schools licensed by the superintendent of public instruction.

(80) "Outcomes": Measurable results.

(81) "Personal Qualifications": Personal qualifications for licensure including attainment of at least eighteen years of age and possessing good moral character and mental and physical health necessary for employment as an educator.

(82) "Personnel Service": A type of license issued to counselors, supervisors, and school psychologists.

(83) "Position": A licensed educational job. As used in these standards, "positions" in most cases parallel classifications used in the licensure endorsements found in Oregon Rules for Licensure.

(84) "Practicum": All supervised field experiences other than student teaching.

(85) "PRAXIS": A series of professional assessments for beginning teachers produced and administered by Educational Testing Service and adopted by TSPC as licensure examinations.

(86) "Principal": The administrator of each attendance unit.

(87) "Professional Course": A course which includes humanistic and behavioral foundations of education, the study of teaching and learning theory, educational methods, or direct or simulated practice in an educational position.

(88) "Professional Development Plan": A plan for personal professional growth during the next five-year licensure cycle.

(89) "Program": The objectives, curricula, learning experience, faculty, and resources related to preparation of candidates for respective endorsements.

(90) "Program Administrator": Managers of school programs and coordinators of district-wide programs that are accountable at the building level.

(91) "Program Review Committee": Committee appointed by the Commission to conduct an on-site review for purposes of approval of an educator preparation program.

(92) "Professional Development Units (PDU)": A unit of measurement that equals one clock hour of professional development activity.

(93) "Professional Technical Advisor": The individual assigned to guide, advise and counsel an educator holding a Three-Year Professional Technical License. The advisor participates in the educator's Instructor Appraisal Committee; makes recommendations for meeting minimum requirements; and assists in monitoring, documenting and reporting on the completion of requirements and the professional growth plan.

(94) "Professional Technical Mentor": A professional technical teacher endorsed within the same endorsement area who guides and supports a beginning professional technical teacher with instructional planning and preparation, delivery of classroom instruction, classroom management, assessment of student performance, and professional development.

(95) "Public Funds": All monies expended by public school districts and for which the school board has responsibility, including funds from local, state, federal, and private sources.

(96) "Public Schools": All monies expended by public school districts and for which the school board has responsibility, including funds from local, state, federal, and private sources.

(97) "Recent Experience": An application for a license submitted to TSPC either within three years following completion of an approved program or during the effective period of a comparable license and within three years of the last year of experience on such license. If more than three years have elapsed since completion of the program or since the last year of public school or regionally accredited private school experience, recency may be met by completion of nine quarter hours of additional preparation from an approved institution germane to the license and endorsement requested. The additional credits must be completed during the three-year period prior to application and must help the applicant keep abreast of current needs of public schools. If the comparable license expired prior to application, a Preparation for Teaching Report, Form C-2, must be submitted.

(98) "Registered Private Schools": A private school, preprimary through grade twelve, registered with the Oregon Department of Education in compliance with provisions of ORS 345.525 and 345.535.

(99) "Regional Accrediting Associations": Colleges and universities approved for teacher education must be accredited by the appropriate regional association at the time the degree or program is completed. The regional associations are: New England Association of Colleges and Secondary Schools, North Central Association of Colleges and Secondary Schools, Northwest Association of Schools and Colleges, Middle States Association of Colleges and Secondary Schools, Southern Association of Colleges and Secondary Schools, or Western Colleges Association.

(100) "Reinstatement": Restoration of the validity of a license which has expired, been suspended, or been revoked.

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(101) "Related Service for Handicapped": Services rendered by public agencies, such as a community mental health program, or by professionals licensed within their own specialties, to assess educational needs, design educational programs, and instruct handicapped students. These personnel are not required to hold licensure from the Commission. See also ORS 343.221.

(102) "Renewal": Extension of validity of a current license. An application for renewal must be submitted prior to the expiration date stated on the license.

(103) "Rules for Licensure": Commission rules governing licensing of teachers, personnel service specialists, and administrators as set forth in OAR 584-036-0005 through 584-052-0027.

(104) "School Administrator": The principal, vice principals and assistant principals at each attendance unit.

(105) "School Board": The board of directors of a local school district or an education service district, the governing board of a registered private school, or the directors of a state, federal, or special state-supported school.

(106) "School Counselor": A licensed employee of the district assigned to assist students to: develop decision-making skills, obtain information about themselves, understand opportunities and alternatives available in educational programs, set tentative career and educational goals, accept increasing responsibilities for their own actions, develop skills in interpersonal relations, and utilize school and community resources.

(107) "School District": Includes administrative school districts; common school districts; joint school districts; union high school districts; county units; education service districts; registered private schools; and state, federal, and special state-supported schools.

(108) "School Nurse": A registered nurse who is licensed by the Teacher Standards and Practices Commission as qualified to conduct and coordinate the health service programs of a school.

(109) "School Psychologist": A licensed employee of the district assigned to: assessment of students' mental aptitude, emotional development, motor skills, or educational progress; designing educational programs for students and conferring with licensed personnel regarding such programs; and consulting with parents and students regarding interpretation of assessments and the design of educational programs.

(110) "School Supervisor": Public school teachers who assist, supervise, and evaluate students enrolled in the field-centered activities and student teaching.

(111) "Self-Contained Classroom": An assignment for teaching in grades preprimary through nine in which the teacher has full responsibility for the curriculum. Specialists who provide instruction in areas such as art, music, physical education, or reading for students in self-contained classrooms must hold basic subject matter endorsements if such assignments constitute fifty-one percent or more of the position.

(112) "Severely Handicapped Learners": Students who are severely emotionally disturbed, severely mentally retarded, or who have concomitant impairments (such as mentally retarded-blind, mentally retarded-orthopedically impaired, etc.) the combination of which causes such severe educational problems that they cannot be accommodated in special education programs solely for one of the impairments.

(113) "Sexual Contact": Includes:

(a) The intentional touching of the breast or sexual or other intimate parts of a student;

(b) Causing, encouraging, or permitting a student to touch the breast or sexual or other intimate parts of the educator; or

(c) Sexual advances and verbal or physical conduct of a sexual nature directed towards a student.

(114) "Sexual Harassment": Any unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

(a) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;

(b) Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or

(c) Such unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

(115) "Skills": Ability to use knowledge effectively in the performance of specific tasks typical of those required in an educational position.

(116) "Small Schools": An elementary, middle, junior high or high school with an average daily membership (ADM) in the lowest quartile of Oregon public schools ranked by size or school district in the lowest quartile of districts ranked by size.

(117) "Special Education": Specially designed instruction to achieve the goals of the handicapped learner's individualized educational program

(IEP), including regular classroom instruction, instruction in physical education, home instruction, related services, and instruction in hospitals, institutions, and special schools.

(118) "Speech Impaired": A student with a communication disorder, such as language impairment, stuttering, impaired articulation, or voice impairment, which adversely affects the student's educational performance.

(119) "Standard Teaching License": The Standard Teaching License is valid for five years and may be renewed. A Standard Teaching License is valid for the same assignments as a Basic Teaching License with similar authorizations and endorsements. In addition, the Standard Teaching License authorizes assignments in grades five through twelve or in preprimary through grade twelve for which a renewed Basic Teaching License may not provide authorization.

(120) "State Board": The Oregon State Board of Education.

(121) "Student Teacher": A student of an approved teacher education institution who is assigned to a public or approved private school for professional practica under the supervision of qualified personnel. Student teachers may provide instruction or may serve as assistant coaches.

(122) "Student Teaching": A planned teaching assignment under the supervision of qualified personnel from the district and an approved Oregon teacher education institution for a total of 15 weeks. A minimum of nine weeks must be full time experience. In a full-time experience, the student teacher assumes the duties of a full time (as defined by district job description) teacher co-operatively and independently. Teacher education institutions must establish contracts for student teaching in accordance with ORS 332.075(4).

(123) "Successful Experience": If the educator was permitted to fulfill the contract with the district, the experience is deemed successful.

(124) "Superintendent": The district's chief administrator who reports directly to the school board.

(125) "Supervisor": A person assigned to a position which includes the supervision or evaluation of licensed personnel.

(126) "Teacher": As used in Oregon Revised Statutes, "teacher" includes all licensed employees in public schools or education service districts -teachers, personnel specialists, and administrators. As used in these rules, "teacher" refers to a person directing learning in classes, small groups, individual situations, and the library. A person holding a teaching license may be assigned leadership responsibilities, such as planning and development of curriculum, organization and maintenance of professional growth programs for licensed personnel, or improvement of instructional practices, if neither supervision nor evaluation of licensed personnel is required by the position. See also OAR 584-036-0011 and 584-036-0015.

(127) "Teacher Education Programs": Programs preparing teachers, personnel service specialists, or administrators. Oregon Revised Statutes use the term "teacher education" to refer to all programs preparing educational personnel for public elementary and secondary schools, not exclusive to those for classroom teachers.

(128) "Teacher Educator": Includes college faculty assigned to the school, college, or department of education; college faculty assigned to other schools,

colleges, or departments, but who teach professional education and methods courses for prospective educators; and public school teachers and administrators who teach courses and supervise practica related to the approved program.

(129) "Teaching Specialty": For teachers, the content areas to be taught to pupils and the advanced and supplemental knowledge giving background and adaptability necessary for instruction in current curriculum. For specialists and administrators, this term refers to the technical knowledge and background necessary to perform the duties of the position.

(130) "TSPC": Teacher Standards and Practices Commission.

(131) "Transcripts": An official record of academic preparation which bears the signature of the registrar and the seal of the institution. Photocopies are not acceptable.

(132) "Unit": The college, school, or department or organizational structure designated by the institution to organize and operate the program.

(133) "Verification": A method to show successful completion of a plan.

(134) "Vice Principal": A principal's immediate subordinate assigned to coordination of instruction, discipline, student activities, or supervision or evaluation of staff.

(135) "Violation of Licensure": Employment by a public school without a valid license. See definition of "Without Proper Licensure".

(136) "Visually Impaired": A student with a visual impairment which, even with correction, adversely affects the student's educational performance. The term includes those children who are partially-sighted or blind.

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(137) "Volunteer Nurse": A registered nurse who serves without remuneration in a school health services program.

(138) "Waiver of Practicum": Waiver of any approved program requirement is permitted except for practicum experiences documenting the required competencies.

(139) "Waiver of Student Teaching": One year of full-time successful teaching experience in public schools or regionally accredited private schools on a valid state license substitutes for the student teaching or internship required for the Initial Teaching License.

(140) "Waiver of Tests": Five years of successful teaching experience in public schools or regionally accredited private schools on a valid state license substitutes for the basic skills, specialty area and professional knowledge tests required for the Initial Teaching License.

(141) "Without Proper Licensure": Either employment without a valid license (violation), or employment with a valid license but without the appropriate endorsement for the position (conditional assignment).

(142) "Work Experience": Structured work experience is employment that is planned and coordinated to increase specific occupational competence as prescribed by the district's Instructor Appraisal Committee. Non-structured work experience is documented employment as a qualified worker, completed within the five years prior to application, that is related to the instructional area. One hour of structured work experience related to the program area equals three hours of non-structured work experience.

(143) "Work Samples": A student designed and implemented unit of study that demonstrates capacity to foster student learning.

(144) "Year of Experience": A period of at least eight consecutive months of full-time work or two consecutive years of one-half time or more while holding a license valid for the assignment.

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

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.430 & ORS 342.455 - 342.495

Hist.: TSPC 2-1998, f. 2-4-98, cert. ef. 1-15-99; TSPC 4-1999, f. & cert. ef. 8-2-99; TSPC 2-2000, f. & cert. ef. 5-15-00; TSPC 5-2000, f. & cert. ef. 9-20-00; TSPC 4-2001, f. & cert. ef. 9-21-01; TSPC 5-2001, f. & cert. ef. 12-13-01; TSPC 2-2002, f. & cert. ef. 3-15-02; TSPC 6-2002, f. & cert. ef. 10-23-02; TSPC 3-2003, f. & cert. ef. 5-15-03

## 584-017-0150

### Selected Subject Matter and Specialty Endorsements

The unit assures that candidates for selected subject matter or special education endorsements demonstrate knowledge, skills, and competencies for multiple authorizations.

(1) Candidates for endorsements in art, ESOL/bilingual, music, physical education, adaptive physical education, special education and reading shall qualify for two levels of authorization by:

(a) Completing preparation in developmental psychology and methods appropriate for early childhood and elementary education, OR elementary and middle level, OR middle level and high school;

(b) Completing supervised practica and/or student teaching experiences in early childhood and elementary, OR elementary and middle level, OR middle level and high school; and

(c) Documenting knowledge of the endorsement by passing the PRAXIS test in the specialty. The MSAT is not required for these endorsements.

(d) Candidates completing a practica experience at either early childhood or elementary and at either middle or high school level shall qualify for authorization for pre-primary through grade twelve.

(2) Candidates for special education endorsements, in addition to the requirements stated in section (1) of this rule, must complete preparation in the continuum of disabilities (mild, moderate, and severe).

(3) Candidates for endorsements in educational media, hearing impaired, communication disorders, and vision impaired shall qualify for four levels of authorization by:

(a) Completing preparation in psychological foundations and methods appropriate for early childhood and elementary AND middle level and high school;

(b) Completing a supervised work experience and/or student teaching in early childhood and elementary AND middle level and high school; and

(c) Documenting knowledge of the endorsement by passing the PRAXIS test in the specialty. The MSAT is not required for these endorsements.

(4) Candidates for endorsements in Early Intervention and Early Childhood Special Education must qualify for the Early Childhood Authorization only by:

(a) Completing preparation in psychological foundations and methods appropriate for Early Childhood Education/Early Intervention;

(b) Completing a supervised practicum in early intervention and early childhood special education; and

(c) Documenting knowledge of the endorsement by passing PRAXIS Test in Special Education; Preschool/Early Childhood. The Multiple Subjects Assessment for Teachers (MSAT) is required for Early Childhood Education/Early Intervention I endorsement, but is not required for the Early Childhood Education/Early Intervention II endorsement.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120, ORS 342.147 & ORS 342.165

Hist.: TSPC 2-1998, f. 2-4-98, cert. ef. 1-15-99; TSPC 7-1999, f. & cert. ef. 10-8-99; TSPC 6-2002, f. & cert. ef. 10-23-02; TSPC 3-2003, f. & cert. ef. 5-15-03

## 584-060-0071

### Endorsement Requiring Multiple Levels

There are several specialties in which endorsement of a teaching license must apply to more than one level of authorization. Multiple-subject endorsement is not required at any level for these specialties, meaning that a subject mastery test is required, but the Multiple Subject Assessment Test is not.

(1) Specialized teachers of art, bilingual education with English for speakers of other languages (ESOL), ESOL alone, music, physical education, adaptive physical education, reading, and special education must qualify, through approved academic preparation and through supervised work experience or student teaching, for authorization at two levels: early childhood and elementary, or elementary and middle level, or middle and high school. Candidates completing a practica experience at either early childhood or elementary and at either middle or high school level shall qualify for authorization for pre-primary through grade twelve. Additionally, teachers of special education must complete preparation in the full continuum of disabilities: mild, moderate, and severe.

(2) Educational media specialists must qualify, through approved academic preparation and through supervised work experience or student teaching, for authorization at all four levels: early childhood, elementary, middle, and high school.

(3) Teachers for students with communication disorders, hearing impairments, or visual impairments must qualify, through approved academic preparation and through supervised work experience or student teaching, for authorization at all four levels: early childhood, elementary, middle, and high school. Additionally, teachers for the visually impaired must demonstrate proficiency in reading and writing Braille by obtaining a certificate of competency from the National Library Service for the Blind and Physically Handicapped or an equivalent certificate currently approved by the commission. Teachers for students with communication disorders may obtain authorization at all four levels by earning a certificate of clinical competence from the American Speech and Hearing Association or successor approved by the commission.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - ORS 342.143, ORS 342.153, ORS 342.165 & ORS 342.223 - ORS 342.232

Hist.: TSPC 4-1999, f. & cert. ef. 8-2-99; TSPC 6-2002, f. & cert. ef. 10-23-02; TSPC 3-2003, f. & cert. ef. 5-15-03

## 584-060-0210

### Emergency Teaching License

(1) An Emergency Teaching License may be issued when a school district demonstrates extenuating circumstances that merit the issuance of the license in order to protect the district's programs or students.

(2) The Emergency Teaching License shall be issued solely at the discretion of the Executive Director for any length of time deemed necessary to protect the district's programs or students.

(3) Unless expressly waived by the Executive Director, an Emergency Teaching License shall not exceed one year and may not be waived.

Stat. Auth.: ORS 342.125

Stats. Implemented: ORS 342.120 - ORS 342.143, ORS 342.153, ORS 342.165 & ORS 342.223 - ORS 342.342

Hist.: TSPC 3-2003, f. & cert. ef. 5-15-03

## 584-065-0050

### Reading Specialist — Early Childhood and Elementary, OR Elementary and Middle Level OR Middle and High School

The following requirements must be met:

(1) Foundational Knowledge and Dispositions

(a) Knowledge of psychological, sociological, linguistic and anthropological foundations of reading and writing processes and instruction.

(b) Knowledge of reading research and histories of reading.

(c) Knowledge of language development and reading acquisition and the variations related to culture and linguistic diversity.

(d) Knowledge of the major components of reading (phonemic awareness, word identification and phonics, vocabulary and background knowl-

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edge, fluency, comprehension strategies and motivation) and how they are integrated in fluent reading.

(e) Display dispositions related to reading and the teaching of reading.

(2) Instructional Strategies and Curriculum Materials

(a) Use key instructional grouping options (individual, small-group, whole-class, computer-based.)

(b) Use a wide range of instructional practices, including technology-based practices that promote reading and/or writing across the curriculum.

(c) Use a wide range of curriculum materials in effective reading instruction for learners at various stages of reading and writing development and from different cultural and linguistic backgrounds including English language learners.

(d) Plan and use appropriate practices, including technology-based practices in effective reading instruction for learners at various stages of reading and writing development and from different cultural and linguistic backgrounds including English language learners.

(3) Assessment, Diagnosis and Evaluation

(a) Use a wide range of assessment tools and practices that range from individual and standardized group tests to informal, individual, and group classroom assessment strategies and also include technology-based assessment tools.

(b) Place students along a developmental continuum and identify students' proficiencies and difficulties.

(c) Use assessment information to plan and revise effective instruction for all students.

(d) Effectively communicate results of assessments to specific individuals, (students, parents, caregivers, colleagues, administrators, policy-makers, policy officials, community, etc.)

(4) Creating a Literate Environment

(a) Use students' interest and backgrounds as foundations for the reading and writing program.

(b) Use a large supply of books, technology-based information, and non-print materials representing multiple levels, broad interests, cultures and linguistic backgrounds.

(c) Model reading and writing enthusiastically as valued life-long activities.

(d) Motivate learners to be life-long readers.

(5) Professional Development

(a) Continue to pursue the development of professional knowledge and dispositions.

(b) Work with colleagues to observe, evaluate and provide feedback on each other's practice.

(c) Participate in, initiate, implement and evaluate professional development programs.

(6) Leadership

(a) Guidance and supervision of paraprofessionals.

(2) A candidate must also complete student teaching, an internship or a supervised practicum with students in Early Childhood and Elementary, OR Elementary and Middle Level OR Middle Level and High School. Candidates completing a practica experience at either early childhood or elementary and at either middle or high school level shall qualify for authorization for pre-primary through grade twelve.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - ORS 342.143, ORS 342.153, ORS 342.165, & ORS 342.223 - ORS 342.232

Hist.: TSPC 1-2003, f. & cert. ef. 1-13-03; Hist.: TSPC 3-2003, f. & cert. ef. 5-15-03

## Water Resources Department Chapter 690

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

**Filed with Sec. of State:** 5-1-2003

**Certified to be Effective:** 5-1-03

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

**Rules Adopted:** 690-380-0090, 690-380-2000, 690-380-2200, 690-380-2260, 690-380-2300, 690-380-2330, 690-380-2340, 690-380-3050, 690-380-3400, 690-380-3410, 690-380-4000, 690-380-4010, 690-380-4200, 690-380-5030, 690-380-5040, 690-380-5050, 690-380-6050

**Rules Renumbered:** 690-015-0020 to 690-380-3200, 690-015-0025 to 690-380-3220, 690-015-0075 to 690-380-5130, 690-015-0120 to 690-380-6040, 690-015-0310 to 690-380-8010, 690-015-0400 to 690-380-9000

**Rules Ren. & Amended:** 690-015-0001 to 690-380-0010, 690-015-0005 to 690-380-0100, 690-015-0010 to 690-380-2110, 690-015-0240 to 690-380-2120, 690-015-0210 to 690-380-2130, 690-015-0048 to 690-380-2250, 690-015-0030 to 690-380-2320, 690-015-0140 to 690-380-2410, 690-015-0150 to 690-380-2420, 690-015-0130 to 690-380-2430, 690-015-0060 to 690-380-3000, 690-015-0070 to 690-380-3100, 690-015-0080 to 690-380-4020, 690-015-0085 to 690-380-4030, 690-015-0050 to 690-380-5000, 690-015-0073 to 690-380-5060, 690-015-0057 to 690-380-5100, 690-015-0040 to 690-380-5110, 690-015-0045 to 690-380-5120, 690-015-0087 to 690-380-5140, 690-015-0090 to 690-380-6010, 690-015-0100 to 690-380-6020, 690-015-0110 to 690-380-6030, 690-015-0125 to 690-380-6060, 690-015-0300 to 690-380-8000, 690-015-0320 to 690-380-8020

**Subject:** Under ORS 540.510, most changes in the place of use, point of diversion, or character of use of a water right may only be made after approval of the proposed change by the Water Resources Department. In determining whether to approve a proposed change, the Department must evaluate the effects of the change on other water rights and may not allow the change if it would result in injury to another water right. The Water Resources Commission adopted water right transfer rules under a new OAR Chapter 690, Division 380. The Replaces the rules that were in OAR Chapter 690, Division 15. The Department has worked with a Rules Advisory Committee in developing these proposed rules that reorganize the existing rules, clarify and streamline transfer application processing, and incorporate statutory changes enacted in 1999 and 2001.

Under these rules, the processing of water right transfer applications is application. These rules modify the process to provide for a comment period on receipt of a transfer application. The Department would consider any comments received in making a preliminary determination of whether the application should be approved and, then, would provide a notice of the opportunity to protest the application and the Department's determination. Under the statutes and rules, the Department is required to initiate a contested case if a protest is filed.

The rules also incorporate water right cancellation proceedings into the transfer review process if protestants or the Department identify forfeiture for non-use as an issue. The rules combine the transfer and cancellation proceedings. However, the rules would not preclude individuals from filing affidavits alleging non-use and cancellation of a water right proposed for transfer outside of the protest period.

The rules also implement statutory changes from the 1999 and 2001 Legislative sessions. These changes include:

- SB 301 (1999) allowing transfer of a surface water rights to ground water and substitution of a primary right for a supplemental right.

- HB 3356 (1999) allowing the Department to waive transfer fees and to assist in satisfying survey or final proof requirements for fish-friendly transfers.

- SB 644 (2001) allowing an expedited notice and waiting period for substitution of supplemental ground water right for primary water right during droughts and modifying procedures for irrigation district temporary transfers.

- SB 870 (2001) allowing water right holders to consent to injury and establishing procedures and requirements for the Department to consent to injury to instream water rights.

**Rules Coordinator:** Adam Sussman—(503) 378-8455, ext. 297

### 690-380-0010

#### Purpose

(1) The rules in OAR chapter 690, division 380 establish requirements and procedures that shall be used by the Department to evaluate an application to change a water use subject to transfer. The rules describe the requirements for permanently changing the use, place of use, point of diversion or point of appropriation of a water use subject to transfer and for temporarily changing the character of use of stored water and the place of use of a water use subject to transfer.

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(2) A water user may make the following changes without filing a transfer application pursuant to ORS 540.520 and OAR 690-380-3000:

(a) The allocation of conserved water, however, an application for allocation of conserved water is required pursuant to ORS 537.455 to 537.500 and OAR chapter 690, division 18 and notice of a change in place of use of conserved water is required pursuant to 537.490;

(b) Use water at an additional or different place of use under a water use subject to transfer issued to a municipality, rights conferred by ORS 538.410 to 538.450, or under the registration system set forth in ORS 537.132 provided the water use complies with the requirements under ORS 540.510(3)(a)(A) to (C) and 540.510(3)(b);

(c) Use water at a different place of use under a permit or certificate issued to a district pursuant to ORS 540.570 to 540.580 and OAR chapter 690, division 21, however, a petition for the change must be submitted to the Department by the district;

(d) A change in point of diversion pursuant to ORS 540.510(5) and the diversion is provided with a proper fish screen, if requested by ODFW;

(e) A point of diversion change caused by government action pursuant to ORS 540.510(6) provided that the owner notifies the Department before changing the point of diversion;

(f) A point of appropriation or diversion change or a place of use change under a water use permit through a permit amendment for which an application has been filed and approved by the Department pursuant to ORS 537.211(4) to (9);

(g) Water right changes made for lands not described in a permit when the Department issues a certificate pursuant to ORS 537.252;

(h) An exchange of water that meets the criteria in ORS 540.533 and 540.537 if the exchange is approved pursuant to OAR 690-380-2260;

(i) A change in character of use from a specific industrial use to general industrial use provided notice is provided to the Department of the change and the change is consistent with the criteria in OAR 690-380-2340; and

(j) Any change of use if the beneficial use authorized by the water use subject to transfer is irrigation and the owner of the water right uses the water for incidental agricultural, stock watering and other uses related to irrigation use, so long as there is no increase in the rate, duty, total acreage benefited or season of use.

Stat. Auth.: ORS 536.025 & ORS 536.027

Stats. Implemented: ORS 540.510 - ORS 540.532

Hist.: WRD 7-1987, f. & ef. 6-11-87; WRD 10-1988, f. & cert. ef. 8-10-88; WRD 5-1996, f. & cert. ef. 7-11-96; WRD 2-2003, f. & cert. ef. 5-1-03; Renumbered from 690-015-0001

## 690-380-0090

### Applicability

The rules in OAR chapter 690, division 380 shall apply to all applications received by the Department after July 1, 2003 and all transfers for which a final order has not been issued by the Department by July 1, 2003 except as follows:

(1) Until July 1, 2003, the Department shall accept applications that conform to the requirements of either OAR 690-380-3000 or 690-015-0060 as adopted by the Commission in June 1996.

(2) Notice of receipt of an application pursuant to OAR 690-380-4000(3) shall not be required if notice of the application has previously been published in the Department's weekly notice pursuant to OAR 690-015-0080(1) as adopted by the Commission in June 1996.

(3) Until July 1, 2003 or if protests are filed during the period described in OAR 690-015-0080 as adopted by the Commission in June 1996, at the discretion of the Director, the Department may:

(a) Prepare a preliminary determination and initiate the procedures described under OAR 690-380-4010 to 690-380-4200; or

(b) Issue a final order pursuant to OAR chapter 690, division 015 as adopted by the Commission in June 1996.

(4) If affidavits are filed pursuant to OAR 690-017-0400, at the discretion of the Director, the Department may:

(a) Prepare a preliminary determination and initiate the procedures described under OAR 690-380-4010 to 690-380-4200; or

(b) Initiate cancellation proceedings under OAR chapter 690, division 017.

(5) The Department shall provide notice of any preliminary determination by publication in the Department's weekly notice, but shall not require newspaper notice pursuant to OAR 690-380-4020(1)(b) if newspaper notice has previously been published pursuant to OAR 690-015-0080(1) as adopted by the Commission in June 1996.

Stat. Auth.: ORS 536.025 & ORS 536.027

Stats. Implemented: ORS 540.510 - ORS 540.532

Hist.: WRD 2-2003, f & cert. ef. 5-1-03

## 690-380-0100

### Definitions

The definitions in this rule, along with the definitions in OAR 690-008-0001 and 690-300-0010, apply to the rules in OAR chapter 690, division 380. Where a term is defined in more than one rule, the definition in this rule applies.

(1) "District" means an irrigation district formed under ORS chapter 545, a drainage district formed under ORS chapter 547, a water improvement district formed under ORS chapter 552, a water control district formed under ORS chapter 553 or a corporation organized under ORS chapter 554.

(2) "Enlargement" means an expansion of a water right and includes, but is not limited to:

(a) Using a greater rate or duty of water per acre than currently allowed under a right;

(b) Increasing the acreage irrigated under a right;

(c) Failing to keep the original place of use from receiving water from the same source; or

(d) Diverting more water at the new point of diversion or appropriation than is legally available to that right at the original point of diversion or appropriation.

(3) "Injury" or "Injury to an existing water right" means a proposed transfer would result in another, existing water right not receiving previously available water to which it is legally entitled.

(4) "ODFW" means the Oregon Department of Fish and Wildlife.

(5) "Point of appropriation" means a well or the pump location on a sump at which ground water is withdrawn from the ground for use under a ground water right.

(6) "Point of diversion" means the place at which surface water is diverted from a surface water source as specified in the water right. It may be the head of a ditch, a pump suction line, the center line of a dam, or other point at which control is taken of surface water.

(7) "Primary water right" means the water right designated by the Commission as the principal water supply for the authorized use, or if no designation has been made, the water right designated by the applicant as the principal water supply for the authorized use.

(8) "Protest" means a written statement expressing opposition to approval of a transfer application and disagreement with a preliminary determination that is filed in response to the notice prescribed by ORS 540.520(5) and OAR 690-380-4020 and includes the fee prescribed in ORS 536.050.

(9) "Standing statement" means a written statement expressing support for a preliminary determination that is filed in response to the notice prescribed by ORS 540.520(5) and OAR 690-380-4020.

(10) "Supplemental water right or permit" means an additional appropriation of water to make up a deficiency in supply from an existing water right. A supplemental water right or permit is used in conjunction with a primary water right.

(11) "Water use subject to transfer" means a water use established by:

(a) An adjudication under ORS chapter 539 as evidenced by court decree;

(b) A water right certificate;

(c) A water use permit for which a request for issuance of a water right certificate under ORS 537.250 has been received and approved by the Commission under ORS 537.250; or

(d) A transfer application for which an order approving the change has been issued under ORS 540.530 and for which proper proof of completion of the change has been filed with the Commission.

Stat. Auth.: ORS 536.025 & ORS 536.027

Stats. Implemented: ORS 540.510 - ORS 540.532

Hist.: WRD 7-1987, f. & ef. 6-11-87; WRD 10-1988, f. & cert. ef. 8-10-88; WRD 5-1996, f. & cert. ef. 7-11-96; WRD 2-2003, f & cert. ef. 5-1-03; Renumbered from 690-015-0005

## 690-380-2000

### Types of Permanent Transfers

Permanent water right transfers include:

(1) A change in the point of diversion or appropriation pursuant to OAR 690-380-2110, 690-380-2120 and 690-380-2130;

(2) A change in the place of use pursuant to OAR 690-380-2200, 690-380-2250, and 690-380-2260;

(3) A change in the character of use pursuant to OAR 690-380-2300; 690-380-2320, 690-380-2330, and 690-380-2340; and

(4) A change involving municipal water rights pursuant to OAR 690-380-2410, 690-380-2420, and 690-380-2430.

Stat. Auth.: ORS 536.025 & ORS 536.027

Stats. Implemented: ORS 540.510 - ORS 540.532

Hist.: WRD 2-2003, f & cert. ef. 5-1-03



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## 690-380-2110

### Change in Point of Diversion or Point of Appropriation

(1) Except as provided in ORS 540.531 and OAR 690-380-2130, a change in point of diversion is restricted to the same source of surface water. A change in point of appropriation is restricted to the same aquifer.

(2) As provided in ORS 450.695(2), a water authority may change the points of diversion or move the water intake sources of the water use permits or certificates conveyed to it by the districts and municipalities that formed the water authority. For the purposes of this subsection, moving a water intake source is the same as changing the location of a point of diversion. Water authorities shall be subject to the following requirements:

(a) A request by a water authority to change the location of a point of diversion from that authorized by a water right certificate shall be made pursuant to ORS chapter 540 and OAR chapter 690, division 380 transfer rules;

(b) A request by a water authority to change the location of a point of diversion authorized by a water use permit, as defined in OAR 690-380-0100(11)(c), shall be subject to the same statutory and administrative review criteria prescribed by ORS chapter 540 and OAR chapter 690, division 380 transfer rules for water uses subject to transfer; and

(c) A request by a water authority for changes in the point of diversion for water right permits other than those covered under subsection (2)(b) of this rule, shall be made pursuant to ORS 537.211.

Stat. Auth.: ORS 536.025 & ORS 536.027

Stats. Implemented: ORS 450.695 & ORS 540.510 - ORS 540.532

Hist.: WRD 7-1987, f. & cert. ef. 6-11-87; WRD 16-1990, f. & cert. ef. 8-23-90, Renumbered from 690-015-0015; WRD 19-1990, f. & cert. ef. 12-14-90; WRD 5-1996, f. & cert. ef. 7-11-96; WRD 2-2003, f. & cert. ef. 5-1-03; Renumbered from 690-015-0010

## 690-380-2120

### Change in Point of Diversion to Reflect Historical Use

(1) As provided in ORS 540.532, any individual who holds a water right certificate or decree may request a change in point of diversion to reflect the historical use of water at a point of diversion other than that described in the water right certificate or decree. The individual shall use the Department's water right transfer application form, clearly marked "Historic Change in POD," and, except as otherwise provided in section (2) of this rule, include the information required in OAR 690-380-3000.

(2) An individual requesting a change in the point of diversion under section (1) of this rule shall provide to the Department the following information:

(a) Evidence that the actual, current point of diversion for the water right in question has been in use for more than 10 years;

(b) A map meeting the requirements of OAR 690-380-3100, except that it need not be prepared by a certified water rights examiner. The map shall be of sufficient detail and clarity to identify the true point of diversion including but not limited to:

(A) The county tax lot number, township, range and section, and to the nearest quarter-quarter section or latitude and longitude as established by a global positioning system; and

(B) The locations of the point of diversion as specified in the water right certificate or decree and the actual, current point of diversion;

(c) Evidence that there has been no claim of injury prior to the request for the change in point of diversion. The evidence shall include a statement from the local watermaster, based upon the watermaster's knowledge and Department records, that no complaint of injury has been made due to the use of water at the actual, current point of diversion.

(3) On receipt of an application for a change in point of diversion under section (1) of this rule, the Department shall:

(a) Provide the applicant a list of the affected water rights. The list shall include, but is not limited to:

(A) Any water right with an intervening point of diversion;

(B) Any water right for use of stored water being delivered from an upstream reservoir to a downstream user;

(C) Any water right upstream from a significant inflow of water if the request moves the proposed point of diversion upstream, above the inflow, from the authorized point of diversion;

(D) Any water right downstream from a significant inflow of water if the request moves the proposed point of diversion downstream, below the inflow, from the authorized point of diversion;

(b) Provide the applicant a copy of a notice to be mailed or hand-delivered to the affected water right holders that:

(A) Describes the locations of the authorized and actual points of diversion;

(B) States that the recipient on the notice may provide comments to the Department on whether the requested change in point of diversion will cause injury; and

(C) Establishes a comment period of at least 30 days after the notice is mailed or hand-delivered to each of the affected water right holders;

(c) Consult with ODFW in the manner provided under OAR 690-380-5060; and

(d) Provide notice of the application in the weekly notice published by the Department.

(4) Upon receipt from the Department of the list of affected water rights and a copy of the notice, the individual shall determine the name and address of the current holder of each affected water right identified by the Department and shall mail or hand deliver the notice to all such holders. The individual shall provide to the Department written proof of service upon the water right holders. A transfer under section (1) of this rule shall not be approved by the Department before the Department receives the written proof of service and before the comment date specified in the notice, whichever is later.

(5) If, after considering any comments received, the Department finds the individual requesting a change in point of diversion to reflect historical use satisfies the requirements under section (2) to (4) of this rule and that the change does not cause injury, the request shall be approved. The order approving the change in point of diversion shall establish a deadline for compliance with any conditions needed to prevent injury and, where required, to provide fish screening. If a certificate had previously been issued, the order shall cancel the certificate. The director shall issue a new certificate confirming the change in point of diversion and preserving all other conditions of the water right.

(6) After the deadline for compliance with conditions of an approval established pursuant to section (5) of this rule, the use of water from the point of diversion shall be subject to continued compliance with the conditions.

(7) As used in this rule, "individual" means a natural person and does not include a government body, organization, business enterprise, or other such entity.

Stat. Auth.: ORS 536.025 & ORS 536.027

Stats. Implemented: ORS 540.532

Hist.: WRD 5-1996, f. & cert. ef. 7-11-96; WRD 2-2003, f. & cert. ef. 5-1-03; Renumbered from 690-015-0240

## 690-380-2130

### Change from a Surface Water Point of Diversion to a Groundwater Appropriation

(1) As provided in ORS 540.531, an owner of a surface water use subject to transfer may apply for a transfer of the point of diversion to allow the appropriation of groundwater, subject to the requirements for a transfer in point of diversion under this Division and the requirements under section (2) of this rule.

(2) The Department may allow the transfer of the point of diversion under section (1) of this rule if a transfer application demonstrates:

(a) The new point of diversion appropriates groundwater from an unconfined aquifer that is hydraulically connected to the authorized surface source;

(b) The proposed change in point of diversion will not result in injury or;

(c) The proposed change in point of diversion will affect the surface water source similarly to the authorized point of diversion specified in the water use subject to transfer; and

(d) The withdrawal of groundwater at the new point of diversion is located within 500 feet of the surface water source and, when the surface water source is a stream, is also located within 1000 feet upstream or downstream of the original point of diversion as specified in the water use subject to transfer; or

(e) If the distance requirements in subsection (2)(d) of this rule are not met, the holder of a water use subject to transfer shall submit to the Department evidence prepared by a licensed geologist that demonstrates that the use of the groundwater at the new point of diversion will meet the criteria set forth in subsections (2)(a) to (c) of this rule.

(3) A transfer application requesting to change the point of diversion from a surface water diversion to a groundwater appropriation for which evidence prepared by a licensed geologist is required under subsection (2)(e) of this rule shall be evaluated by the Department in the following manner:

(a) The change in point of diversion request shall be examined to determine the potential for injury as if the change is to be from the authorized point of diversion to a point on the stream nearest the proposed well;

(b) If potential injury is not found, the evidence prepared by a licensed geologist and submitted by the applicant shall be evaluated to determine whether the application meets the other requirements of subsec-

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tion (2)(a) to (c) of this rule. The geologist's report shall examine the effect on the surface water source in the vicinity of the point on the stream nearest the proposed new point of diversion.

(4) The new point of diversion shall retain the original date of priority and all other applicable conditions and restrictions that existed at the original point of diversion shall apply at the new point of diversion authorized under the transfer.

(5) If within five years after approving a transfer under this rule, the Department finds that the transfer results in substantial or undue interference with an existing ground water right that would not have occurred in the absence of the transfer, the new point of diversion shall be subordinate to the existing right injured by the transfer. This section applies only to wells with rights existing at the time the transfer was approved.

(6) The original point of diversion of surface water shall not be retained as an additional or supplemental point of diversion. However, if within five years after the Department approves a transfer under this rule, the Department receives a transfer application to return to the last authorized surface water point of diversion, the application shall be approved. It shall be presumed, for transfers under this section, that there is no injury, including injury to rights obtained or transferred after the approval of the first transfer.

(7) For any transfer allowed under sections (1) to (5) of this rule, the Department shall require mitigation measures to prevent depletion from any surface water source not specified in the permit or certificated or decreed water right pursuant to ORS 540.531(6).

(8) As used in this rule:

(a) "Existing ground water right" means a right that existed at the time a transfer was approved under sections (1) to (5) of this rule and does not include a right established after the transfer whether by permit or a change in point of appropriation regardless of priority date.

(b) "Similarly" means that the use of groundwater at the new point of diversion affects only the surface water source specified in the permit or certificated or decreed water right and would result in stream depletion of at least 50 percent of the rate of appropriation within 10 days of continuous pumping.

(c) "Unconfined aquifer" means an aquifer in which the pressure at the upper surface of saturation is equal to atmospheric pressure.

Stat. Auth.: ORS 536.025 & ORS 536.027

Stats. Implemented: ORS 540.520, ORS 540.530 & ORS 540.531

Hist.: WRD 5-1996, f. & cert. ef. 7-11-96; WRD 2-2003, f & cert. ef. 5-1-03; Renumbered from 690-015-0210

## 690-380-2200

### Changes in Place of Use

No change in the place of use may be made except as described under OAR 690-380-0010 or as approved by the Department through a water right transfer or pursuant to OAR 690-380-2260.

Stat. Auth.: ORS 536.025 & ORS 536.027

Stats. Implemented: ORS 540.510 - ORS 540.532

Hist.: WRD 2-2003, f & cert. ef. 5-1-03

## 690-380-2250

### Transfer of Supplemental Water Right or Permit

(1) When an application for change of the use or place of use for a primary water right is submitted in accordance with OAR 690-380-3000, the applicant also shall indicate whether the land described in the application has an appurtenant supplemental water right or permit. If the applicant intends to transfer the supplemental water right or permit with the primary water right, the applicant shall include information on the supplemental right or permit as part of the transfer application for the primary water right as required under OAR 690-380-3000.

(2) If the applicant does not include the supplemental water right or permit in the transfer application, the Department shall notify the applicant and the land owner, as identified under OAR 690-380-3000(13), that the supplemental water right will be canceled before the Department issues the order approving the transfer of the primary water right, unless within 30 days after the date of Department notification, the applicant modifies the application to include the supplemental water right or permit or withdraws the application.

(3) The Department may approve the transfer of a supplemental water right or permit in accordance with ORS 540.520 and 540.530. The Department shall not approve the transfer of a supplemental water right or permit if the transfer would result in injury or enlargement.

(4) If the Department approves the transfer of the primary water right but does not approve the transfer of the supplemental water right or permit, the Department shall notify the applicant and the land owner, as identified under OAR 690-380-3000(13), of the Department's intent to cancel that

portion of the supplemental water right or permit described in the transfer application before the Department issues the primary water right transfer order, unless the applicant withdraws the transfer application within 90 days.

(5) The order issued by the Department approving the transfer of a primary water right shall also cancel any appurtenant supplemental water right or permit not included in the transfer if the applicant does not modify or withdraw the application pursuant to section (2) of this rule or withdraw the application pursuant to section (4) of this rule.

Stat. Auth.: ORS 536.025 & ORS 536.027

Stats. Implemented: ORS 540.510 - ORS 540.530

Hist.: WRD 5-1996, f. & cert. ef. 7-11-96; WRD 2-2003, f & cert. ef. 5-1-03; Renumbered from 690-015-0048

## 690-380-2260

### Exchanges of Water

(1) A person proposing to use stored, surface or ground water from another source in exchange for supplying replacement water in an equal amount pursuant to ORS 540.533 to 540.543 shall file an exchange application with the Department along with the fee required under ORS 536.050.

(2) After receipt of a complete exchange application, the Department shall give at least 30 days public notice of the application:

(a) By publication in the Department's weekly notice; and

(b) By publication in a newspaper having a general circulation in the area in which the water uses are located at least once each week for three successive weeks.

(3) Any person may submit comments by the date identified in the notices prescribed by subsections (2)(a) and (2)(b) of this rule.

(4) After the comment period prescribed in section (2) of this rule, the Director shall:

(a) Issue a proposed order approving or denying the application in compliance with OAR 540.537 taking into account comments received under section (3) of this rule; and

(b) Notify the applicant and any person who submitted comments under section (3) of this rule of issuance of the proposed order.

(5) If the applicant or a person who submitted comments under section (3) of this rule, requests an opportunity for a hearing, the Department shall contact the applicant and the commentors to determine if the issues raised can be resolved through negotiations. If the Department concludes that negotiations are not likely to yield resolution of the issues, the Commission shall hold a public hearing on the application.

(6) After the public hearing, the Commission may:

(a) Confirm the Director's decision and authorize issuance of a final order;

(b) Modify the Director's decision and authorize issuance of a final order consistent with the modifications; or

(c) Remand the application to the Department to seek resolution of the issues identified in the comments and, if the issues are not resolved, to initiate a contested case proceeding pursuant to the applicable provisions of ORS 183.310 to 183.550.

Stat. Auth.: ORS 536.025 & ORS 536.027

Stats. Implemented: ORS 540.510 - ORS 540.532

Hist.: WRD 2-2003, f & cert. ef. 5-1-03

## 690-380-2300

### Changes in Character of Use

Water may only be used for the authorized purposes in the water right except as provided under ORS 540.510(3) and (8) and 540.520(8) and (9) or as approved by the Department through a water right transfer or pursuant to OAR 690-380-2340.

Stat. Auth.: ORS 536.025 & ORS 536.027

Stats. Implemented: ORS 540.510 - ORS 540.532

Hist.: WRD 2-2003, f & cert. ef. 5-1-03

## 690-380-2320

### Transfer from Supplemental Use to Primary Use

A transfer application for a change in use from supplemental use to primary use may be submitted. A transfer will be allowed only to the extent the applicant can establish the quantity of water historically used under the supplemental water right. A right cannot be enlarged through this process. The primary water right shall be canceled before or at the same time as the issuance of the transfer order changing the supplemental use to primary.

Stat. Auth.: ORS 536.025 & ORS 536.027

Stats. Implemented: ORS 540.510 - ORS 540.530

Hist.: WRD 7-1987, f. & ef. 6-11-87; WRD 5-1996, f. & cert. ef. 7-11-96; WRD 2-2003, f & cert. ef. 5-1-03; Renumbered from 690-015-0030

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## 690-380-2330

### Substitution of Supplemental Ground Water Right for Primary Surface Water Right

(1) As provided in ORS 540.524, the holder of both a primary surface water right certificate and a supplemental ground water right certificate or permit may substitute the use of the supplemental water right for the primary water right. This rule does not authorize a change in place of use, character of use, point of diversion or point of appropriation.

(2) A substitution may not be made under section (1) of this rule if the use of the supplemental ground water right results in an enlargement of the primary surface water right.

(3) An application shall be submitted on a form provided by the Department with the appropriate fee as established under ORS 536.050. The Department may request additional information if necessary to assist with the injury evaluation.

(4) Upon receiving an application, the Department shall provide notice, accept protests and conduct hearings on protests in the manner described in ORS 540.520(5) to (7) and OAR 690-380-4000 to 690-380-4200.

(5) The Director shall issue an order approving or denying the substitution. If the proposed substitution will result in injury, the Director shall prohibit or condition the use to avoid or mitigate the injury. The Director shall issue an order approving or denying the substitution within 90 days after the Department receives an application under section (1) of this rule.

(6) For the purpose of this rule, a substituted primary surface water right shall be treated as a supplemental water right and a substituted supplemental ground water right shall be treated as a primary water right.

(7) A completed and approved substitution of a supplemental ground water right for a primary surface water right under this rule may be terminated upon a request by the water right holder or by an order of the Director if the Director determines that the use of the ground water as the primary water right causes injury. Upon termination, the substituted primary and supplemental water rights shall revert back to their original status.

Stat. Auth.: ORS 536.025 & ORS 536.027  
Stats. Implemented: ORS 540.510 - ORS 540.532  
Hist.: WRD 2-2003, f & cert. ef. 5-1-03

## 690-380-2340

### Specific-to-General Industrial Water Use Change

A water right transfer is not required for a general industrial use that was not included in a water right certificate issued for a specific industrial use if:

(1) The quantity of water used for the general industrial use is not greater than the rate allowed in the original water right and not greater than the quantity of water diverted to satisfy the authorized specific use under the original water right;

(2) The location where the water is to be used for general industrial use was owned by the holder of the original water right at the time the water right permit was issued; and

(3) The person who makes the change in water use provides the following information to the Department:

(a) The name and mailing address of the person using water under the water right;

(b) The water right certificate number;

(c) A description of the location of the industrial facility owned by the holder of the original water right at the time the water right permit was issued;

(d) The quantity of water diverted to satisfy the authorized specific use under the original water right; and

(e) A description of the general industrial use to be made of the water after the change.

Stat. Auth.: ORS 536.025 & ORS 536.027  
Stats. Implemented: ORS 540.510 - ORS 540.532  
Hist.: WRD 2-2003, f & cert. ef. 5-1-03

## 690-380-2410

### Municipal Water Rights

(1) Water used under a permit or certificate issued to a municipality, under rights conferred by ORS 538.410 to 538.450, or under the registration system set forth in ORS 537.132 may be applied to beneficial use on:

(a) Any lands acquired by the municipality through annexation, merger, consolidation, or by the formation of a water supply authority in accordance with ORS 540.510(3)(a)(A) so long as the rate and duty allowed under the right is not exceeded;

(b) Subject to the limitations in section (3), lands other than those described in subsection (1)(a) of this rule in accordance with ORS

540.510(3)(a)(B) so long as the use continues to be for municipal purposes and the rate and duty allowed under the right is not exceeded;

(c) Any lands for which the use is authorized by the Department of Environmental Quality or Department of Agriculture under ORS 468B.050 or 468B.053 and for which a reclaimed water registration has been filed under ORS 537.132.

(2) A municipality may seek authorization to use water for municipal purposes on lands other than those described in section (1) of this rule under a water use subject to transfer by submitting a water right transfer application to change the place of use or character of use under OAR 690-380-3000.

(3) The Director may order termination of the use of water under subsection (1)(b) of this rule or, in consultation with the municipal water supplier, may impose other restrictions necessary to eliminate interference with or impairment of prior vested water rights resulting from the use of water under subsection (1)(b) of this rule.

(4) As used in this rule, "municipal purposes" includes municipal use, quasi-municipal use, group domestic, domestic use, and human consumption as defined in OAR chapter 690, division 300.

Stat. Auth.: ORS 536.025 & ORS 536.027  
Stat. Implemented: ORS 540.510  
Hist.: WRD 19-1990, f. & cert. ef. 12-14-90; WRD 5-1996, f. & cert. ef. 7-11-96; WRD 2-2003, f & cert. ef. 5-1-03; Renumbered from 690-015-0140

## 690-380-2420

### Notice of Merger, Consolidation or Formation of a Water Authority

(1) Municipal water supply entities that merge, consolidate or form a water authority may notify the Department of such action and request issuance of superseding certificates pursuant to sections (2) and (3) of this rule. The notice and request for issuance of superseding certificates shall include the following:

(a) A listing of the entities in the merger, consolidation or formation of a water authority;

(b) A copy of the documents filed with the city, county or state authorities approving such action;

(c) A copy of the cooperative agreement, or other evidence, between the authority and the county or other authority granted coordinative functions under ORS chapter 197 showing consistency with local comprehensive plans;

(d) A listing of the certificated water rights by number of all water rights for the usual municipal purposes of all entities involved;

(e) A map, meeting the requirements of OAR 690-380-3100, showing the legal boundaries of the water service area and the points of diversion or points of appropriation;

(f) The name and address of the authority authorized to conduct business; and

(g) A written request that new water right certificates be issued to the authority.

(2) After verifying the information submitted in accordance with subsections (1)(a) to (g) of this rule, the Director shall issue superseding certificates confirming the resulting municipal use of water, showing the place of use within the legal description of the service boundaries of the new entity as it was officially formed.

(3) After verifying the information submitted in accordance with subsections (1)(a) to (g) of this rule, the Director shall issue certificates to supersede the certificates that were issued before a merger, consolidation or formation of a water authority. Superseding certificates describing the place of use shall be issued to the authority.

Stat. Auth.: ORS 536.025 & ORS 536.027  
Stats. Implemented: ORS 540.530  
Hist.: WRD 19-1990, f. & cert. ef. 12-14-90; WRD 5-1996, f. & cert. ef. 7-11-96; WRD 2-2003, f & cert. ef. 5-1-03; Renumbered from 690-015-0150

## 690-380-2430

### Acquisition of Water Rights by a Water Authority

(1) In addition to using the process described in OAR 690-380-2420, a water authority may acquire water rights from a municipality, a domestic water supply district, an irrigation district, a drainage district, a water improvement district, or a water control district.

(2) A water authority that acquires a water right may:

(a) Exercise the right subject to the limitations in section (4) of this rule if the right is for municipal purposes;

(b) Submit a request for issuance of a superceding certificate that includes the information described in section (3) of this rule if the right is a certificated right for municipal use;

(c) Submit a water right transfer application to change the character of use if the right is subject to transfer; or

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(d) Submit a water right transfer application to change the point of diversion or point of appropriation if the right is a permit or a right subject to transfer.

(3) A request for issuance of a superceding certificate submitted pursuant to subsection (2)(b) of this rule shall be in writing and include:

- (a) The name and address of the water authority;
- (b) The certificate number of the water right acquired by the water authority; and

(c) A map, meeting the requirements of OAR 690-380-3100, showing the legal boundaries of the water service area and the existing points of diversion or points of appropriation for the right.

(4) The Director may restrict the use of water by a water authority to the lands described by previous water use authorizations or, in consultation with the water authority, may impose other restrictions on the use as needed to eliminate the interference with or impairment of prior vested water rights.

(5) As used in this rule, "municipal purposes" includes municipal use, quasi-municipal use, group domestic, domestic use, and human consumption as defined in OAR chapter 690, division 300.

Stat. Auth.: ORS 536.025 & ORS 536.027

Stats. Implemented: ORS 540.530

Hist.: WRD 19-1990, f. & cert. ef. 12-14-90; WRD 5-1996, f. & cert. ef. 7-11-96; WRD 2-2003, f. & cert. ef. 5-1-03; Renumbered from 690-015-0130

## 690-380-3000

### Application for Transfer

Each transfer application shall be prepared in ink or typewritten on forms provided by the Department. Applications shall contain the following information concerning the primary water right and any appurtenant supplemental water right or permit, if applicable:

- (1) Applicant's name, mailing address, and telephone number.
- (2) Type of change proposed.
- (3) Name appearing on permit, certificate, decree or proof of appropriation.
- (4) Name of decree and certificate number, if applicable.
- (5) Permit number and certificate number, if applicable.
- (6) Source of water (from permit, decree or certificate).
- (7) Date of priority.
- (8) The existing and proposed points of diversion or points of appropriation located accurately in reference to a public land survey corner.
- (9) The authorized existing use of water.

(10) A description of the current water delivery system that demonstrates that the applicant is ready, willing, and able to exercise the right and includes information on the capacity of any pumps, canals, and pipelines used to divert and convey the water to the authorized use.

(11) The authorized place of use identified by its location within the public land survey and tax lot number.

(12) Evidence that the water has been used over the past five years in accordance with the terms and conditions of the right or that the right is not subject to forfeiture under ORS 540.610. The evidence shall include the following information:

(a) If the right has been used during the past five years, one or more affidavits from persons, such as the owner or operator, a neighbor, crop field person for a cannery or other product buyer, or Natural Resources Conservation Service (NRCS) representatives, who can attest from personal knowledge or professional expertise that the right was exercised at the authorized location and for the authorized purpose. Such affidavits shall state the specific grounds for the affiant's knowledge, the specific use to which the water was put (e.g., the crops grown, the nursery stock watered), and the delivery system used to apply the water and include supporting documentation such as:

- (A) Copies of receipts from sales of irrigated crops or for expenditures relating to use of water;
- (B) Records such as Farm Service Agency crop reports, irrigation district records, an NRCS farm management plan, or records of other water suppliers; or
- (C) Dated aerial photographs of the lands or other photographs containing sufficient detail to establish the location and date of the photograph, or

(b) If the right has not been used during the past five years, documentation that the presumption of forfeiture would be rebutted under ORS 540.610(2).

(13) A lot book report for the land to which the water right is appurtenant prepared by a title company. If the applicant is not the land owner as shown by the lot book report, the applicant shall provide a notarized and signed statement from the land owner authorizing the change.

Notwithstanding the provisions of this section, any public agency that is acquiring property by condemnation and that has filed a condemnation case to acquire the property and deposited the funds in court required by ORS 35.265 to obtain the right to possess the property is a proper applicant with standing to seek transfer of any water right appurtenant to the property. Such a public agency need not obtain the consent or authorization for the change from any other person or entity.

(14) If any lien holders are identified in the lot book report described in section (13) of this rule, a copy of a written notification of the proposed transfer provided by the applicant to each of the lien holders.

(15) The proposed use of water.

(16) The proposed place of use shall be identified by its location within the public land survey and tax lot number. The name and address of each receiving owner(s), by parcel.

(17) Reason for the proposed change.

(18) Map as required in OAR 690-380-3100 with an original stamp and signature of the certified water rights examiner or a waiver of mapping requirements approved pursuant to OAR 690-380-3410.

(19) Land use information as outlined in the Department's Land Use Planning Procedures Guide except for those transfers:

(a) Where existing and proposed water uses would be located entirely within lands zoned for exclusive farm use as provided in ORS 215.203 or within irrigation districts;

(b) That involve changes in place of use only;

(c) That do not involve the placement or modification of structures including but not limited to water diversion, impoundment, or distribution facilities, water wells, and well houses; and

(d) That involve irrigation water uses only.

(20) If the request is for a change in point of diversion to a well, or a change in point of appropriation, copies of water well reports for the authorized and proposed point of appropriation. If water well reports are not available, a description of the construction of each well, including but not limited to, well depth, static water level, casing size, and any other necessary information to establish the groundwater body developed or proposed to be developed.

(21) A listing of the names and mailing addresses of:

(a) All affected local governments, including but not limited to, county, city, municipal corporations, and tribal governments; and

(b) Any district in which the affected water right is located or that serves the right and any district in which the affected water right would be located or that would serve the right after the proposed transfer.

(22) An oath that the information contained in the application is true and accurate.

(23) If a portion of the fee is waived pursuant to OAR 690-380-3400, documentation showing that the proposed transfer qualifies for the fee waiver.

(24) The signature of the applicant, and if an entity, the title of the person signing the form.

(25) The appropriate fee as required under ORS 536.050, less any portion waived pursuant to OAR 690-380-3400.

Stat. Auth.: ORS 536.025 & ORS 536.027

Stats. Implemented: ORS 540.510 to ORS 540.531

Hist.: WRD 7-1987, f. & ef. 6-11-87; WRD 10-1988, f. & cert. ef. 8-10-88; WRD 12-1990, f. & cert. ef. 8-8-90; WRD 16-1990, f. & cert. ef. 8-23-90; WRD 5-1996, f. & cert. ef. 7-11-96; WRD 1-2000(Temp), f. 5-16-00, cert. ef. 5-16-00 thru 11-10-00; Administrative correction 6-21-01; WRD 2-2003, f. & cert. ef. 5-1-03; Renumbered from 690-015-0060

## 690-380-3050

### Additional Application Requirements

(1) For the purpose of clarifying the water right record, the Department shall require the applicant to provide the additional information in section (2) of this rule if:

(a) The proposed transfer involves rights for lands under more than one ownership and not all of the owners are applicants; or

(b) The final proof survey maps on file with the Department for any quarter-quarter section in which lands involved in the proposed transfer are located do not adequately describe the location of the place of use or the associated priority dates of the associated water rights.

(2) The supplemental information to be provided by the applicant shall include:

(a) A list of the name and address of each landowner whose lands the Department concludes may be included in the portion of the water right proposed for transfer and written proof of service of a copy of the application on those landowners and a map delineating the location, acreage, priority dates, and ownership of the subject water right; and

(b) Other information sufficient to establish that no portion of the right to be transferred is held by persons other than those proposing the

# ADMINISTRATIVE RULES

transfer and, for rights with multiple priority dates, the priority dates for the right to be transferred are consistent with the decree or other document establishing the right.

Stat. Auth.: ORS 536.025 & ORS 536.027  
Stats. Implemented: ORS 540.510 - ORS 540.532  
Hist.: WRD 2-2003, f & cert. ef. 5-1-03

## 690-380-3100

### Map Requirements

(1) A map prepared by a certified water right examiner shall be included with a transfer application as required under OAR 690-380-3000. The map shall meet the following criteria:

(a) The map shall be of permanent quality and shall be printed with dark ink on a white or clear medium that is easily reproduced on a standard copy machine. Color copies that cannot be easily interpreted when copied to black and white will not be accepted.

(b) The preferred map size is 8 1/2" x 11" (letter) at the scale of the final proof or adjudication map for the existing right of record, with supplemental detail maps as needed. If a larger map is required to provide sufficient detail, a size of 8 1/2" x 14" (legal) or 11" x 17" (oversized) may be used.

(c) Notwithstanding subsection (1)(b) of this rule, a map size of up to 30" x 30" may be used if the Department grants advance written or e-mail approval and five copies of the application map are submitted.

(d) The map scale shall be:

(A) 1" = 400';

(B) 1" = 1,320';

(C) The scale of the final proof or adjudication map for the existing right of record;

(D) The scale of the county assessor map if the scale is not smaller than 1" = 1,320'; or

(E) Another standard engineering scale if the Department grants advance written or e-mail approval of the use of the scale.

(e) Horizontal field accuracy shall be consistent with standard surveying practices for the purpose of locating and quantifying water rights.

(f) The map shall be plotted to the accuracy consistent with the map scale.

(g) The locations of points of diversion and places of use shall be described by bearing or coordinates (distance north or south and east or west) from a recognized survey corner or by latitude-longitude coordinates. Latitude-longitude coordinates shall be expressed as either:

(A) Degrees-minutes-seconds with at least one digit after the decimal in the seconds portion (e.g., 42° 32' 15.5"); or

(B) Degrees-decimal with five or more digits after the decimal (e.g., 42.53764°).

(2) The map(s) shall include the following information:

(a) A north arrow, the scale, a clear legend, the certified water rights examiner's stamp and signature;

(b) The location of each existing and proposed point of diversion or point of appropriation;

(c) For a change in point of diversion or appropriation that does not also include a change in place of use, identification of the lands to be served by the proposed point of diversion or appropriation. If the proposed point of diversion or appropriation is intended to serve the entire right of record, a copy of the existing final proof survey map for the right of record may be submitted to satisfy this requirement. If the proposed point of diversion or appropriation is not intended to serve the entire right of record, the specific lands to be served shall be identified and the number of certificated acres to be served by the new point of diversion or appropriation shall be listed;

(d) For a change in place of use or character of use, the location of the authorized and proposed place of use of the water. If the application is for irrigation, nursery use, cranberry use, or other similar uses, the place of use indicated on the map shall be shaded or hachured and shall show the number of acres in each quarter-quarter section, government lot, or quarter-quarter section as projected within government lots, donation land claims, or other recognized public land survey subdivisions;

(e) The location of any part of the right not involved in the proposed transfer. For transfers involving less than 67 percent of the entire place of use of the right, the map shall include at least the location of the portions of the right not involved in the proposed transfer which are included in the same quarter-quarter sections as the proposed transfer. The applicant shall have the burden of proving the proposed transfer involves less than 67 percent of the entire place of use of the water use subject to transfer. However, the Department may require a greater portion of the use subject to transfer or the entire use subject to transfer be mapped, if necessary to make a determination of potential injury;

(f) The location of township, section, quarter-quarter section, donation land claim, and other recognized public land survey lines;

(g) Notwithstanding the requirements of subsection (1)(f), the general location of main canals, ditches, flumes, pipelines, pumps, or other water delivery features;

(h) Notwithstanding the requirements of subsection (1)(f), the general location of physical features sufficient to assist in defining the location of the place of use of the water use subject to transfer. These features may include, but are not limited to, rivers, creeks, lakes, reservoirs, ponds, roads, railroads, fences, and direction of flow, if appropriate; and

(i) The location of property lines for the property involved in the transfer, in the vicinity of the transfer. For transfer of municipal, quasi-municipal, and other similar rights, the property lines need not be shown, however, the service area boundaries shall be indicated.

Stat. Auth.: ORS 536.025 & ORS 536.027

Stats. Implemented: ORS 540.510 - ORS 540.532

Hist.: WRD 7-1987, f. & ef. 6-11-87; WRD 3-1988, f. 2-26-88, cert. ef. 2-28-88; WRD 5-1996, f. & cert. ef. 7-11-96; WRD 2-2003, f & cert. ef. 5-1-03; Renumbered from 690-015-0070

## 690-380-3200

### District May Submit Application for Water Users

(1) A district, authorized to act on behalf of its members, may apply for a water right transfer under the provisions of ORS 540.520. If the proposed change is for other than a change in point of diversion, the application shall contain a notarized statement from the owner of the right authorizing the proposed change.

(2) An application for a change in the place of use of water rights managed by a district may be made pursuant to OAR chapter 690, division 21.

Stat. Auth.: ORS 536.025 & ORS 536.027

Stats. Implemented: ORS 540.510 - ORS 540.520

Hist.: WRD 7-1987, f. & ef. 6-11-87; WRD 5-1996, f. & cert. ef. 7-11-96; WRD 2-2003, f & cert. ef. 5-1-03; Renumbered from 690-015-0020

## 690-380-3220

### Separate Application Required for Each Water Right

For changes involving more than one landowner or water use subject to transfer, a separate transfer application is required for each water use subject to transfer from each landowner involved, except under the following circumstances:

(1) A change in point or points of diversion or points of appropriation to a new common point of diversion or appropriation for a delivery system serving multiple rights or multiple ownerships.

(2) A change in use or place of use of all rights on a single parcel from all sources.

(3) A change in use or place of use from as many as four land owners may be allowed within a district. Such a change must be for the same water right and not total more than 10 acres transferred.

(4) Transfers between two parcels using water from the same source.

Stat. Auth.: ORS 536.025 & ORS 536.027

Stats. Implemented: ORS 540.520

Hist.: WRD 7-1987, f. & ef. 6-11-87; WRD 10-1988, f. & cert. ef. 8-10-89; WRD 16-1990, f. & cert. ef. 8-23-90, Renumbered from 690-015-0035; WRD 5-1996, f. & cert. ef. 7-11-96; WRD 2-2003, f & cert. ef. 5-1-03; Renumbered from 690-015-0025

## 690-380-3400

### Waiver of Fees

The Director shall waive \$100 or 50 percent of the application fee, whichever is greater, for that portion of a change to a water right permit under ORS 537.211(4) or a water right subject to transfer under ORS 540.520 or 540.523, that is:

(1) To establish an instream water right pursuant to ORS 537.348;

(2) Is necessary to complete a project funded by the Oregon Watershed Enhancement Board under ORS 541.375; or

(3) Determined and endorsed in writing by ODFW as a change that will result in a net benefit to fish and wildlife habitat.

Stat. Auth.: ORS 536.025 & ORS 536.027

Stats. Implemented: ORS 540.510 - ORS 540.532

Hist.: RD 2-2003, f & cert. ef. 5-1-03

## 690-380-3410

### Waiver of Mapping Requirements

(1) The Director may waive or assist the applicant in satisfying the requirements of OAR 690-380-3100 for a change to a water right subject to transfer under ORS 540.520 or 540.523, if the change is:

(a) To establish an instream water right pursuant to ORS 537.348;

(b) Necessary to complete a project funded by the Oregon Watershed Enhancement Board under ORS 541.375; or

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(c) Determined and endorsed in writing by ODFW as a change that will result in a net benefit to fish and wildlife habitat.

(2) A request to waive or assist the applicant in satisfying the mapping requirements of OAR 690-380-3100 shall be submitted on a form provided by the Department. The form must be completed by the applicant and signed by the appropriate field staff prior to submittal of the transfer application.

(3) A waiver of mapping requirements under this rule shall only be approved if:

(a) The transfer would establish an instream water right as described in subsection (1)(a) of this rule:

(A) If the entirety of the right is being transferred to an instream water right and the location of the instream water right can be clearly delineated through reference to the existing point of diversion for the transferred right and other points of diversion or geographic reference points such as the mouth of the stream; or

(B) A map meeting the requirements of OAR 690-380-3100 is available showing the lands not included in the transfer and the location of the instream water right can be clearly delineated through reference to the existing point of diversion for the transferred right and other points of diversion or geographic reference points such as the mouth of the stream.

(b) At the determination of the Director, other circumstances are present that make an application map unnecessary.

(4) The assistance provided by the Department may include, but need not be limited to, development of an application map.

Stat. Auth.: ORS 536.025 & ORS 536.027

Stats. Implemented: ORS 540.510 - ORS 540.532

Hist.: WRD 2-2003, f & cert. ef. 5-1-03

## 690-380-4000

### Request for Comments

(1) On receipt of an application for transfer, the Department shall review the application to determine if the applicant has included the information required by OAR 690-380-3000 and if the water rights proposed for transfer are water uses subject to transfer as defined in ORS 540.505(4) and OAR 690-380-0100(11).

(2) If the Department determines that the application does not include the required information or that the water rights proposed for transfer are not subject to transfer, the Department shall return the application and any fees to the applicant along with a written description of the deficiencies in the application.

(3) If the Department determines the application is complete and the water rights proposed for transfer are uses subject to transfer, the Department shall file the application and request public comments on the application:

(a) In the weekly notice published by the Department; and

(b) By mail to each affected local government and irrigation district identified by the applicant pursuant to OAR 690-380-3000(21).

(4) The request for comments shall provide a period of at least 30 days for interested persons to comment on the application.

Stat. Auth.: ORS 536.025 & ORS 536.027

Stats. Implemented: ORS 540.510 - ORS 540.532

Hist.: WRD 2-2003, f & cert. ef. 5-1-03

## 690-380-4010

### Preliminary Determination

(1) After the conclusion of the public comment period described in OAR 690-380-4000(4), the Department shall prepare a preliminary determination of whether the application should be approved or rejected taking into account comments received in response to the notice provided under OAR 690-380-4000 and the considerations described in section (2) of this rule.

(2) The Department's preliminary determination shall include an assessment of whether:

(a) The right has been used over the past five years according to the terms and conditions of the right and that the right is not subject to forfeiture under ORS 540.610;

(b) The water user is ready, willing and able to use the full amount of water allowed under the right;

(c) The proposed transfer would result in enlargement;

(d) The proposed transfer would result in injury; and

(e) Any other requirements for water right transfers are met.

(3) For a preliminary determination that indicates that an application should be rejected, the preliminary determination shall:

(a) Describe the basis for the rejection; and

(b) Identify any conditions or restrictions that, if included in the transfer, would allow approval of the transfer.

(4) The Department shall provide a copy of the draft preliminary determination to the applicant and provide the applicant a period of at least 30 days to amend the application to address any issues identified by the Department in the preliminary determination, including the quantity of water to be transferred, or to withdraw the application.

(5) The draft preliminary determination shall constitute the notification of the Department's intent to cancel a supplemental right required under OAR 690-380-2250.

(6) If the applicant amends the application or provides additional information in support of approval of the application, the Department shall revise the preliminary determination as appropriate.

Stat. Auth.: ORS 536.025 & ORS 536.027

Stats. Implemented: ORS 540.510 - ORS 540.532

Hist.: WRD 2-2003, f & cert. ef. 5-1-03

## 690-380-4020

### Notice of Preliminary Determination

(1) After the time for the applicant to respond to the Department's draft preliminary determination, the Department shall give notice of the transfer application and preliminary determination:

(a) By publication in the Department's weekly notice;

(b) Except as provided in section (4) of this rule, by publication in a newspaper having a general circulation in the area in which the water uses subject to transfer are located for a period of at least three weeks and not less than one publication each week; and

(c) By mailing notice to each person who submitted comments under OAR 690-380-4000(3).

(2) The notice shall include the following information about the application:

(a) The type of transfer proposed and any amendments to the application that were made subsequent to the notice required OAR 690-380-4000;

(b) The locations of the applicant's existing and proposed water uses, the amount of water allowed under the right to be transferred, and the authorized source for the right;

(c) The application file number;

(d) The applicant's name and address;

(e) A statement that any person may file, jointly or severally, with the Department a protest or standing statement within 30 days after the date of final publication of the notices prescribed by subsections (1)(a) and (1)(b) of this rule, whichever is later;

(f) A summary of the Department's preliminary determination; and

(g) For a notice published in a newspaper, the date on which the last publication will occur.

(3) As provided in ORS 540.520(4), the cost of publication in a newspaper shall be paid by the applicant. At the discretion of the Director, the applicant may satisfy this requirement by arranging for the publication of the notice prepared by the Department in a newspaper that meets the criteria in subsection (1)(b) and providing the Department with an affidavit of publication or by paying the costs of the publication in advance to the Department.

(4) No notice by publication in a newspaper is required for:

(a) A change in place of use;

(b) A change in point of diversion to reflect historical use pursuant to ORS 540.532 and OAR 690-380-2120; or

(c) Applications for a change in the point of diversion of less than one-fourth mile and where there are no intervening diversions between the old point of diversion of the applicant and the proposed new point of diversion.

(5) The Department shall not take action on an application prior to the end of the protest period described in this rule.

Stat. Auth.: ORS 536.025 & ORS 536.027

Stats. Implemented: ORS 540.520 & ORS 540.532

Hist.: WRD 7-1987, f. & ef. 6-11-87; WRD 12-1990, f. & cert. ef. 8-8-90; WRD 5-1991, f. & cert. ef. 4-26-91; WRD 5-1996, f. & cert. ef. 7-11-96; WRD 2-2003, f & cert. ef. 5-1-03;

Renumbered from 690-015-0080

## 690-380-4030

### Protests and Requests for Hearings

(1) Within 30 days after the date of last publication of the newspaper notice or the mailing of the Department's weekly notice, whichever is later:

(a) Any person may file, jointly or severally, with the Department, a protest or standing statement; and

(b) If the Department's preliminary determination is that a proposed change in point of diversion would result in injury, the applicant may file a notification of intent to pursue approval of the transfer under OAR 690-380-5030 to 690-380-5050.

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(2) Protests shall be filed in accordance with OAR chapter 690, division 2, and shall include the fee required under ORS 536.050.

(3) Each person submitting a protest shall raise all reasonably ascertainable issues and submit all reasonably available arguments supporting the person's position by the close of the protest period. Failure to raise a reasonably ascertainable issue in a protest or failure to provide sufficient specificity to afford the Department an opportunity to respond to the issue precludes consideration of the issue during the hearing.

Stat. Auth.: ORS 536.025 & ORS 536.027

Stats. Implemented: ORS 183.310 - ORS 183.550, ORS 536.050 & ORS 540.530

Hist.: WRD 7-1987, f. & ef. 6-11-87; WRD 5-1996, f. & cert. ef. 7-11-96; WRD 2-2003, f & cert. ef. 5-1-03; Renumbered from 690-015-0085

## 90-380-4200

### Hearings

(1) If a protest is filed under OAR 690-380-4030, the Department shall hold a hearing on the matter.

(2) Notice and conduct of the hearing shall:

(a) Be under the applicable provisions of ORS 183.310 to 183.550, pertaining to contested cases, and the hearing shall be held in the area where the rights are located unless all parties and persons who filed a protest stipulate otherwise; and

(b) If a protest has asserted that the water right to be transferred has been forfeited through non-use, include the notice and procedures described in OAR 690-017-0500 to 690-017-0900.

(3) If after hearing the Department issues a proposed final order finding that a change in point of diversion will result in injury, the applicant may file a notification of intent to pursue approval of the transfer under OAR 690-380-5030 to 690-380-5050 within 15 days of receipt of the proposed order. Notwithstanding OAR 690-002-0170, if the applicant files a notification of intent to pursue approval of the transfer under OAR 690-380-5030 to 690-380-5050, the deadline for filing exceptions to the proposed order shall be 30 days after the Department provides notice to the parties that the transfer does not meet the requirements of OAR 690-380-5030 to 690-380-5050.

Stat. Auth.: ORS 536.025 & ORS 536.027

Stats. Implemented: ORS 540.510 - ORS 540.532

Hist.: WRD 2-2003, f & cert. ef. 5-1-03

## 690-380-5000

### Approval of Transfers

(1) A transfer application shall be approved if the Department determines that:

(a) The water right affected by the proposed transfer is a water use subject to transfer as defined in ORS 540.505(4) and OAR 690-380-0100(11) and, for a right described under OAR 690-380-0100(11)(d), the proof of completion has been approved under OAR 690-380-6040;

(b) The portion of the water right to be transferred is not cancelled pursuant to ORS 540.610;

(c) The proposed transfer would not result in enlargement as defined in OAR 690-380-0100(2);

(d) Except as provided in OAR 690-380-5030, the proposed transfer would not result in injury as defined in OAR 690-380-0100(3); and

(e) Any other requirements for water right transfers are met.

(2) The Department shall issue a final order consistent with the preliminary determination described in OAR 690-380-4010 if no protests or notifications of intent are received under OAR 690-380-4030(1).

Stat. Auth.: ORS 536.025 & ORS 536.027

Stats. Implemented: ORS 540.510 - ORS 540.532

Hist.: WRD 7-1987, f. & ef. 6-11-87; WRD 5-1996, f. & cert. ef. 7-11-96; WRD 2-2003, f & cert. ef. 5-1-03; Renumbered from 690-015-0050

## 690-380-5030

### Approval of Injurious Transfers

The Department may approve transfer of a point of diversion that would injure another water right if:

(1) For any water right other than an instream water right, the applicant files an affidavit from every holder of the injured water rights consenting to the change that conforms to OAR 690-380-5040, and

(2) For any instream water right held by the Department pursuant to ORS 537.336 or 537.346, the Department consents to the change after complying with the provisions of OAR 690-380-5050.

Stat. Auth.: ORS 536.025 & ORS 536.027

Stats. Implemented: ORS 540.510 - ORS 540.532

Hist.: WRD 2-2003, f & cert. ef. 5-1-03

## 690-380-5040

### Affidavits of Consent

An affidavit consenting to a proposed change in point of diversion under OAR 690-380-5030(1) shall be notarized and shall include statements that the affiant:

(1) Is the holder of a water right that the Department has determined would be injured;

(2) Has reviewed the preliminary determination or proposed order of the Department concluding the transfer would result in injury and recognizes the nature of the injury;

(3) Understands that approval of the proposed transfer may permanently reduce the quantity of water available for use under the water right; and

(4) Consents to the injury resulting from the proposed change in point of diversion.

Stat. Auth.: ORS 536.025 & ORS 536.027

Stats. Implemented: ORS 540.510 - ORS 540.532

Hist.: WRD 2-2003, f & cert. ef. 5-1-03

## 690-380-5050

### Consent to Injury of Instream Water Rights

(1) If the applicant notifies the Department that the applicant intends to pursue consent to injury to an instream water right, the Department shall seek a recommendation from the agency that requested the instream water right.

(2) In requesting a recommendation under section (1) of this rule, the Department shall provide to the appropriate agency a copy of the preliminary determination issued under OAR 690-380-4010 or proposed order issued after hearing and, to facilitate the analysis of cumulative impacts, identify any previously approved transfers injuring the same instream water right as the proposed transfer.

(3) If the agency that requested the instream water right recommends that the Department consent to injury, the agency's recommendation shall be in writing and include:

(a) A description of the extent of the injury to the instream water right;

(b) A description of the effect of the injury on the resource;

(c) An evaluation of the net benefit that will occur as a result of the proposed change that includes an analysis of the cumulative impact of any previously approved changes that injured the instream water right; and

(d) Any proposed conditions necessary to ensure that the proposed change will be consistent with the recommendation.

(4) On receipt of a recommendation to consent to injury that complies with section (3) of this rule, the Department shall provide notice of the opportunity to comment on the recommendation:

(a) To the applicant, any protestants or persons who filed comments under OAR 690-380-4030, and affected Indian Tribes; and

(b) By publication in the Department's weekly notice.

(5) Within 30 days after the date of the notice required in section (4) of this rule, any person may submit written comments on the recommendation or a written request for a public meeting to review the recommendation.

(6) The Department shall provide copies of any comments submitted in response to the notice in section (4) of this rule to the recommending agency.

(7) Within 90 days of receipt of a written request for a meeting on the recommendation, the Department and the agency providing the recommendation shall hold a joint public meeting to review the recommendation and to accept public comments.

(8) If no comments or requests are received by the Department in response to the notice provided under section (4) of this rule or if, after consideration of any written comments or the discussions during the meeting described in section (6) of this rule, the recommending agency notifies the Department that it will not withdraw its recommendation to consent to injury, the Department shall issue an order approving the transfer and consenting to the injury to the instream water right. The order shall include:

(a) Findings on the extent of the injury to the instream water right and the effect on the resource;

(b) Findings on the net benefit that will occur as a result of the change that reflect an analysis of the cumulative impact of any previously approved changes that injured the instream water right; and

(c) Any conditions necessary to ensure that the change will be consistent with the findings and will result in a continued net benefit to the resource consistent with the purposes of the instream water right.

Stat. Auth.: ORS 536.025 & ORS 536.027

Stats. Implemented: ORS 540.510 - ORS 540.532

Hist.: WRD 2-2003, f & cert. ef. 5-1-03

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## 690-380-5060

### Fish Screening and By-Pass Devices

(1) Pursuant to ORS 540.525, when an application for a change in point of diversion is received, the Department shall consult with the ODFW to determine whether a fish screening or by-pass device is necessary to prevent fish from leaving the body of water and entering the diversion.

(2) The Department's consultation with ODFW shall determine whether the diversion is:

- (a) Equipped with an appropriate fish screen or by-pass device; or
- (b) Included in the list of priority screening projects established under section 8, chapter 933, Oregon Laws 1989.

(3) If the original point of diversion is included in the priority list referenced in subsection (2)(b) of this rule, the Department, after consulting with ODFW, may require the installation of an appropriate fish screening or by-pass device at the new point of diversion.

(4) If requested by ODFW, a condition requiring a proper fish screen at the new point of diversion shall be attached to any transfer approval order for a change in point of diversion.

(5) Any individual required to install a fish screening or by-pass device under this section at a point of diversion for a diversion of under 30 cubic feet per second may participate in ODFW's cost sharing program for the installation of screening and by-pass devices.

Stat. Auth.: ORS 536.025 & ORS 536.027

Stats. Implemented: ORS 540.510 - ORS 540.525 & ORS 540.532

Hist.: WRD 5-1996, f. & cert. ef. 7-11-96; WRD 2-2003, f & cert. ef. 5-1-03; Renumbered from 690-015-0073

## 690-380-5100

### Compatibility with Acknowledged Comprehensive Plans

(1) The Department and Commission shall meet requirements established in OAR 690-005-0045 (Standards for Goal Compliance and Compatibility with Acknowledged Comprehensive Plans) in evaluating and taking action on transfer applications except as specified in OAR 690-005-0025 and 690-380-3000(19).

(2) In the event of a land use dispute, as defined in OAR 690-005-0015 (Definitions), the Department shall follow procedures provided in OAR 690-005-0040 (Resolution of Land Use Dispute).

(3) The Director may presume that the transfer would be allowed by, and compatible with comprehensive plans unless an affected local government informs the Director otherwise within 30 days after the date shown on the notice issued pursuant to OAR 690-380-4000.

Stat. Auth.: ORS 197, ORS 536.025 & ORS 536.027

Stats. Implemented: ORS 540.510 to ORS 540.531

Hist.: WRD 12-1990, f. & cert. ef. 8-8-90; WRD 5-1996, f. & cert. ef. 7-11-96; WRD 2-2003, f & cert. ef. 5-1-03; Renumbered from 690-015-0057

## 690-380-5110

### Original Right Terminated

Approval of a change in use or place of use terminates the right to use water for the existing use or place of use under the original water right as described in the transfer application form required under OAR 690-380-3000.

Stat. Auth.: ORS 536.025 & ORS 536.027

Stats. Implemented: ORS 540.510 - ORS 540.532

Hist.: WRD 7-1987, f. & ef. 6-11-87; WRD 5-1996, f. & cert. ef. 7-11-96; WRD 2-2003, f & cert. ef. 5-1-03; Renumbered from 690-015-0040

## 690-380-5120

### Multiple Primary Water Rights on the Same Lands

If the water right records show two or more rights as primary on the same land, the right with the oldest priority date shall be considered the primary water right unless the applicant designates a right, other than the right with the oldest priority date, as the primary water right. All other water rights shall be diminished to supplemental water rights.

Stat. Auth.: ORS 536.025 & ORS 536.027

Stats. Implemented: ORS 540.510 - ORS 540.532

Hist.: WRD 7-1987, f. & ef. 6-11-87; WRD 16-1990, f. & cert. ef. 8-23-90; WRD 5-1996, f. & cert. ef. 7-11-96; WRD 2-2003, f & cert. ef. 5-1-03; Renumbered from 690-015-0045

## 690-380-5130

### Assignment or Change of Ownership

(1) When a change of ownership or interest occurs in lands described by a transfer application or by an order approving a transfer, the record holder may request the director to record an assignment to the new owner.

(2) If the record holder is not available, the new owner may furnish proof of ownership to change the Department's records for that transfer. The Department shall also record a change in ownership to an heir or devisee under a will upon receiving proof of death of the record holder, or to a trustee upon receiving proof of a transfer to trust by the record holder.

Proof of ownership of the involved lands shall include but not be limited to one or more of the following documents:

- (a) A deed to the land;
- (b) A land sales contract;
- (c) Documentation of survivorship of property held jointly; or
- (d) A court order or decree.

(3) The person making the assignment shall identify the current owner of all property involved in the transfer at the time of assignment. The person making the assignment shall furnish proof that notice of the assignment has been given or attempted for each identified owner not party to the assignment.

(4) When approval of a transfer for a change in place of use moves the water use subject to transfer to lands owned by another owner, the order shall contain the name and address of the receiving landowner and the Department's records shall be changed to show the receiving landowner as the transfer holder. It shall be the responsibility of the receiving landowner to complete the transfer.

Stat. Auth.: ORS 536.025 & ORS 536.027

Stats. Implemented: ORS 540.530

Hist.: WRD 6-1990, f. & cert. ef. 8-23-90; WRD 5-1996, f. & cert. ef. 7-11-96; WRD 2-2003, f & cert. ef. 5-1-03; Renumbered from 690-015-0075

## 690-380-5140

### Time for Completion

(1) The Department shall fix a time limit in the order authorizing a change of use, place of use or point of diversion within which the approved changes may be completed.

(2) Extensions of time to complete a transfer may be granted pursuant to OAR 690-380-6020.

(3) The time allowed by the Department for completion of an authorized change shall not be used when computing a five-year period of non-use under the provisions of ORS 540.610(1). The time for completion of the change requested in a transfer application is one full year plus the time until the next October 1. The time for completion of the change of a municipal or quasi-municipal right is five years plus the time until the next October 1. A longer time for completion may be allowed if the applicant can justify the need for a longer period of time.

Stat. Auth.: ORS 536.025 & ORS 536.027

Stats. Implemented: ORS 540.530

Hist.: WRD 5-1996, f. & cert. ef. 7-11-96; WRD 2-2003, f & cert. ef. 5-1-03; Renumbered from 690-015-0087

## 690-380-6010

### Failure to Complete a Transfer as Grounds for Cancellation

(1) Upon approval of a change in use or place of use, the water use subject to transfer is considered inchoate (incomplete) until the authorized change has been completed to the satisfaction of the director.

(2) Any part of a transferred water use that is not applied to beneficial use under the terms of the transfer order for change in use or place of use, or within any extension of time allowed for completion, is lost.

(3) Non-completion of a change in point of diversion or point of appropriation does not forfeit the water use subject to transfer. However, upon expiration of the time allowed for completion, the water use shall again become subject to forfeiture pursuant to the provisions of ORS 540.610.

(4) For a change in point of diversion or point of appropriation, the claim of beneficial use shall identify the lands served by the new point of diversion using:

- (a) The existing final proof survey map for the right of record; or
- (b) Another map prepared in accordance with OAR chapter 690, division 14.

(5) A new application is required to change the point of diversion or point of appropriation to a new location not authorized by the order.

(6) If the change in point of diversion or point of appropriation is not completed, the point of diversion or point of appropriation shall revert to the last authorized point of diversion or point of appropriation prior to the transfer.

Stat. Auth.: ORS 536.025 & ORS 536.027

Stats. Implemented: ORS 540.530

Hist.: WRD 7-1987, f. & ef. 6-11-87; WRD 5-1996, f. & cert. ef. 7-11-96; WRD 2-2003, f & cert. ef. 5-1-03; Renumbered from 690-015-0090

## 690-380-6020

### Extension of Time

(1) An order authorizing a water right transfer sets a time limit in which to beneficially use the water. If the transfer is not completed within the time limit, the owner may file an application for an extension of time. The application shall contain sufficient information for the director to



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determine reasonable diligence in the attempt to complete the project within the initial time allowed.

(2) If multiple receiving owners are involved, a separate application is required from each receiving owner requesting an extension.

(3) Extensions are granted for one year, from October 1 to October 1 of each year. An extension for up to five years may be granted for transfers involving municipal or quasi-municipal use. Extensions may be granted for longer time if the applicant can justify the need for a longer period of time by submission of pertinent evidence.

(4) In reviewing an application for an extension of time, the director shall determine whether reasonable diligence was made by the applicant to complete the project within the time period established under OAR 690-380-5140. Reasonable diligence shall include, but is not limited to:

- (a) The purchase and installation of water delivery system;
- (b) The expansion or restructuring of the existing delivery system;
- (c) Actual use of a portion of the water according to the terms of the transfer order; or

(d) For municipal, quasi-municipal and group domestic uses only, the continued increase in population and number of service connections.

(5) Applications for succeeding extensions shall show reasonable diligence within the time allowed by the previous extension and shall be subject to the Department review based on section (4) of this rule.

Stat. Auth.: ORS 536.025 & ORS 536.027

Stats. Implemented: ORS 540.530

Hist.: WRD 7-1987, f. & ef. 6-11-87; WRD 10-1988, f. & cert. ef. 8-10-88; WRD 5-1996, f. & cert. ef. 7-11-96; WRD 2-2003, f & cert. ef. 5-1-03; Renumbered from 690-015-0100

## 690-380-6030

### Proof Of Use; Noncompliance

(1) Upon completion of a transfer, the owner of the transfer shall submit a notice of use of water to the Department.

(2) For transfers requested prior to July 10, 1987, when the notice is received, or at such time given in the order approving the transfer for complete application of water, if the owner has failed to submit such notice, the director may have the subject property inspected and shall issue a certificate of water right confirming the water right to the extent it has been re-established by use under the terms of the order approving the transfer. The owner may either hire a certified water right examiner to prepare the map and report required for his/her claim of Beneficial Use or wait for the Department to conduct a final proof survey on its own schedule.

(3) Transfers requested on or after July 10, 1987 shall have a Claim of Beneficial Use report and map prepared by a certified water right examiner in accordance with OAR chapter 690, division 14.

(4) If any property described in the order approving the transfer application is not included in the request for a water right certificate, the owners of the transfer shall provide to the Department the name and address of the landowner of that property.

Stat. Auth.: ORS 536.025 & ORS 536.027

Stats. Implemented: ORS 540.530

Hist.: WRD 7-1987, f. & ef. 6-11-87; WRD 3-1988, f. 2-26-88, cert. ef. 2-28-88; WRD 5-1996, f. & cert. ef. 7-11-96;

WRD 2-2003, f & cert. ef. 5-1-03; Renumbered from 690-015-0110

## 690-380-6040

### Proof of Completion of Change

(1) The director shall issue a certificate of water right upon satisfactory proof of completing the change or changes authorized by a transfer approval order. Satisfactory proof shall be one of the following:

(a) A determination by the Department that appropriation of water to beneficial use under the terms of the transfer approval order was completed to the extent authorized; or

(b) A determination by the Department that appropriation of water to a beneficial use under the terms of the transfer approval order was completed to an extent less than authorized. Such determination shall constitute proof for that portion of the appropriation.

(2) If the Department determines that proof has been made to an extent different or less than that approved, a proposed certificate of water right shall be prepared. The proposed certificate shall describe the right determined completed under the provisions of the transfer approval order. The proposed certificate shall be mailed first class to the transferee, together with notice that the transferee or the landowner has a period of 60 days from date of mailing to request the Department reconsider the contents of the proposed certificate of water right. If no request for reconsideration is received within the 60-day period, the director shall issue a water right certificate to the transferee or landowner pursuant to ORS 540.530(2) and the transfer approval order.

(3) If the Department determines that proof has been made to the full extent granted by the approval order, a certificate may be issued without the necessity of a proposed certificate.

Stat. Auth.: ORS 536.025 & ORS 536.027

Stats. Implemented: ORS 540.530

Hist.: WRD 16-1990, f. & cert. ef. 8-23-90; WRD 5-1996, f. & cert. ef. 7-11-96; WRD 2-2003, f & cert. ef. 5-1-03; Renumbered from 690-015-0120

## 690-380-6050

### Waiver of Proof of Completion

(1) The Director may waive any of the proof of completion requirements of OAR 690-380-6040, if:

(a) The waiver of the mapping requirements has been previously approved under OAR 690-380-3410; or

(b) The Director determines that other circumstances are present that make any of the requirements for proof of completion unnecessary and the transfer complies with the requirements of OAR 690-380-3410 for a waiver of mapping requirements.

(2) The Department may assist the applicant in satisfying any of the proof of completion requirements of OAR 690-380-6040 if the transfer complies with the requirements of OAR 690-380-3410. The assistance provided by the Department may include, but need not be limited to, development of a final proof survey map and claim of beneficial use.

Stat. Auth.: ORS 536.025 & ORS 536.027

Stats. Implemented: ORS 540.510 - ORS 540.532

Hist.: WRD 2-2003, f & cert. ef. 5-1-03

## 690-380-6060

### Petition for Reconsideration

(1) A petition for reconsideration of the content of a proposed certificate may be submitted in writing to the Department by the transferee or landowner. The petition shall describe the disagreement with the proposed certificate.

(2) The petition shall set forth the changes to the proposed certificate or the final proof map and shall include any facts which support the request. Maps, photographs, affidavits, receipts or other such evidence may be included to support the request.

(3) The director may allow reasonable time beyond the time set under OAR 690-380-6040(2) for a transferee or landowner to complete and submit a written petition for reconsideration.

(4) Upon receipt of a petition for reconsideration, the director shall:

(a) Approve the petition without verification and issue a certificate with the changes included;

(b) Schedule field verification of the requested changes and pursuant thereto approve or deny the request; or

(c) Deny it by a letter to the requesting person.

(5) If field verification is scheduled, a new proposed certificate may be prepared and sent as prescribed by OAR 690-380-6040.

(6) A petition for reconsideration of a new proposed certificate issued under section (5) of this rule shall be filed in accordance with sections (1) to (3) of this rule. Such petitions shall be approved or denied by an order of the director. The order shall provide for either issuance of a certificate of water right in conformance with the director's findings, or for the scheduling of a contested case hearing as provided under OAR chapter 690, division 2.

Stat. Auth.: ORS 536.025 & ORS 536.027

Stats. Implemented: ORS 540.530

Hist.: WRD 16-1990, f. & cert. ef. 8-23-90; WRD 5-1996, f. & cert. ef. 7-11-96; WRD 2-2003, f & cert. ef. 5-1-03; Renumbered from 690-015-0125

## 690-380-8000

### Temporary Transfer Application

(1) As provided in ORS 540.523, any person who holds a water use subject to transfer may request that the Department approve a temporary transfer of place of use or character of use identified in a right to store water for a period not to exceed five years.

(2) The application for a temporary transfer shall be on the Department's water right transfer application form, shall be clearly marked "Temporary Transfer," and shall include the following:

(a) The information required in OAR 690-380-3000;

(b) The length of time for which the change is being requested;

(c) The appropriate fee for the transfer of the place of use pursuant to ORS 536.050; and

(d) A map prepared pursuant to the requirements of OAR 690-380-3010, except it need not be prepared by a certified water right examiner.

(3) Notwithstanding the notice and time requirements of OAR 690-380-4020, the Department shall issue an order to approve a request for a temporary transfer under this rule if the Department determines that the

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temporary transfer will not injure any existing water right. In issuing the order, the Department may include any conditions necessary to protect other water rights.

(4) All uses for which a temporary transfer is allowed under this rule shall revert automatically to the terms and conditions of the water use subject to transfer upon expiration of the temporary transfer period, or earlier if requested in writing by the applicant.

(5) The time during which water is used under an approved temporary transfer order does not apply toward a finding of forfeiture under ORS 540.610.

(6) The Department may revoke a prior approval of the temporary transfer at any time if the Department finds that the transfer is causing injury.

(7) The lands from which the water use subject to transfer is removed during the period of a temporary transfer shall receive no water under the transferred water right.

(8) If the Department determines that the application is incomplete or defective or that all fees have not been paid, the Department shall return the application.

Stat. Auth.: ORS 536.025 & ORS 536.027  
Stats. Implemented: ORS 536.050, ORS 540.520 & ORS 540.523  
Hist.: WRD 5-1996, f. & cert. ef. 7-11-96; WRD 2-2003, f & cert. ef. 5-1-03; Renumbered from 690-015-0300

## 690-380-8010

### Seasonal Use

The lands from which the water use subject to transfer is removed shall receive no water, under the appurtenant rights, during the period of a temporary transfer. In the case of a temporary transfer approved during the season for which there is a specified season of use, such as the irrigation season, the lands from which the water use subject to transfer is being removed shall have received no water, under the appurtenant rights, during that season, including water used prior to the approval of the temporary transfer. If the lands have received water, under the appurtenant rights, during that season, the temporary transfer may not take effect until the following season.

Stat. Auth.: ORS 536.025 & ORS 536.027  
Stats. Implemented: ORS 540.523  
Hist.: WRD 5-1996, f. & cert. ef. 7-11-96; WRD 2-2003, f & cert. ef. 5-1-03; Renumbered from 690-015-0310

## 690-380-8020

### Supplemental Water Rights

(1) When an application for a temporary transfer of the place of use is filed with the Department, the applicant also shall indicate whether the land described in the application has an appurtenant supplemental water right or permit. The applicant shall also indicate whether the supplemental water right or permit is intended to be temporarily transferred with the primary water right or to remain unexercised at the place of use as described in the original water right during the period of the temporary transfer.

(2) If the applicant also intends to temporarily transfer the supplemental water right or permit, the applicant shall include the information required under OAR 690-380-3000 and 690-380-8000 for the supplemental water right or permit.

(3) If an existing supplemental water right or permit is not included in the temporary transfer application, the Department shall notify the applicant and the land owner, as identified under OAR 690-380-3000(13), that the Department will cancel the supplemental water right or permit before issuing the order approving the temporary transfer of the primary water right.

(4) Notice by the Department shall be sent by certified mail, return receipt requested. The notice shall contain the following:

(a) A description of the supplemental water right or permit and the land to which it is appurtenant;

(b) A statement that the applicant and land owner, as identified under OAR 690-380-3000(13), has 30 days, from the date of the notice, to either modify the application to include the supplemental water right, or withdraw the application.

(c) A statement that, unless the applicant complies with subsection (4)(b) of this rule, the supplemental water right or permit shall be canceled before the Department issues the order approving the application for the temporary transfer of the primary water right.

(5) If the application is withdrawn, the Department shall keep the examination fee, and shall refund any other fees submitted with the application.

(6) If the application is not modified or withdrawn, the director shall enter an order canceling the supplemental water right before issuing the order approving the temporary transfer of the primary water right.

(7) The Department shall not approve the temporary transfer of a supplemental water right or permit if the temporary transfer would result in injury or enlargement.

(8) If the Department approves the temporary transfer of the primary water right but does not approve the temporary transfer of the supplemental water right or permit, the Department shall notify the applicant of the Department's intent not to allow the temporary transfer of the supplemental water right or permit before the Department issues the order approving the temporary transfer of the primary water right. The notice shall inform the applicant that the supplemental water right or permit shall remain appurtenant to the land described in the application, but may not be exercised until the primary water right reverts to the original water use.

(9) If the primary water right does not revert soon enough to allow the use of water under the supplemental water right within five years, the supplemental water right shall become subject to cancellation for nonuse under ORS 540.610.

Stat. Auth.: ORS 536.025 & ORS 536.027  
Stats. Implemented: ORS 540.523  
Hist.: WRD 5-1996, f. & cert. ef. 7-11-96; WRD 2-2003, f & cert. ef. 5-1-03; Renumbered from 690-015-0320

## 690-380-9000

### Clarification of Water Rights

(1) If the Director decides that a certificate of water right does not identify the lands to which the right is appurtenant with sufficient specificity for management, delivery, or transfer of that right, the Director may issue an order clarifying and defining the description of the land to which the right is appurtenant.

(2) A clarification order may not reduce the rate, duty or number of acres stated in the perfected right. The sole purpose of the order is to better define the location to which the water right is appurtenant.

(3) Any order issued under this section shall be served on the legal owner of the land to which the water right is appurtenant and on the occupant of the land, by certified mail, return receipt requested. If the owner or occupant files a written request for a hearing within 30 days after service of the order, the Director or the Director's authorized assistant shall conduct a hearing of the matter under the provisions of ORS 183.413 to 183.484.

(4) If no exceptions or objections to a proposed order issued under this rule are filed within the time allowed, the Director shall issue a final order. Said final order shall be filed with the certificate that the order clarifies. For all purposes, the final order shall constitute the description of the land to which the water right is appurtenant.

Stat. Auth.: ORS 183, ORS 339, ORS 536, ORS 537, ORS 540 & ORS 649  
Stats. Implemented:  
Hist.: WRD 10-1988, f. & cert. ef. 8-10-88; WRD 2-2003, f & cert. ef. 5-1-03

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125-055-0125	12-31-02	Adopt(T)	2-1-03	141-030-0037	1-1-03	Amend	2-1-03
125-055-0130	12-31-02	Adopt(T)	2-1-03	141-030-0038	1-1-03	Amend	2-1-03
125-500-0000	12-27-02	Amend	2-1-03	141-030-0039	1-1-03	Amend	2-1-03
125-500-0005	12-27-02	Amend	2-1-03	141-030-0040	1-1-03	Adopt	2-1-03
125-500-0010	12-27-02	Amend	2-1-03	141-035-0005	1-1-03	Amend	2-1-03
137-003-0036	4-1-03	Adopt	5-1-03	141-035-0010	1-1-03	Amend	2-1-03
137-003-0573	4-1-03	Adopt	5-1-03	141-035-0013	1-1-03	Adopt	2-1-03
137-008-0000	3-1-03	Amend	4-1-03	141-035-0015	1-1-03	Amend	2-1-03
137-009-0000	12-12-02	Amend(T)	1-1-03	141-035-0020	1-1-03	Amend	2-1-03
137-009-0005	12-12-02	Amend(T)	1-1-03	141-035-0025	1-1-03	Amend	2-1-03
137-009-0010	12-12-02	Amend(T)	1-1-03	141-035-0030	1-1-03	Amend	2-1-03
137-009-0015	12-12-02	Suspend	1-1-03	141-035-0035	1-1-03	Amend	2-1-03
137-009-0020	12-12-02	Suspend	1-1-03	141-035-0040	1-1-03	Amend	2-1-03
137-009-0025	12-12-02	Suspend	1-1-03	141-035-0045	1-1-03	Amend	2-1-03
137-009-0030	12-12-02	Suspend	1-1-03	141-035-0046	1-1-03	Repeal	2-1-03
137-009-0035	12-12-02	Suspend	1-1-03	141-035-0047	1-1-03	Amend	2-1-03
137-009-0040	12-12-02	Suspend	1-1-03	141-035-0048	1-1-03	Adopt	2-1-03
137-009-0045	12-12-02	Amend(T)	1-1-03	141-035-0050	1-1-03	Amend	2-1-03
137-009-0055	12-12-02	Suspend	1-1-03	141-035-0055	1-1-03	Amend	2-1-03
137-009-0060	12-12-02	Adopt(T)	1-1-03	141-035-0060	1-1-03	Amend	2-1-03
137-009-0065	12-12-02	Adopt(T)	1-1-03	141-035-0065	1-1-03	Amend	2-1-03
137-009-0100	12-12-02	Adopt(T)	1-1-03	141-035-0070	1-1-03	Amend	2-1-03
137-009-0120	12-12-02	Adopt(T)	1-1-03	141-040-0005	1-1-03	Amend	2-1-03
137-050-0320	5-12-03	Amend	5-1-03	141-040-0010	1-1-03	Amend	2-1-03
137-050-0330	5-12-03	Amend	5-1-03	141-040-0020	1-1-03	Amend	2-1-03
137-050-0333	5-12-03	Adopt	5-1-03	141-040-0030	1-1-03	Amend	2-1-03
137-050-0335	5-12-03	Amend	5-1-03	141-040-0035	1-1-03	Amend	2-1-03
137-050-0340	5-12-03	Amend	5-1-03	141-040-0040	1-1-03	Amend	2-1-03
137-050-0350	5-12-03	Amend	5-1-03	141-040-0200	1-1-03	Amend	2-1-03
137-050-0360	5-12-03	Amend	5-1-03	141-040-0210	1-1-03	Repeal	2-1-03
137-050-0365	5-12-03	Repeal	5-1-03	141-040-0211	1-1-03	Amend	2-1-03
137-050-0390	5-12-03	Amend	5-1-03	141-040-0212	1-1-03	Amend	2-1-03
137-050-0400	5-12-03	Amend	5-1-03	141-040-0214	1-1-03	Amend	2-1-03
137-050-0405	5-12-03	Amend	5-1-03	141-040-0220	1-1-03	Amend	2-1-03
137-050-0410	5-12-03	Amend	5-1-03	141-045-0005	1-1-03	Amend	2-1-03
137-050-0420	5-12-03	Amend	5-1-03	141-045-0010	1-1-03	Amend	2-1-03
137-050-0430	5-12-03	Amend	5-1-03	141-045-0015	1-1-03	Adopt	2-1-03
137-050-0450	5-12-03	Amend	5-1-03	141-045-0020	1-1-03	Repeal	2-1-03
137-050-0455	5-12-03	Adopt	5-1-03	141-045-0021	1-1-03	Adopt	2-1-03
137-050-0460	5-12-03	Repeal	5-1-03	141-045-0024	1-1-03	Repeal	2-1-03
137-050-0465	5-12-03	Adopt	5-1-03	141-045-0031	1-1-03	Amend	2-1-03
137-050-0470	5-12-03	Repeal	5-1-03	141-045-0041	1-1-03	Amend	2-1-03
137-050-0475	5-12-03	Amend	5-1-03	141-045-0061	1-1-03	Amend	2-1-03
137-050-0490	5-12-03	Amend	5-1-03	141-045-0100	1-1-03	Amend	2-1-03
137-083-0000	3-1-03	Adopt	4-1-03	141-045-0105	1-1-03	Amend	2-1-03

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141-045-0120	1-1-03	Amend	2-1-03	141-085-0135	1-15-03	Repeal	1-1-03
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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
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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
141-045-0185	1-1-03	Adopt	2-1-03	141-085-0166	1-15-03	Adopt	1-1-03
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
141-085-0035	1-15-03	Repeal	1-1-03	141-085-0260	1-15-03	Repeal	1-1-03
141-085-0036	1-15-03	Adopt	1-1-03	141-085-0262	1-15-03	Amend	1-1-03
141-085-0040	1-15-03	Repeal	1-1-03	141-085-0263	1-15-03	Adopt	1-1-03
141-085-0050	1-15-03	Repeal	1-1-03	141-085-0264	1-15-03	Amend	1-1-03
141-085-0055	1-15-03	Repeal	1-1-03	141-085-0266	1-15-03	Amend	1-1-03
141-085-0060	1-15-03	Repeal	1-1-03	141-085-0300	1-15-03	Repeal	1-1-03
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141-085-0065	1-15-03	Repeal	1-1-03	141-085-0310	1-15-03	Repeal	1-1-03
141-085-0066	1-15-03	Adopt	1-1-03	141-085-0315	1-15-03	Repeal	1-1-03
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141-085-0080	1-15-03	Amend	1-1-03	141-085-0335	1-15-03	Repeal	1-1-03
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141-085-0095	1-15-03	Adopt	1-1-03	141-085-0350	1-15-03	Repeal	1-1-03
141-085-0096	1-15-03	Adopt	1-1-03	141-085-0355	1-15-03	Repeal	1-1-03
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141-085-0110	1-15-03	Repeal	1-1-03	141-085-0365	1-15-03	Repeal	1-1-03
141-085-0115	1-15-03	Amend	1-1-03	141-085-0400	1-15-03	Amend	1-1-03
141-085-0120	1-15-03	Repeal	1-1-03	141-085-0406	1-15-03	Amend	1-1-03
141-085-0121	1-15-03	Adopt	1-1-03	141-085-0410	1-15-03	Amend	1-1-03
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141-085-0126	1-15-03	Adopt	1-1-03	141-085-0421	1-15-03	Amend	1-1-03
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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
141-089-0010	1-15-03	Repeal	1-1-03	141-122-0010	1-1-03	Amend	2-1-03
141-089-0015	1-15-03	Repeal	1-1-03	141-122-0020	1-1-03	Amend	2-1-03
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
141-089-0065	1-15-03	Repeal	1-1-03	141-122-0080	1-1-03	Amend	2-1-03
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
141-089-0081	1-15-03	Repeal	1-1-03	141-122-0105	1-1-03	Adopt	2-1-03
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
141-089-0110	1-15-03	Adopt	1-1-03	150-23.185-(A)	12-31-02	Am. & Ren.	2-1-03
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141-089-0120	1-15-03	Adopt	1-1-03	150-305.145(2)	12-31-02	Amend	2-1-03
141-089-0125	1-15-03	Adopt	1-1-03	150-305.220(1)	1-31-03	Amend	2-1-03
141-089-0130	1-15-03	Adopt	1-1-03	150-305.220(2)	1-31-03	Amend	2-1-03
141-089-0135	1-15-03	Adopt	1-1-03	150-305.220(3)	1-31-03	Amend	2-1-03
141-089-0140	1-15-03	Adopt	1-1-03	150-305.222	12-31-02	Adopt	2-1-03
141-089-0145	1-15-03	Adopt	1-1-03	150-305.612	12-31-02	Adopt	2-1-03
141-089-0150	1-15-03	Adopt	1-1-03	150-305.612(T)	12-31-02	Repeal	2-1-03
141-089-0155	1-15-03	Adopt	1-1-03	150-306.115(J)	12-31-02	Repeal	2-1-03
141-089-0160	1-15-03	Adopt	1-1-03	150-306.265	12-31-02	Adopt	2-1-03
141-089-0165	1-15-03	Adopt	1-1-03	150-307.175	12-31-02	Amend	2-1-03
141-089-0170	1-15-03	Adopt	1-1-03	150-307.220-(B)	12-31-02	Amend	2-1-03
141-089-0175	1-15-03	Adopt	1-1-03	150-307.230-(B)	12-31-02	Amend	2-1-03
141-089-0180	1-15-03	Adopt	1-1-03	150-307.240-(B)	12-31-02	Amend	2-1-03
141-089-0185	1-15-03	Adopt	1-1-03	150-308.290(4)(b)	12-31-02	Amend	2-1-03
141-089-0190	1-15-03	Adopt	1-1-03	150-308.290(7)-(B)	12-31-02	Amend	2-1-03
141-089-0195	1-15-03	Adopt	1-1-03	150-308.560	12-31-02	Adopt	2-1-03
141-089-0200	1-15-03	Adopt	1-1-03	150-308.704	12-31-02	Amend	2-1-03
141-089-0205	1-15-03	Adopt	1-1-03	150-308.709	12-31-02	Amend	2-1-03
141-089-0210	1-15-03	Adopt	1-1-03	150-308.712	12-31-02	Amend	2-1-03
141-089-0215	1-15-03	Adopt	1-1-03	150-309.022(1)	12-31-02	Amend	2-1-03
141-089-0220	1-15-03	Adopt	1-1-03	150-309.024-(B)	12-31-02	Repeal	2-1-03
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141-089-0230	1-15-03	Adopt	1-1-03	150-309.100(1)	12-31-02	Am. & Ren.	2-1-03
141-089-0235	1-15-03	Adopt	1-1-03	150-309.100(1)-(A)	12-31-02	Am. & Ren.	2-1-03
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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
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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
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150-465.517(3)	12-31-02	Adopt	2-1-03	177-005-0000	11-25-02	Repeal	1-1-03
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161-006-0025	5-1-03	Amend	6-1-03	177-010-0009	11-25-02	Amend	1-1-03
161-006-0175	5-1-03	Amend	6-1-03	177-010-0020	11-25-02	Repeal	1-1-03
161-010-0020	1-27-03	Amend	3-1-03	177-010-0025	11-25-02	Amend	1-1-03
161-010-0020	5-1-03	Amend	6-1-03	177-010-0040	11-25-02	Repeal	1-1-03
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161-010-0035	5-1-03	Amend	6-1-03	177-010-0050	11-25-02	Amend	1-1-03
161-010-0045	5-1-03	Amend	6-1-03	177-010-0055	11-25-02	Repeal	1-1-03
161-010-0055	5-1-03	Amend	6-1-03	177-010-0060	11-25-02	Repeal	1-1-03
161-010-0080	5-1-03	Amend	6-1-03	177-010-0065	11-25-02	Repeal	1-1-03
161-015-0000	5-1-03	Amend	6-1-03	177-010-0070	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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161-020-0080	1-27-03	Repeal	3-1-03	177-010-0120	11-25-02	Amend	1-1-03
161-020-0110	5-1-03	Amend	6-1-03	177-010-0300	11-25-02	Repeal	1-1-03
161-020-0120	5-1-03	Amend	6-1-03	177-040-0000	11-25-02	Amend	1-1-03
161-020-0150	1-27-03	Amend	3-1-03	177-040-0001	11-25-02	Amend	1-1-03
161-020-0150	5-1-03	Amend	6-1-03	177-040-0003	11-25-02	Amend	1-1-03
161-025-0060	1-27-03	Amend	3-1-03	177-040-0005	11-25-02	Amend	1-1-03
161-050-0050	5-1-03	Amend	6-1-03	177-040-0010	11-25-02	Amend	1-1-03
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165-020-0005	4-25-03	Amend	6-1-03	177-040-0040	11-25-02	Amend	1-1-03
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165-020-3030	3-18-03	Adopt(T)	5-1-03	177-040-0051	11-25-02	Adopt	1-1-03
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166-475-0045	2-14-03	Amend	3-1-03	177-040-0160	3-14-03	Amend	4-1-03
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177-046-0020	11-25-02	Adopt	1-1-03	177-075-0000	11-25-02	Amend	1-1-03
177-046-0030	11-25-02	Adopt	1-1-03	177-075-0005	11-25-02	Amend	1-1-03
177-046-0040	11-25-02	Adopt	1-1-03	177-075-0010	11-25-02	Amend	1-1-03
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177-046-0060	11-25-02	Adopt	1-1-03	177-075-0020	11-25-02	Amend	1-1-03
177-046-0070	11-25-02	Adopt	1-1-03	177-075-0027	11-25-02	Amend	1-1-03
177-046-0080	11-25-02	Adopt	1-1-03	177-075-0030	11-25-02	Amend	1-1-03
177-046-0090	11-25-02	Adopt	1-1-03	177-075-0035	11-25-02	Amend	1-1-03
177-046-0100	11-25-02	Adopt	1-1-03	177-075-0045	11-25-02	Repeal	1-1-03
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177-046-0130	11-25-02	Adopt	1-1-03	177-081-0010	11-25-02	Amend	1-1-03
177-046-0140	11-25-02	Adopt	1-1-03	177-081-0020	11-25-02	Amend	1-1-03
177-046-0150	11-25-02	Adopt	1-1-03	177-081-0030	11-25-02	Amend	1-1-03
177-046-0160	11-25-02	Adopt	1-1-03	177-081-0035	11-25-02	Repeal	1-1-03
177-046-0170	11-25-02	Adopt	1-1-03	177-081-0040	11-25-02	Amend	1-1-03
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177-050-0010	11-25-02	Repeal	1-1-03	177-081-0080	11-25-02	Amend	1-1-03
177-050-0020	11-25-02	Amend	1-1-03	177-081-0090	11-25-02	Repeal	1-1-03
177-050-0021	11-25-02	Repeal	1-1-03	177-085-0005	2-3-03	Amend	3-1-03
177-050-0023	11-25-02	Repeal	1-1-03	177-085-0005	4-15-03	Amend(T)	5-1-03
177-050-0025	11-25-02	Amend	1-1-03	177-085-0010	2-3-03	Amend	3-1-03
177-050-0027	11-25-02	Amend	1-1-03	177-085-0015	2-3-03	Amend	3-1-03
177-050-0037	11-25-02	Amend	1-1-03	177-085-0020	2-3-03	Amend	3-1-03
177-050-0045	11-25-02	Repeal	1-1-03	177-085-0025	2-3-03	Amend	3-1-03
177-050-0051	11-25-02	Repeal	1-1-03	177-085-0030	2-3-03	Amend	3-1-03
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177-050-0065	11-25-02	Repeal	1-1-03	177-085-0035	4-15-03	Amend(T)	5-1-03
177-050-0075	11-25-02	Repeal	1-1-03	177-085-0040	2-3-03	Amend	3-1-03
177-065-0000	11-25-02	Repeal	1-1-03	177-085-0045	2-3-03	Amend	3-1-03
177-065-0005	11-25-02	Amend	1-1-03	177-085-0050	2-3-03	Amend	3-1-03
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177-099-0050	11-25-02	Amend	1-1-03	259-009-0087	11-18-02	Adopt	1-1-03
177-099-0050	4-7-03	Amend(T)	5-1-03	259-009-0090	11-18-02	Adopt	1-1-03
177-099-0060	11-25-02	Amend	1-1-03	259-009-0100	11-18-02	Adopt	1-1-03
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177-099-0090	11-25-02	Amend	1-1-03	259-020-0015	1-21-03	Amend	3-1-03
177-099-0090	4-7-03	Amend(T)	5-1-03	259-020-0025	1-21-03	Amend	3-1-03
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177-099-0100	11-25-02	Amend	1-1-03	259-060-0010	1-22-03	Amend	3-1-03
177-099-0100	4-7-03	Amend(T)	5-1-03	259-060-0015	1-22-03	Amend	3-1-03
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250-018-0010	3-31-03	Amend	5-1-03	259-060-0300	1-22-03	Amend	3-1-03
250-018-0060	3-31-03	Amend	5-1-03	259-060-0450	1-22-03	Amend	3-1-03
250-018-0080	3-31-03	Amend	5-1-03	274-020-0340	4-7-03	Amend(T)	5-1-03
250-020-0380	1-14-03	Repeal	2-1-03	274-020-0341	1-21-03	Amend(T)	3-1-03
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255-075-0067	5-13-03	Amend	6-1-03	274-020-0341(T)	3-24-03	Repeal	5-1-03
255-075-0079	5-13-03	Amend	6-1-03	274-020-0445	4-7-03	Amend(T)	5-1-03
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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
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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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291-109-0020	3-1-03	Repeal	3-1-03	333-054-0070	12-24-02	Amend	2-1-03
291-109-0030	3-1-03	Repeal	3-1-03	333-054-0090	12-24-02	Repeal	2-1-03
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291-113-0020	4-2-03	Repeal	5-1-03	333-101-0001	3-27-03	Amend	5-1-03
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291-113-0030	4-2-03	Amend	5-1-03	333-102-0001	3-27-03	Amend	5-1-03
291-113-0035	4-2-03	Amend	5-1-03	333-102-0005	3-27-03	Amend	5-1-03
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291-203-0020	2-7-03	Adopt(T)	3-1-03	333-102-0015	3-27-03	Amend	5-1-03
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309-018-0120	3-10-03	Amend(T)	3-1-03	333-102-0025	3-27-03	Amend	5-1-03
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309-018-0180	3-10-03	Amend(T)	3-1-03	333-102-0035	3-27-03	Amend	5-1-03
330-130-0030	1-10-03	Amend	2-1-03	333-102-0040	3-27-03	Adopt	5-1-03
330-130-0040	1-10-03	Amend	2-1-03	333-102-0075	3-27-03	Amend	5-1-03
330-130-0050	1-10-03	Amend	2-1-03	333-102-0101	3-27-03	Amend	5-1-03
330-130-0060	1-10-03	Amend	2-1-03	333-102-0103	3-27-03	Amend	5-1-03
330-130-0080	1-10-03	Amend	2-1-03	333-102-0105	3-27-03	Amend	5-1-03
331-205-0030	5-15-03	Amend	6-1-03	333-102-0110	3-27-03	Amend	5-1-03
331-400-0010	2-1-03	Amend	3-1-03	333-102-0120	3-27-03	Amend	5-1-03
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333-050-0080	12-13-02	Amend	1-1-03	333-102-0265	3-27-03	Amend	5-1-03
333-050-0090	12-13-02	Amend	1-1-03	333-102-0270	3-27-03	Amend	5-1-03
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333-102-0290	3-27-03	Amend	5-1-03	333-105-0560	3-27-03	Adopt	5-1-03
333-102-0293	3-27-03	Amend	5-1-03	333-105-0570	3-27-03	Adopt	5-1-03
333-102-0295	3-27-03	Repeal	5-1-03	333-105-0580	3-27-03	Adopt	5-1-03
333-102-0300	3-27-03	Amend	5-1-03	333-105-0590	3-27-03	Adopt	5-1-03
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333-102-0310	3-27-03	Amend	5-1-03	333-105-0610	3-27-03	Adopt	5-1-03
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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
333-102-0340	3-27-03	Amend	5-1-03	333-105-0660	3-27-03	Adopt	5-1-03
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333-105-0105	3-27-03	Repeal	5-1-03	333-106-0035	3-27-03	Amend	5-1-03
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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333-105-0125	3-27-03	Repeal	5-1-03	333-106-0105	3-27-03	Amend	5-1-03
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
333-105-0140	3-27-03	Repeal	5-1-03	333-106-0325	3-27-03	Amend	5-1-03
333-105-0201	3-27-03	Repeal	5-1-03	333-106-0575	3-27-03	Amend	5-1-03
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333-116-0150	3-27-03	Amend	5-1-03	333-116-0910	3-27-03	Adopt	5-1-03
333-116-0160	3-27-03	Amend	5-1-03	333-116-0915	3-27-03	Adopt	5-1-03
333-116-0165	3-27-03	Adopt	5-1-03	333-118-0020	3-27-03	Amend	5-1-03
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333-116-0180	3-27-03	Amend	5-1-03	333-118-0050	3-27-03	Amend	5-1-03
333-116-0190	3-27-03	Amend	5-1-03	333-118-0060	3-27-03	Amend	5-1-03
333-116-0200	3-27-03	Amend	5-1-03	333-118-0070	3-27-03	Amend	5-1-03
333-116-0250	3-27-03	Amend	5-1-03	333-118-0080	3-27-03	Amend	5-1-03
333-116-0260	3-27-03	Amend	5-1-03	333-118-0090	3-27-03	Amend	5-1-03
333-116-0265	3-27-03	Adopt	5-1-03	333-118-0100	3-27-03	Amend	5-1-03
333-116-0290	3-27-03	Amend	5-1-03	333-118-0110	3-27-03	Amend	5-1-03
333-116-0300	3-27-03	Amend	5-1-03	333-118-0120	3-27-03	Amend	5-1-03
333-116-0310	3-27-03	Amend	5-1-03	333-118-0130	3-27-03	Amend	5-1-03
333-116-0320	3-27-03	Amend	5-1-03	333-118-0140	3-27-03	Amend	5-1-03
333-116-0330	3-27-03	Amend	5-1-03	333-118-0150	3-27-03	Amend	5-1-03
333-116-0340	3-27-03	Amend	5-1-03	333-118-0160	3-27-03	Amend	5-1-03
333-116-0350	3-27-03	Amend	5-1-03	333-118-0170	3-27-03	Amend	5-1-03
333-116-0360	3-27-03	Amend	5-1-03	333-118-0180	3-27-03	Amend	5-1-03
333-116-0370	3-27-03	Amend	5-1-03	333-118-0190	3-27-03	Amend	5-1-03
333-116-0380	3-27-03	Amend	5-1-03	333-118-0200	3-27-03	Amend	5-1-03
333-116-0390	3-27-03	Amend	5-1-03	333-118-0800	3-27-03	Adopt	5-1-03
333-116-0410	3-27-03	Amend	5-1-03	333-119-0030	3-27-03	Amend	5-1-03
333-116-0420	3-27-03	Amend	5-1-03	333-119-0040	3-27-03	Amend	5-1-03
333-116-0430	3-27-03	Amend	5-1-03	333-119-0080	3-27-03	Amend	5-1-03
333-116-0440	3-27-03	Amend	5-1-03	333-119-0090	3-27-03	Amend	5-1-03
333-116-0450	3-27-03	Amend	5-1-03	333-119-0100	3-27-03	Amend	5-1-03
333-116-0460	3-27-03	Amend	5-1-03	333-119-0120	3-27-03	Amend	5-1-03
333-116-0470	3-27-03	Amend	5-1-03	333-120-0015	3-27-03	Adopt	5-1-03
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
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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
333-116-0680	3-27-03	Amend	5-1-03	333-120-0560	3-27-03	Amend	5-1-03
333-116-0720	3-27-03	Amend	5-1-03	333-120-0600	3-27-03	Amend	5-1-03
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333-120-0670	3-27-03	Amend	5-1-03	335-095-0040	5-7-03	Adopt	6-1-03
333-120-0680	3-27-03	Amend	5-1-03	335-095-0050	5-7-03	Adopt	6-1-03
333-120-0700	3-27-03	Amend	5-1-03	335-095-0060	5-7-03	Adopt	6-1-03
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333-500-0050	12-10-02	Amend	1-1-03	337-021-0080	11-18-02	Adopt	1-1-03
333-500-0056	12-10-02	Adopt	1-1-03	338-010-0030	4-25-03	Amend(T)	6-1-03
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333-536-0025	2-1-03	Adopt	1-1-03	340-042-0030	12-20-02	Adopt	2-1-03
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333-536-0040	2-1-03	Adopt	1-1-03	340-042-0060	12-20-02	Adopt	2-1-03
333-536-0045	2-1-03	Adopt	1-1-03	340-042-0070	12-20-02	Adopt	2-1-03
333-536-0050	2-1-03	Adopt	1-1-03	340-042-0080	12-20-02	Adopt	2-1-03
333-536-0055	2-1-03	Adopt	1-1-03	340-047-0005	1-31-03	Repeal	3-1-03
333-536-0060	2-1-03	Adopt	1-1-03	340-047-0010	1-31-03	Repeal	3-1-03
333-536-0065	2-1-03	Adopt	1-1-03	340-047-0015	1-31-03	Repeal	3-1-03
333-536-0070	2-1-03	Adopt	1-1-03	340-047-0020	1-31-03	Repeal	3-1-03
333-536-0075	2-1-03	Adopt	1-1-03	340-047-0025	1-31-03	Repeal	3-1-03
333-536-0080	2-1-03	Adopt	1-1-03	340-047-0035	1-31-03	Repeal	3-1-03
333-536-0085	2-1-03	Adopt	1-1-03	340-047-0040	1-31-03	Repeal	3-1-03
333-536-0090	2-1-03	Adopt	1-1-03	340-047-0100	1-31-03	Repeal	3-1-03
333-536-0095	2-1-03	Adopt	1-1-03	340-047-0110	1-31-03	Repeal	3-1-03
334-001-0060	1-24-03	Amend	3-1-03	340-047-0120	1-31-03	Repeal	3-1-03
334-010-0005	1-24-03	Amend	3-1-03	340-047-0130	1-31-03	Repeal	3-1-03
334-010-0010	1-24-03	Amend	3-1-03	340-047-0140	1-31-03	Repeal	3-1-03
334-010-0015	1-24-03	Amend	3-1-03	340-047-0150	1-31-03	Repeal	3-1-03
334-010-0016	1-24-03	Amend	3-1-03	340-047-0160	1-31-03	Repeal	3-1-03
334-010-0017	1-24-03	Amend	3-1-03	340-047-0170	1-31-03	Repeal	3-1-03
334-010-0025	1-24-03	Amend	3-1-03	340-047-0180	1-31-03	Repeal	3-1-03
334-010-0033	1-24-03	Amend	3-1-03	340-047-0190	1-31-03	Repeal	3-1-03
334-010-0050	1-24-03	Amend	3-1-03	340-047-0200	1-31-03	Repeal	3-1-03
335-060-0005	5-7-03	Amend	6-1-03	340-047-0210	1-31-03	Repeal	3-1-03
335-060-0010	5-7-03	Amend	6-1-03	340-047-0220	1-31-03	Repeal	3-1-03
335-060-0030	5-7-03	Amend	6-1-03	340-047-0230	1-31-03	Repeal	3-1-03
335-070-0010	5-7-03	Amend	6-1-03	340-047-0240	1-31-03	Repeal	3-1-03
335-070-0020	5-7-03	Amend	6-1-03	340-108-0001	1-31-03	Repeal	3-1-03
335-070-0060	5-7-03	Amend	6-1-03	340-108-0002	1-31-03	Repeal	3-1-03
335-070-0065	5-7-03	Amend	6-1-03	340-108-0010	1-31-03	Repeal	3-1-03
335-070-0075	5-7-03	Adopt	6-1-03	340-108-0020	1-31-03	Repeal	3-1-03
335-095-0010	5-7-03	Adopt	6-1-03	340-108-0030	1-31-03	Repeal	3-1-03

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340-108-0040	1-31-03	Repeal	3-1-03	340-150-0115	2-14-03	Am. & Ren.	3-1-03
340-108-0050	1-31-03	Repeal	3-1-03	340-150-0125	2-14-03	Am. & Ren.	3-1-03
340-108-0070	1-31-03	Repeal	3-1-03	340-150-0130	2-14-03	Repeal	3-1-03
340-108-0080	1-31-03	Repeal	3-1-03	340-150-0135	2-14-03	Adopt	3-1-03
340-122-0210	2-14-03	Amend	3-1-03	340-150-0140	2-14-03	Amend	3-1-03
340-141-0001	1-31-03	Adopt	3-1-03	340-150-0150	2-14-03	Amend	3-1-03
340-141-0005	1-31-03	Adopt	3-1-03	340-150-0152	2-14-03	Adopt	3-1-03
340-141-0010	1-31-03	Adopt	3-1-03	340-150-0156	2-14-03	Adopt	3-1-03
340-141-0100	1-31-03	Adopt	3-1-03	340-150-0160	2-14-03	Amend	3-1-03
340-141-0130	1-31-03	Adopt	3-1-03	340-150-0163	2-14-03	Amend	3-1-03
340-141-0140	1-31-03	Adopt	3-1-03	340-150-0166	2-14-03	Amend	3-1-03
340-141-0150	1-31-03	Adopt	3-1-03	340-150-0167	2-14-03	Adopt	3-1-03
340-141-0160	1-31-03	Adopt	3-1-03	340-150-0168	2-14-03	Adopt	3-1-03
340-141-0170	1-31-03	Adopt	3-1-03	340-150-0180	2-14-03	Adopt	3-1-03
340-141-0180	1-31-03	Adopt	3-1-03	340-150-0200	2-14-03	Adopt	3-1-03
340-141-0190	1-31-03	Adopt	3-1-03	340-150-0250	2-14-03	Adopt	3-1-03
340-141-0200	1-31-03	Adopt	3-1-03	340-150-0300	2-14-03	Adopt	3-1-03
340-141-0210	1-31-03	Adopt	3-1-03	340-150-0302	2-14-03	Adopt	3-1-03
340-141-0220	1-31-03	Adopt	3-1-03	340-150-0310	2-14-03	Adopt	3-1-03
340-141-0230	1-31-03	Adopt	3-1-03	340-150-0320	2-14-03	Adopt	3-1-03
340-141-0240	1-31-03	Adopt	3-1-03	340-150-0325	2-14-03	Adopt	3-1-03
340-142-0001	1-31-03	Adopt	3-1-03	340-150-0350	2-14-03	Adopt	3-1-03
340-142-0005	1-31-03	Adopt	3-1-03	340-150-0352	2-14-03	Adopt	3-1-03
340-142-0030	1-31-03	Adopt	3-1-03	340-150-0354	2-14-03	Adopt	3-1-03
340-142-0040	1-31-03	Adopt	3-1-03	340-150-0360	2-14-03	Adopt	3-1-03
340-142-0050	1-31-03	Adopt	3-1-03	340-150-0400	2-14-03	Adopt	3-1-03
340-142-0060	1-31-03	Adopt	3-1-03	340-150-0410	2-14-03	Adopt	3-1-03
340-142-0070	1-31-03	Adopt	3-1-03	340-150-0420	2-14-03	Adopt	3-1-03
340-142-0080	1-31-03	Adopt	3-1-03	340-150-0430	2-14-03	Adopt	3-1-03
340-142-0090	1-31-03	Adopt	3-1-03	340-150-0435	2-14-03	Adopt	3-1-03
340-142-0100	1-31-03	Adopt	3-1-03	340-150-0440	2-14-03	Adopt	3-1-03
340-142-0120	1-31-03	Adopt	3-1-03	340-150-0445	2-14-03	Adopt	3-1-03
340-142-0130	1-31-03	Adopt	3-1-03	340-150-0450	2-14-03	Adopt	3-1-03
340-150-0001	2-14-03	Amend	3-1-03	340-150-0455	2-14-03	Adopt	3-1-03
340-150-0002	2-14-03	Repeal	3-1-03	340-150-0460	2-14-03	Adopt	3-1-03
340-150-0003	2-14-03	Repeal	3-1-03	340-150-0465	2-14-03	Adopt	3-1-03
340-150-0006	2-14-03	Adopt	3-1-03	340-150-0470	2-14-03	Adopt	3-1-03
340-150-0008	2-14-03	Adopt	3-1-03	340-150-0500	2-14-03	Adopt	3-1-03
340-150-0010	2-14-03	Amend	3-1-03	340-150-0510	2-14-03	Adopt	3-1-03
340-150-0015	2-14-03	Repeal	3-1-03	340-150-0520	2-14-03	Adopt	3-1-03
340-150-0016	2-14-03	Repeal	3-1-03	340-150-0540	2-14-03	Adopt	3-1-03
340-150-0019	2-14-03	Repeal	3-1-03	340-150-0550	2-14-03	Adopt	3-1-03
340-150-0020	2-14-03	Amend	3-1-03	340-150-0555	2-14-03	Adopt	3-1-03
340-150-0021	2-14-03	Amend	3-1-03	340-150-0560	2-14-03	Adopt	3-1-03
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

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340-160-0054	2-14-03	Amend	3-1-03	410-001-0150	3-21-03	Adopt(T)	5-1-03
340-160-0150	2-14-03	Amend	3-1-03	410-001-0160	3-21-03	Adopt(T)	5-1-03
340-200-0040	2-6-03	Amend	3-1-03	410-001-0170	3-21-03	Adopt(T)	5-1-03
340-230-0010	2-6-03	Amend	3-1-03	410-001-0180	3-21-03	Adopt(T)	5-1-03
340-230-0020	2-6-03	Amend	3-1-03	410-001-0190	3-21-03	Adopt(T)	5-1-03
340-230-0030	2-6-03	Amend	3-1-03	410-001-0200	3-21-03	Adopt(T)	5-1-03
340-230-0120	2-6-03	Amend	3-1-03	410-014-0000	4-1-03	Adopt	5-1-03
340-230-0300	2-6-03	Amend	3-1-03	410-014-0010	4-1-03	Adopt	5-1-03
340-230-0310	2-6-03	Amend	3-1-03	410-014-0020	4-1-03	Adopt	5-1-03
340-230-0320	2-6-03	Amend	3-1-03	410-014-0030	4-1-03	Adopt	5-1-03
340-230-0330	2-6-03	Amend	3-1-03	410-014-0040	4-1-03	Adopt	5-1-03
340-230-0340	2-6-03	Amend	3-1-03	410-014-0050	4-1-03	Adopt	5-1-03
340-230-0350	2-6-03	Amend	3-1-03	410-014-0060	4-1-03	Adopt	5-1-03
340-230-0360	2-6-03	Repeal	3-1-03	410-014-0070	4-1-03	Adopt	5-1-03
340-230-0365	2-6-03	Adopt	3-1-03	410-120-0000	2-1-03	Amend	3-1-03
340-230-0370	2-6-03	Adopt	3-1-03	410-120-1190	2-1-03	Adopt	3-1-03
340-230-0373	2-6-03	Adopt	3-1-03	410-120-1195	4-1-03	Adopt(T)	5-1-03
340-230-0375	2-6-03	Adopt	3-1-03	410-120-1200	2-1-03	Amend	3-1-03
340-230-0377	2-6-03	Adopt	3-1-03	410-120-1200	3-1-03	Amend	4-1-03
340-230-0380	2-6-03	Adopt	3-1-03	410-120-1200	3-14-03	Amend(T)	4-1-03
340-230-0383	2-6-03	Adopt	3-1-03	410-120-1230	1-1-03	Adopt	2-1-03
340-230-0385	2-6-03	Adopt	3-1-03	410-120-1235	2-1-03	Adopt	3-1-03
340-230-0387	2-6-03	Adopt	3-1-03	410-120-1280	1-1-03	Amend	2-1-03
340-230-0390	2-6-03	Adopt	3-1-03	410-120-1280	2-1-03	Amend	3-1-03
340-230-0395	2-6-03	Adopt	3-1-03	410-120-1340	2-1-03	Amend	3-1-03
340-238-0040	2-6-03	Amend	3-1-03	410-120-1360	4-1-03	Amend	5-1-03
340-238-0050	2-6-03	Amend	3-1-03	410-120-1520	4-1-03	Amend	5-1-03
340-238-0060	2-6-03	Amend	3-1-03	410-120-1540	4-1-03	Amend	5-1-03
340-244-0200	2-6-03	Amend	3-1-03	410-120-1560	4-1-03	Amend	5-1-03
340-244-0210	2-6-03	Amend	3-1-03	410-120-1570	4-1-03	Adopt	5-1-03
340-244-0220	2-6-03	Amend	3-1-03	410-120-1580	4-1-03	Amend	5-1-03
340-244-0230	2-6-03	Amend	3-1-03	410-120-1600	4-1-03	Amend	5-1-03
340-248-0010	12-23-02	Amend	2-1-03	410-120-1620	4-1-03	Renumber	5-1-03
340-248-0100	12-23-02	Amend	2-1-03	410-120-1640	4-1-03	Amend	5-1-03
340-248-0120	12-23-02	Amend	2-1-03	410-120-1660	4-1-03	Amend	5-1-03
340-248-0130	12-23-02	Amend	2-1-03	410-120-1680	4-1-03	Amend	5-1-03
340-248-0140	12-23-02	Amend	2-1-03	410-120-1685	4-1-03	Adopt	5-1-03
340-248-0150	12-23-02	Amend	2-1-03	410-120-1875	5-1-03	Amend	6-1-03
340-248-0180	12-23-02	Amend	2-1-03	410-121-0000	2-1-03	Amend	3-1-03
340-248-0205	12-23-02	Amend	2-1-03	410-121-0030	4-1-03	Amend	5-1-03
340-248-0210	12-23-02	Amend	2-1-03	410-121-0030	5-1-03	Amend	6-1-03
340-248-0220	12-23-02	Amend	2-1-03	410-121-0040	4-1-03	Amend	5-1-03
340-248-0240	12-23-02	Amend	2-1-03	410-121-0060	4-1-03	Amend	5-1-03
340-248-0250	12-23-02	Amend	2-1-03	410-121-0140	3-1-03	Amend	4-1-03
340-248-0260	12-23-02	Amend	2-1-03	410-121-0140	4-1-03	Amend(T)	4-1-03
340-248-0270	12-23-02	Amend	2-1-03	410-121-0140	4-15-03	Amend(T)	5-1-03
340-248-0275	12-23-02	Amend	2-1-03	410-121-0140(T)	4-1-03	Suspend	5-1-03
340-248-0280	12-23-02	Amend	2-1-03	410-121-0140(T)	4-15-03	Suspend	5-1-03
340-248-0290	12-23-02	Amend	2-1-03	410-121-0146	1-1-03	Amend	2-1-03
345-026-0390	12-3-02	Amend	1-1-03	410-121-0153	2-1-03	Adopt	3-1-03
410-001-0030	11-22-02	Adopt	1-1-03	410-121-0153	3-1-03	Repeal	4-1-03
410-001-0100	3-21-03	Adopt(T)	5-1-03	410-121-0154	1-1-03	Adopt	2-1-03
410-001-0110	3-21-03	Adopt(T)	5-1-03	410-121-0157	2-14-03	Amend(T)	3-1-03
410-001-0120	3-21-03	Adopt(T)	5-1-03	410-121-0157	5-9-03	Amend	6-1-03
410-001-0130	3-21-03	Adopt(T)	5-1-03	410-121-0157	5-15-03	Amend(T)	6-1-03
410-001-0140	3-21-03	Adopt(T)	5-1-03	410-121-0157(T)	2-14-03	Suspend	3-1-03



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410-121-0160	4-15-03	Amend(T)	5-1-03	410-123-1240	1-1-03	Amend	2-1-03
410-121-0190	4-1-03	Amend	5-1-03	410-123-1260	2-1-03	Amend	3-1-03
410-121-0200	4-1-03	Amend	5-1-03	410-123-1280	2-1-03	Repeal	3-1-03
410-121-0300	12-1-02	Amend(T)	1-1-03	410-123-1290	2-1-03	Repeal	3-1-03
410-121-0300	2-28-03	Amend	4-1-03	410-123-1300	2-1-03	Repeal	3-1-03
410-121-0300	3-1-03	Amend(T)	4-1-03	410-123-1310	2-1-03	Repeal	3-1-03
410-121-0300(T)	12-1-02	Suspend	1-1-03	410-123-1320	2-1-03	Repeal	3-1-03
410-121-0300(T)	2-28-03	Repeal	4-1-03	410-123-1330	2-1-03	Repeal	3-1-03
410-121-0320	2-14-03	Amend(T)	3-1-03	410-123-1340	2-1-03	Repeal	3-1-03
410-121-0320(T)	2-14-03	Suspend	3-1-03	410-123-1360	2-1-03	Repeal	3-1-03
410-122-0020	12-24-02	Amend(T)	2-1-03	410-123-1380	2-1-03	Repeal	3-1-03
410-122-0020	5-1-03	Amend	6-1-03	410-123-1400	2-1-03	Repeal	3-1-03
410-122-0030	5-1-03	Amend	6-1-03	410-123-1420	2-1-03	Repeal	3-1-03
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

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410-130-0540	4-1-03	Amend	5-1-03	410-142-0300	2-28-03	Amend	4-1-03
410-130-0562	4-1-03	Amend	5-1-03	410-142-0320	2-1-03	Amend	3-1-03
410-130-0580	4-1-03	Amend	5-1-03	410-146-0075	1-1-03	Adopt	2-1-03
410-130-0585	4-1-03	Amend	5-1-03	410-146-0075	2-1-03	Amend	3-1-03
410-130-0660	4-1-03	Amend	5-1-03	410-146-0080	2-1-03	Amend	3-1-03
410-130-0680	4-1-03	Amend	5-1-03	410-146-0320	1-1-03	Amend	2-1-03
410-130-0700	4-1-03	Amend	5-1-03	410-147-0085	1-1-03	Adopt	2-1-03
410-130-0760	4-1-03	Amend	5-1-03	410-147-0085	2-1-03	Amend	3-1-03
410-130-0780	4-1-03	Amend	5-1-03	410-147-0120	2-1-03	Amend	3-1-03
410-130-0800	4-1-03	Amend	5-1-03	410-147-0600	1-1-03	Amend	2-1-03
410-130-0940	4-1-03	Amend	5-1-03	410-148-0020	4-1-03	Amend	5-1-03
410-130-0960	1-1-03	Adopt	2-1-03	410-148-0040	4-1-03	Amend	5-1-03
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	411-015-0005	12-6-02	Amend(T)	1-1-03
410-141-0080	2-1-03	Amend	3-1-03	411-015-0010	12-6-02	Amend(T)	1-1-03
410-141-0080	4-1-03	Amend	5-1-03	411-015-0015	12-6-02	Amend(T)	1-1-03
410-141-0260	4-1-03	Amend	5-1-03	411-015-0015	2-1-03	Amend	2-1-03
410-141-0261	4-1-03	Amend	5-1-03	411-015-0015	2-18-03	Amend(T)	3-1-03
410-141-0264	4-1-03	Amend	5-1-03	411-015-0015	3-12-03	Amend(T)	4-1-03
410-141-0420	2-1-03	Amend	3-1-03	411-015-0015	3-20-03	Amend(T)	5-1-03
410-141-0480	1-1-03	Amend	2-1-03	411-015-0015(T)	2-18-03	Suspend	3-1-03
410-141-0500	1-1-03	Amend	2-1-03	411-015-0015(T)	3-12-03	Suspend	4-1-03
410-141-0500	2-1-03	Amend	3-1-03	411-015-0015(T)	3-20-03	Suspend	5-1-03
410-141-0500	4-15-03	Amend	5-1-03	411-015-0100	12-6-02	Amend(T)	1-1-03
410-141-0520	1-1-03	Amend	2-1-03	411-015-0100	2-1-03	Amend	2-1-03
410-141-0520	3-1-03	Amend	4-1-03	411-030-0040	2-1-03	Amend(T)	3-1-03
410-141-0520	4-1-03	Amend	5-1-03	411-030-0080	2-1-03	Amend(T)	3-1-03
410-141-0520(T)	1-1-03	Repeal	2-1-03	411-032-0000	5-2-03	Amend	6-1-03
410-142-0080	2-1-03	Amend	3-1-03	411-032-0001	5-2-03	Amend	6-1-03
410-142-0100	2-1-03	Amend	3-1-03	411-032-0005	5-2-03	Amend	6-1-03
410-142-0200	2-1-03	Amend	3-1-03	411-032-0010	5-2-03	Amend	6-1-03

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411-032-0020	5-2-03	Amend	6-1-03	413-010-0718	1-7-03	Amend	2-1-03
411-032-0044	5-2-03	Amend	6-1-03	413-010-0719	1-7-03	Amend	2-1-03
411-300-0100	12-28-02	Adopt	2-1-03	413-010-0720	1-7-03	Amend	2-1-03
411-300-0110	12-28-02	Adopt	2-1-03	413-010-0721	1-7-03	Amend	2-1-03
411-300-0120	12-28-02	Adopt	2-1-03	413-010-0722	1-7-03	Amend	2-1-03
411-300-0130	12-28-02	Adopt	2-1-03	413-010-0723	1-7-03	Amend	2-1-03
411-300-0140	12-28-02	Adopt	2-1-03	413-010-0732	1-7-03	Amend	2-1-03
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	413-040-0400	1-7-03	Amend	2-1-03
413-010-0712	1-7-03	Amend	2-1-03	413-040-0410	1-7-03	Amend	2-1-03
413-010-0714	1-7-03	Amend	2-1-03	413-040-0420	1-7-03	Amend	2-1-03
413-010-0715	1-7-03	Amend	2-1-03	413-040-0430	1-7-03	Amend	2-1-03
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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
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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
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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
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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	416-430-0050	1-16-03	Amend	3-1-03
413-080-0030	1-7-03	Amend	2-1-03	436-035-0001	2-1-03	Amend	2-1-03
413-080-0200	1-9-03	Amend	2-1-03	436-035-0003	2-1-03	Amend	2-1-03
413-080-0205	1-9-03	Adopt	2-1-03	436-035-0005	2-1-03	Amend	2-1-03
413-080-0210	1-9-03	Amend	2-1-03	436-035-0007	2-1-03	Amend	2-1-03
413-080-0240	1-9-03	Amend	2-1-03	436-035-0010	2-1-03	Amend	2-1-03
413-080-0250	1-9-03	Amend	2-1-03	436-035-0030	2-1-03	Amend	2-1-03
413-080-0260	1-9-03	Amend	2-1-03	436-035-0040	2-1-03	Amend	2-1-03

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436-035-0060	2-1-03	Amend	2-1-03	436-160-0350	4-1-03	Adopt	5-1-03
436-035-0070	2-1-03	Amend	2-1-03	436-160-0360	4-1-03	Adopt	5-1-03
436-035-0075	2-1-03	Amend	2-1-03	437-002-0080	4-21-03	Amend	6-1-03
436-035-0080	2-1-03	Amend	2-1-03	437-002-0100	4-21-03	Amend	6-1-03
436-035-0100	2-1-03	Amend	2-1-03	437-002-0107	4-21-03	Amend	6-1-03
436-035-0110	2-1-03	Amend	2-1-03	437-002-0223	1-30-03	Amend	3-1-03
436-035-0150	2-1-03	Amend	2-1-03	437-003-0001	1-30-03	Amend	3-1-03
436-035-0160	2-1-03	Amend	2-1-03	437-003-0001	4-30-03	Amend	3-1-03
436-035-0170	2-1-03	Amend	2-1-03	437-003-0017	4-30-03	Adopt	3-1-03
436-035-0190	2-1-03	Amend	2-1-03	437-003-0420	1-30-03	Amend	3-1-03
436-035-0200	2-1-03	Amend	2-1-03	437-003-0706	4-30-03	Adopt	3-1-03
436-035-0220	2-1-03	Amend	2-1-03	437-005-0001	5-6-03	Amend	6-1-03
436-035-0230	2-1-03	Amend	2-1-03	438-005-0011	5-1-03	Amend	4-1-03
436-035-0250	2-1-03	Amend	2-1-03	438-005-0015	5-1-03	Amend	4-1-03
436-035-0260	2-1-03	Amend	2-1-03	438-005-0016	5-1-03	Repeal	4-1-03
436-035-0270	2-1-03	Amend	2-1-03	438-005-0040	5-1-03	Amend	4-1-03
436-035-0280	2-1-03	Amend	2-1-03	438-006-0031	5-1-03	Amend	4-1-03
436-035-0300	2-1-03	Amend	2-1-03	438-006-0036	5-1-03	Amend	4-1-03
436-035-0310	2-1-03	Amend	2-1-03	438-006-0075	5-1-03	Amend	4-1-03
436-035-0320	2-1-03	Amend	2-1-03	438-006-0081	5-1-03	Amend	4-1-03
436-035-0330	2-1-03	Amend	2-1-03	438-006-0091	5-1-03	Amend	4-1-03
436-035-0340	2-1-03	Amend	2-1-03	438-006-0095	5-1-03	Amend	4-1-03
436-035-0360	2-1-03	Amend	2-1-03	438-006-0099	5-1-03	Adopt	4-1-03
436-035-0370	2-1-03	Amend	2-1-03	438-007-0015	5-1-03	Amend	4-1-03
436-035-0390	2-1-03	Amend	2-1-03	438-007-0018	5-1-03	Amend	4-1-03
436-035-0395	2-1-03	Amend	2-1-03	438-007-0020	5-1-03	Amend	4-1-03
436-035-0420	2-1-03	Amend	2-1-03	438-007-0024	5-1-03	Adopt	4-1-03
436-035-0430	2-1-03	Amend	2-1-03	438-007-0027	5-1-03	Adopt	4-1-03
436-035-0440	2-1-03	Amend	2-1-03	438-022-0005	5-1-03	Adopt	4-1-03
436-035-0500	1-15-03	Amend(T)	2-1-03	438-022-0010	5-1-03	Adopt	4-1-03
436-035-0500	2-1-03	Amend	2-1-03	442-004-0010	12-6-02	Amend(T)	1-1-03
436-035-0500	4-15-03	Amend(T)	5-1-03	459-009-0350	1-15-03	Adopt	2-1-03
436-050-0060	4-1-03	Amend	5-1-03	459-035-0000	11-18-02	Amend	1-1-03
436-105-0003	12-11-02	Amend(T)	1-1-03	459-035-0001	11-18-02	Amend	1-1-03
436-105-0500	12-11-02	Amend(T)	1-1-03	459-035-0010	11-18-02	Amend	1-1-03
436-105-0510	12-11-02	Amend(T)	1-1-03	459-035-0020	11-18-02	Amend	1-1-03
436-160-0001	4-1-03	Adopt	5-1-03	459-035-0030	11-18-02	Amend	1-1-03
436-160-0002	4-1-03	Adopt	5-1-03	459-035-0040	11-18-02	Amend	1-1-03
436-160-0003	4-1-03	Adopt	5-1-03	459-035-0050	11-18-02	Amend	1-1-03
436-160-0004	4-1-03	Adopt	5-1-03	459-035-0070	11-18-02	Amend	1-1-03
436-160-0005	4-1-03	Adopt	5-1-03	459-035-0080	11-18-02	Amend	1-1-03
436-160-0006	4-1-03	Adopt	5-1-03	459-035-0090	11-18-02	Amend	1-1-03
436-160-0010	4-1-03	Adopt	5-1-03	459-035-0200	11-18-02	Amend	1-1-03
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436-160-0030	4-1-03	Adopt	5-1-03	459-035-0220	11-18-02	Adopt	1-1-03
436-160-0040	4-1-03	Adopt	5-1-03	461-006-0452	1-1-03	Amend	2-1-03
436-160-0050	4-1-03	Adopt	5-1-03	461-025-0310	1-1-03	Amend(T)	2-1-03
436-160-0060	4-1-03	Adopt	5-1-03	461-025-0315	1-1-03	Amend	2-1-03
436-160-0070	4-1-03	Adopt	5-1-03	461-025-0315	1-1-03	Amend(T)	2-1-03
436-160-0080	4-1-03	Adopt	5-1-03	461-101-0010	2-1-03	Amend	3-1-03
436-160-0090	4-1-03	Adopt	5-1-03	461-101-0010	4-1-03	Amend	5-1-03
436-160-0300	4-1-03	Adopt	5-1-03	461-110-0110	2-1-03	Amend	3-1-03
436-160-0310	4-1-03	Adopt	5-1-03	461-110-0115	1-1-03	Amend	2-1-03
436-160-0320	4-1-03	Adopt	5-1-03	461-110-0115	5-1-03	Amend(T)	6-1-03
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461-115-0530	3-1-03	Amend	4-1-03	461-155-0235	2-1-03	Amend	3-1-03
461-115-0651	4-1-03	Amend	5-1-03	461-155-0235	3-1-03	Amend(T)	4-1-03
461-115-0705	2-1-03	Amend	3-1-03	461-155-0235	4-1-03	Amend	5-1-03
461-120-0120	1-1-03	Amend	2-1-03	461-155-0235(T)	4-1-03	Repeal	5-1-03
461-120-0125	4-1-03	Amend	5-1-03	461-155-0250	1-1-03	Amend	2-1-03
461-120-0210	2-1-03	Amend	3-1-03	461-155-0250	4-1-03	Amend	5-1-03
461-120-0345	2-1-03	Amend	3-1-03	461-155-0250	5-1-03	Amend(T)	6-1-03
461-120-0630	4-1-03	Amend	5-1-03	461-155-0270	1-1-03	Amend	2-1-03
461-125-0370	4-11-03	Amend(T)	5-1-03	461-155-0290	4-1-03	Amend	5-1-03
461-125-0600	1-1-03	Amend	2-1-03	461-155-0291	4-1-03	Amend	5-1-03
461-130-0305	4-1-03	Amend	5-1-03	461-155-0295	1-1-03	Amend	2-1-03
461-130-0315	4-1-03	Amend	5-1-03	461-155-0295	1-1-03	Amend(T)	1-1-03
461-130-0330	4-1-03	Amend	5-1-03	461-155-0295	4-1-03	Amend	5-1-03
461-135-0010	2-1-03	Amend	3-1-03	461-155-0295(T)	1-1-03	Repeal	2-1-03
461-135-0082	4-1-03	Amend	5-1-03	461-155-0300	1-1-03	Amend	2-1-03
461-135-0301	1-1-03	Adopt(T)	2-1-03	461-155-0360	2-1-03	Amend	3-1-03
461-135-0400	4-1-03	Amend	5-1-03	461-155-0500	5-1-03	Amend	6-1-03
461-135-0401	1-1-03	Adopt	2-1-03	461-155-0526	5-1-03	Adopt	6-1-03
461-135-0401(T)	1-1-03	Repeal	2-1-03	461-155-0551	5-1-03	Adopt	6-1-03
461-135-0415	4-1-03	Amend	5-1-03	461-155-0560	5-1-03	Repeal	6-1-03
461-135-0505	2-7-03	Amend(T)	3-1-03	461-155-0600	5-1-03	Amend	6-1-03
461-135-0530	4-1-03	Amend	5-1-03	461-155-0610	5-1-03	Amend	6-1-03
461-135-0701	12-30-02	Adopt(T)	2-1-03	461-155-0680	1-1-03	Amend	2-1-03
461-135-0721	1-1-03	Adopt(T)	2-1-03	461-160-0010	2-1-03	Amend	3-1-03
461-135-0725	5-1-03	Amend(T)	6-1-03	461-160-0015	2-1-03	Amend	3-1-03
461-135-0730	1-1-03	Amend	2-1-03	461-160-0040	4-1-03	Amend	5-1-03
461-135-0730	1-1-03	Amend(T)	1-1-03	461-160-0193	4-1-03	Amend	5-1-03
461-135-0730(T)	1-1-03	Repeal	2-1-03	461-160-0580	1-1-03	Amend	2-1-03
461-135-0900	1-1-03	Amend	2-1-03	461-160-0620	1-1-03	Amend	2-1-03
461-135-0990	2-1-03	Amend	3-1-03	461-160-0700	2-1-03	Amend	3-1-03
461-135-1070	2-1-03	Amend	3-1-03	461-160-0810	1-1-03	Amend	2-1-03
461-135-1100	2-1-03	Amend	3-1-03	461-165-0030	2-1-03	Amend	3-1-03
461-135-1110	2-1-03	Amend	3-1-03	461-165-0030	4-1-03	Amend	5-1-03
461-135-1110	4-1-03	Amend	5-1-03	461-165-0160	4-1-03	Amend	5-1-03
461-135-1110(T)	4-1-03	Repeal	5-1-03	461-165-0171	4-1-03	Adopt	5-1-03
461-135-1120	2-1-03	Amend	3-1-03	461-165-0180	1-1-03	Amend	2-1-03
461-135-1130	2-1-03	Amend	3-1-03	461-165-0190	4-1-03	Amend	5-1-03
461-135-1180	2-1-03	Adopt	3-1-03	461-170-0015	1-1-03	Amend(T)	2-1-03
461-145-0080	4-1-03	Amend	5-1-03	461-170-0015	4-1-03	Amend	5-1-03
461-145-0130	4-1-03	Amend	5-1-03	461-170-0015(T)	4-1-03	Repeal	5-1-03
461-145-0255	1-1-03	Amend	2-1-03	461-170-0020	1-1-03	Amend(T)	2-1-03
461-145-0540	11-19-02	Amend(T)	1-1-03	461-170-0020	4-1-03	Amend	5-1-03
461-145-0540	5-1-03	Amend	6-1-03	461-170-0020(T)	4-1-03	Repeal	5-1-03
461-145-0540(T)	5-1-03	Repeal	6-1-03	461-170-0030	1-1-03	Amend(T)	2-1-03
461-145-0820	4-1-03	Amend(T)	5-1-03	461-170-0030	4-1-03	Amend	5-1-03
461-145-0830	4-1-03	Amend(T)	5-1-03	461-170-0030(T)	4-1-03	Repeal	5-1-03
461-150-0050	5-1-03	Amend(T)	6-1-03	461-170-0035	2-1-03	Amend	3-1-03
461-150-0055	2-1-03	Amend	3-1-03	461-175-0010	1-1-03	Amend(T)	2-1-03
461-155-0035	1-1-03	Amend(T)	2-1-03	461-175-0207	4-1-03	Amend	5-1-03
461-155-0150	1-1-03	Amend(T)	2-1-03	461-180-0010	4-1-03	Amend	5-1-03
461-155-0150	2-7-03	Amend(T)	3-1-03	461-180-0070	4-1-03	Amend	5-1-03
461-155-0150(T)	2-7-03	Suspend	3-1-03	461-180-0090	3-1-03	Amend	4-1-03
461-155-0225	2-1-03	Amend	3-1-03	461-180-0097	2-1-03	Amend	3-1-03
461-155-0225	2-7-03	Amend(T)	3-1-03	461-180-0100	2-1-03	Amend	3-1-03
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461-193-0560(T)	2-14-03	Suspend	3-1-03	471-030-0076	2-9-03	Amend	3-1-03
461-195-0521	1-1-03	Amend	2-1-03	471-030-0080	11-24-02	Amend	1-1-03
461-200-1070	1-1-03	Adopt	2-1-03	471-031-0010	2-9-03	Amend	3-1-03
461-200-1160	3-1-03	Amend	4-1-03	471-031-0035	2-9-03	Amend	3-1-03
461-200-1180	3-1-03	Amend	4-1-03	471-031-0040	2-9-03	Amend	3-1-03
461-200-1500	3-1-03	Amend	4-1-03	471-031-0055	2-9-03	Amend	3-1-03
461-200-3260	3-1-03	Amend	4-1-03	471-031-0075	2-9-03	Amend	3-1-03
461-200-3420	3-1-03	Amend	4-1-03	471-031-0095	2-9-03	Amend	3-1-03
461-200-5020	3-1-03	Amend	4-1-03	471-040-0005	4-27-03	Amend	6-1-03
461-200-5040	3-1-03	Amend	4-1-03	543-040-0040	12-16-02	Amend(T)	1-1-03
461-200-5060	3-1-03	Amend	4-1-03	573-040-0005	4-16-03	Amend	6-1-03
461-200-5120	3-1-03	Amend	4-1-03	573-070-0011	12-30-02	Amend	2-1-03
461-200-5125	3-1-03	Amend	4-1-03	573-071-0005	4-16-03	Amend	6-1-03
461-200-7140	3-1-03	Amend	4-1-03	573-071-0030	4-16-03	Repeal	6-1-03
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462-110-0010	4-23-03	Amend	6-1-03	581-015-0005	3-10-03	Amend	4-1-03
462-110-0020	1-1-03	Amend	1-1-03	581-015-0016	3-10-03	Amend	4-1-03
462-110-0030	4-1-03	Amend(T)	5-1-03	581-015-0017	3-10-03	Amend	4-1-03
462-120-0020	1-1-03	Amend	1-1-03	581-015-0017	4-30-03	Amend	6-1-03
462-120-0040	1-1-03	Amend	1-1-03	581-015-0035	3-10-03	Amend	4-1-03
462-120-0050	1-1-03	Amend	1-1-03	581-015-0037	3-10-03	Amend	4-1-03
462-120-0100	1-1-03	Amend	1-1-03	581-015-0039	3-10-03	Amend	4-1-03
462-130-0010	1-1-03	Amend	1-1-03	581-015-0042	3-10-03	Amend	4-1-03
462-130-0050	1-1-03	Amend	1-1-03	581-015-0044	3-10-03	Amend	4-1-03
462-140-0030	1-1-03	Amend	1-1-03	581-015-0048	3-10-03	Amend	4-1-03
462-140-0040	1-1-03	Amend	1-1-03	581-015-0049	3-10-03	Amend	4-1-03
462-140-0100	1-1-03	Amend	1-1-03	581-015-0051	3-10-03	Amend	4-1-03
462-140-0120	4-1-03	Amend(T)	5-1-03	581-015-0053	4-30-03	Amend	6-1-03
462-140-0130	1-1-03	Amend	1-1-03	581-015-0054	3-10-03	Amend	4-1-03
462-140-0250	1-1-03	Amend	1-1-03	581-015-0057	3-10-03	Amend	4-1-03
462-140-0370	1-1-03	Amend	1-1-03	581-015-0059	3-10-03	Amend	4-1-03
462-140-0400	4-1-03	Amend(T)	5-1-03	581-015-0061	3-10-03	Amend	4-1-03
462-140-0420	4-1-03	Amend(T)	5-1-03	581-015-0062	3-10-03	Amend	4-1-03
462-140-0460	4-1-03	Amend(T)	5-1-03	581-015-0063	3-10-03	Amend	4-1-03
462-150-0010	1-1-03	Amend	1-1-03	581-015-0066	3-10-03	Amend	4-1-03
462-150-0050	1-1-03	Amend	1-1-03	581-015-0067	3-10-03	Amend	4-1-03
462-150-0070	1-1-03	Amend	1-1-03	581-015-0068	3-10-03	Amend	4-1-03
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462-160-0010	1-1-03	Amend	1-1-03	581-015-0075	3-10-03	Amend	4-1-03
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462-160-0030	1-1-03	Amend	1-1-03	581-015-0080	3-10-03	Amend	4-1-03
462-170-0030	4-1-03	Amend(T)	5-1-03	581-015-0081	3-10-03	Amend	4-1-03
462-170-0050	4-1-03	Amend(T)	5-1-03	581-015-0085	3-10-03	Amend	4-1-03
462-170-0080	4-1-03	Amend(T)	5-1-03	581-015-0086	3-10-03	Amend	4-1-03
462-180-0010	4-1-03	Amend(T)	5-1-03	581-015-0088	3-10-03	Amend	4-1-03
462-200-0630	4-23-03	Adopt	6-1-03	581-015-0093	3-10-03	Amend	4-1-03
471-010-0040	2-9-03	Amend	3-1-03	581-015-0094	3-10-03	Amend	4-1-03
471-010-0050	3-29-03	Amend(T)	5-1-03	581-015-0097	3-10-03	Adopt	4-1-03
471-010-0054	12-1-02	Amend(T)	1-1-03	581-015-0099	3-10-03	Amend	4-1-03
471-020-0035	2-16-03	Adopt	3-1-03	581-015-0101	3-10-03	Amend	4-1-03
471-020-0035	4-27-03	Amend	6-1-03	581-015-0108	4-30-03	Amend	6-1-03
471-020-0040	2-16-03	Adopt	3-1-03	581-015-0109	4-30-03	Amend	6-1-03
471-030-0015	2-9-03	Amend	3-1-03	581-015-0126	3-10-03	Amend	4-1-03
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581-015-0291	4-30-03	Amend	6-1-03	581-023-0035	3-10-03	Amend	4-1-03
581-015-0293	4-30-03	Amend	6-1-03	581-053-0002	3-4-03	Amend(T)	4-1-03
581-015-0294	4-30-03	Amend	6-1-03	583-030-0010	4-16-03	Amend	6-1-03
581-015-0296	3-10-03	Amend	4-1-03	583-030-0015	4-16-03	Amend	6-1-03
581-015-0301	4-30-03	Amend	6-1-03	583-030-0020	4-16-03	Amend	6-1-03
581-015-0550	3-10-03	Amend	4-1-03	583-030-0021	4-16-03	Amend	6-1-03
581-015-0551	3-10-03	Amend	4-1-03	583-030-0025	4-16-03	Amend	6-1-03
581-015-0552	3-10-03	Amend	4-1-03	583-030-0030	4-16-03	Amend	6-1-03
581-015-0553	3-10-03	Amend	4-1-03	583-030-0035	4-16-03	Amend	6-1-03
581-015-0555	3-10-03	Amend	4-1-03	583-030-0036	4-16-03	Amend	6-1-03
581-015-0556	3-10-03	Amend	4-1-03	583-030-0040	4-16-03	Amend	6-1-03
581-015-0558	3-10-03	Amend	4-1-03	583-030-0042	4-16-03	Amend	6-1-03
581-015-0559	3-10-03	Amend	4-1-03	583-030-0045	4-16-03	Amend	6-1-03
581-015-0568	3-10-03	Amend	4-1-03	583-030-0046	4-16-03	Amend	6-1-03
581-015-0601	3-10-03	Amend	4-1-03	583-030-0049	4-16-03	Amend	6-1-03
581-015-0606	4-30-03	Amend	6-1-03	584-005-0005	5-15-03	Amend	6-1-03
581-015-0607	3-10-03	Adopt	4-1-03	584-017-0041	3-10-03	Adopt(T)	4-1-03
581-015-0608	3-10-03	Adopt	4-1-03	584-017-0150	5-15-03	Amend	6-1-03
581-015-0704	4-30-03	Amend	6-1-03	584-017-0170	1-13-03	Amend	2-1-03
581-015-0705	4-30-03	Amend	6-1-03	584-036-0055	1-13-03	Amend	2-1-03
581-015-0706	4-30-03	Amend	6-1-03	584-060-0061	1-13-03	Amend	2-1-03
581-015-0805	3-10-03	Amend	4-1-03	584-060-0071	5-15-03	Amend	6-1-03
581-015-0811	3-10-03	Amend	4-1-03	584-060-0210	5-15-03	Adopt	6-1-03
581-015-0816	3-10-03	Amend	4-1-03	584-065-0050	1-13-03	Adopt	2-1-03
581-015-0820	3-10-03	Amend	4-1-03	584-065-0050	5-15-03	Amend	6-1-03
581-015-0825	3-10-03	Amend	4-1-03	589-001-0000	1-9-03	Amend	2-1-03
581-015-0900	3-10-03	Amend	4-1-03	589-002-0100	12-16-02	Amend(T)	2-1-03
581-015-0935	3-10-03	Amend	4-1-03	589-002-0100	5-14-03	Amend	6-1-03
581-015-0937	3-10-03	Amend	4-1-03	589-002-0200	1-9-03	Amend	2-1-03
581-015-0938	3-10-03	Amend	4-1-03	589-002-0300	1-9-03	Amend	2-1-03
581-015-0939	3-10-03	Amend	4-1-03	589-002-0400	1-9-03	Repeal	2-1-03
581-015-0940	4-30-03	Amend	6-1-03	589-002-0500	1-9-03	Amend	2-1-03
581-015-0941	4-30-03	Amend	6-1-03	589-002-0600	1-9-03	Amend	2-1-03
581-015-0945	3-10-03	Amend	4-1-03	589-002-0700	1-9-03	Amend	2-1-03
581-015-0946	3-10-03	Amend	4-1-03	589-002-0800	1-9-03	Amend	2-1-03
581-015-0949	4-30-03	Amend	6-1-03	589-003-0100	1-9-03	Amend	2-1-03
581-015-0960	3-10-03	Amend	4-1-03	589-005-0100	1-9-03	Amend	2-1-03
581-015-0964	3-10-03	Amend	4-1-03	589-005-0200	1-9-03	Amend	2-1-03
581-015-0966	3-10-03	Amend	4-1-03	589-005-0300	1-9-03	Amend	2-1-03
581-015-0968	3-10-03	Amend	4-1-03	589-005-0400	1-9-03	Amend	2-1-03
581-015-0970	3-10-03	Amend	4-1-03	589-005-0500	1-9-03	Amend	2-1-03
581-015-0972	3-10-03	Adopt	4-1-03	589-006-0050	1-9-03	Adopt	2-1-03
581-015-0980	3-10-03	Amend	4-1-03	589-006-0100	1-9-03	Amend	2-1-03
581-015-0990	3-10-03	Amend	4-1-03	589-006-0150	1-9-03	Adopt	2-1-03
581-015-1000	3-10-03	Amend	4-1-03	589-006-0200	1-9-03	Amend	2-1-03
581-015-1008	3-10-03	Amend	4-1-03	589-006-0300	1-9-03	Amend	2-1-03
581-015-1051	3-10-03	Adopt	4-1-03	589-006-0350	1-9-03	Adopt	2-1-03
581-015-1052	3-10-03	Adopt	4-1-03	589-006-0400	1-9-03	Amend	2-1-03
581-015-1100	3-10-03	Amend	4-1-03	589-007-0100	3-10-03	Amend	4-1-03
581-015-1107	3-10-03	Repeal	4-1-03	589-007-0110	3-10-03	Adopt	4-1-03
581-015-1110	3-10-03	Amend	4-1-03	589-007-0120	3-10-03	Adopt	4-1-03
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581-021-0021	5-15-03	Adopt(T)	6-1-03	589-007-0140	3-10-03	Adopt	4-1-03
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589-007-0200	1-9-03	Amend	2-1-03	603-082-0050	2-27-03	Adopt	4-1-03
589-007-0300	1-9-03	Amend	2-1-03	603-082-0060	2-27-03	Adopt	4-1-03
589-008-0100	1-9-03	Amend	2-1-03	603-082-0070	2-27-03	Adopt	4-1-03
589-008-0200	1-9-03	Amend	2-1-03	603-082-0080	2-27-03	Adopt	4-1-03
589-009-0100	1-9-03	Amend	2-1-03	603-082-0090	2-27-03	Adopt	4-1-03
589-020-0270	12-4-02	Adopt(T)	1-1-03	603-082-0100	2-27-03	Adopt	4-1-03
589-020-0270	5-14-03	Adopt	6-1-03	603-095-0200	1-7-03	Amend	2-1-03
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603-011-0265	3-17-03	Amend(T)	5-1-03	603-095-0240	1-7-03	Amend	2-1-03
603-011-0376	1-17-03	Adopt(T)	3-1-03	603-095-0280	1-7-03	Amend	2-1-03
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603-011-0376(T)	3-27-03	Suspend	5-1-03	603-095-0640	1-7-03	Amend	2-1-03
603-014-0095	1-15-03	Amend	2-1-03	603-095-0660	1-7-03	Amend	2-1-03
603-025-0010	1-1-03	Amend	2-1-03	603-095-2000	1-7-03	Adopt	2-1-03
603-025-0020	1-1-03	Amend	2-1-03	603-095-2020	1-7-03	Adopt	2-1-03
603-025-0030	1-1-03	Amend	2-1-03	603-095-2040	1-7-03	Adopt	2-1-03
603-025-0180	1-1-03	Amend	2-1-03	603-095-2060	1-7-03	Adopt	2-1-03
603-025-0190	1-1-03	Amend	2-1-03	603-095-2300	1-7-03	Adopt	2-1-03
603-025-0220	1-1-03	Repeal	2-1-03	603-095-2320	1-7-03	Adopt	2-1-03
603-052-1025	4-18-03	Amend	6-1-03	603-095-2340	1-7-03	Adopt	2-1-03
603-052-1150	1-14-03	Adopt	2-1-03	603-095-2360	1-7-03	Adopt	2-1-03
603-052-1200	12-10-02	Amend	1-1-03	603-095-2400	1-7-03	Adopt	2-1-03
603-053-0200	12-23-02	Amend	2-1-03	603-095-2420	1-7-03	Adopt	2-1-03
603-054-0016	1-7-03	Amend	2-1-03	603-095-2440	1-7-03	Adopt	2-1-03
603-054-0017	1-7-03	Amend	2-1-03	603-095-2460	1-7-03	Adopt	2-1-03
603-054-0018	1-7-03	Amend	2-1-03	603-105-0010	12-23-02	Adopt	2-1-03
603-054-0020	1-7-03	Adopt	2-1-03	611-010-0010	5-12-03	Amend	6-1-03
603-054-0024	1-7-03	Adopt	2-1-03	621-001-0005	2-1-03	Adopt	2-1-03
603-054-0030	1-7-03	Amend	2-1-03	621-001-0010	2-1-03	Adopt	2-1-03
603-054-0080	1-7-03	Adopt	2-1-03	622-001-0000	1-16-03	Amend	2-1-03
603-056-0165	1-14-03	Amend	2-1-03	622-001-0005	1-16-03	Amend	2-1-03
603-057-0378	3-28-03	Adopt(T)	5-1-03	622-001-0010	1-16-03	Repeal	2-1-03
603-057-0410	12-4-02	Amend(T)	1-1-03	622-010-0000	1-16-03	Amend	2-1-03
603-057-0410	4-22-03	Amend(T)	6-1-03	622-010-0006	1-16-03	Amend	2-1-03
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603-059-0070	1-1-03	Adopt	1-1-03	622-020-0001	1-16-03	Amend	2-1-03
603-059-0080	1-1-03	Adopt	1-1-03	622-020-0140	1-16-03	Amend	2-1-03
603-059-0100	1-1-03	Adopt	1-1-03	622-020-0141	1-16-03	Amend	2-1-03
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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
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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
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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
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622-050-0030	1-16-03	Repeal	2-1-03	635-004-0018	1-1-03	Amend	2-1-03
622-050-0040	1-16-03	Repeal	2-1-03	635-004-0025	1-1-03	Amend	2-1-03
622-050-0050	1-16-03	Repeal	2-1-03	635-004-0027	2-10-03	Amend(T)	3-1-03
622-050-0060	1-16-03	Repeal	2-1-03	635-004-0029	1-1-03	Amend	2-1-03
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622-055-0005	1-16-03	Amend	2-1-03	635-004-0033	2-21-03	Amend(T)	4-1-03
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622-055-0015	1-16-03	Adopt	2-1-03	635-004-0050	1-1-03	Amend	2-1-03
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622-065-0001	1-16-03	Amend	2-1-03	635-005-0045	12-6-02	Amend(T)	1-1-03
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622-065-0003	1-16-03	Amend	2-1-03	635-005-0190	3-26-03	Amend	5-1-03
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622-065-0010	1-16-03	Amend	2-1-03	635-006-0850	1-1-03	Amend	2-1-03
622-065-0011	1-16-03	Amend	2-1-03	635-006-0850	3-26-03	Amend	5-1-03
622-065-0012	1-16-03	Repeal	2-1-03	635-006-0850	5-12-03	Amend(T)	6-1-03
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629-606-0200	1-1-03	Amend	1-1-03	635-006-1035	2-10-03	Amend(T)	3-1-03
629-606-0600	1-1-03	Amend	1-1-03	635-006-1085	2-10-03	Amend(T)	3-1-03
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629-623-0250	1-1-03	Adopt	1-1-03	635-007-0504	11-22-02	Adopt	1-1-03
629-623-0300	1-1-03	Adopt	1-1-03	635-007-0505	11-22-02	Adopt	1-1-03
629-623-0400	1-1-03	Adopt	1-1-03	635-007-0506	11-22-02	Adopt	1-1-03
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629-623-0500	1-1-03	Adopt	1-1-03	635-013-0003	1-1-03	Amend	1-1-03
629-623-0550	1-1-03	Adopt	1-1-03	635-013-0003	5-1-03	Amend	6-1-03
629-623-0600	1-1-03	Adopt	1-1-03	635-013-0004	1-1-03	Amend	1-1-03
629-623-0700	1-1-03	Adopt	1-1-03	635-013-0004	3-1-03	Amend(T)	4-1-03
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629-630-0500	1-1-03	Amend	1-1-03	635-017-0080	1-1-03	Amend	1-1-03
629-630-0500	1-29-03	Amend(T)	3-1-03	635-017-0090	1-1-03	Amend	1-1-03
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635-003-0004	5-1-03	Amend	6-1-03	635-023-0090	1-1-03	Amend	1-1-03
635-003-0076	5-1-03	Amend	6-1-03	635-023-0090	2-14-03	Amend	3-1-03
635-003-0085	5-1-03	Amend	6-1-03	635-023-0090	3-1-03	Amend(T)	4-1-03

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635-023-0090	5-1-03	Amend	6-1-03	635-065-0760	7-1-03	Amend	3-1-03
635-023-0090	5-1-03	Amend(T)	6-1-03	635-065-0765	1-17-02	Amend	3-1-03
635-039-0080	1-1-03	Amend	1-1-03	635-066-0000	1-17-02	Amend	3-1-03
635-039-0090	1-1-03	Amend	1-1-03	635-066-0020	1-17-02	Amend	3-1-03
635-039-0090	5-1-03	Amend	6-1-03	635-067-0000	1-17-02	Amend	3-1-03
635-041-0030	3-25-03	Amend(T)	5-1-03	635-067-0004	1-17-02	Amend	3-1-03
635-041-0040	4-24-03	Amend(T)	6-1-03	635-067-0015	1-17-02	Amend	3-1-03
635-041-0065	12-19-02	Amend(T)	2-1-03	635-067-0032	1-17-02	Amend	3-1-03
635-041-0065	3-13-03	Amend(T)	4-1-03	635-067-0034	1-17-02	Amend	3-1-03
635-041-0067	4-24-03	Amend(T)	6-1-03	635-067-0040	1-17-02	Amend	3-1-03
635-042-0020	2-14-03	Amend	3-1-03	635-068-0000	1-20-03	Amend	3-1-03
635-042-0020	2-20-03	Amend(T)	4-1-03	635-069-0000	2-1-03	Amend	3-1-03
635-042-0021	3-21-03	Adopt(T)	5-1-03	635-069-0010	1-17-02	Amend	3-1-03
635-042-0110	2-14-03	Amend	3-1-03	635-070-0000	1-17-02	Amend	3-1-03
635-042-0130	12-19-02	Amend(T)	2-1-03	635-070-0000	1-28-03	Amend(T)	3-1-03
635-042-0135	12-19-02	Amend(T)	2-1-03	635-071-0000	1-17-02	Amend	3-1-03
635-042-0135	1-28-03	Amend(T)	3-1-03	635-071-0000	1-28-03	Amend(T)	3-1-03
635-042-0135	2-3-03	Amend(T)	3-1-03	635-071-0030	1-17-02	Amend	3-1-03
635-042-0145	2-14-03	Amend	3-1-03	635-072-0000	1-17-02	Amend	3-1-03
635-042-0145	3-1-03	Amend(T)	4-1-03	635-073-0000	1-20-03	Amend	3-1-03
635-042-0145	4-23-03	Amend(T)	6-1-03	635-073-0001	1-17-02	Amend	3-1-03
635-042-0145	4-24-03	Amend(T)	6-1-03	635-073-0070	1-17-02	Amend	3-1-03
635-042-0145	5-1-03	Amend(T)	6-1-03	635-073-0080	1-17-02	Amend	3-1-03
635-042-0145	5-7-03	Amend(T)	6-1-03	635-073-0090	1-17-02	Amend	3-1-03
635-042-0160	2-14-03	Amend	3-1-03	635-075-0020	4-1-03	Amend	3-1-03
635-042-0160	4-24-03	Amend(T)	6-1-03	635-075-0029	3-28-03	Amend(T)	5-1-03
635-042-0160	5-1-03	Amend(T)	6-1-03	635-078-0008	1-17-02	Amend	3-1-03
635-042-0170	2-14-03	Amend	3-1-03	635-080-0070	1-17-02	Amend	3-1-03
635-042-0170	4-24-03	Amend(T)	6-1-03	635-160-0000	2-14-03	Amend	3-1-03
635-042-0170	5-1-03	Amend(T)	6-1-03	635-160-0010	2-14-03	Amend	3-1-03
635-042-0180	4-17-03	Amend(T)	4-1-03	635-160-0020	2-14-03	Amend	3-1-03
635-042-0180	4-24-03	Amend(T)	6-1-03	635-160-0030	2-14-03	Amend	3-1-03
635-042-0180	5-1-03	Amend(T)	6-1-03	635-190-0000	2-14-03	Amend	3-1-03
635-043-0056	1-14-03	Adopt(T)	2-1-03	635-190-0010	2-14-03	Amend	3-1-03
635-043-0056	4-15-03	Adopt(T)	5-1-03	635-190-0020	2-14-03	Amend	3-1-03
635-043-0056	4-17-03	Adopt	6-1-03	635-190-0030	2-14-03	Amend	3-1-03
635-043-0056	5-12-03	Amend(T)	6-1-03	635-412-0020	3-26-03	Adopt	5-1-03
635-045-0000	1-17-02	Amend	3-1-03	635-412-0025	3-26-03	Adopt	5-1-03
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635-053-0105	5-13-03	Amend	6-1-03	644-001-0005	1-6-03	Repeal	2-1-03
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635-065-0001	1-28-03	Amend(T)	3-1-03	660-026-0010	1-17-03	Adopt	3-1-03
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635-065-0625	1-17-02	Amend	3-1-03	690-015-0005	5-1-03	Am. & Ren.	6-1-03
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690-015-0048	5-1-03	Am. & Ren.	6-1-03	690-240-0120	3-14-03	Renumber	4-1-03
690-015-0050	5-1-03	Am. & Ren.	6-1-03	690-240-0126	3-14-03	Am. & Ren.	4-1-03
690-015-0057	5-1-03	Am. & Ren.	6-1-03	690-240-0130	3-14-03	Renumber	4-1-03
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690-015-0085	5-1-03	Am. & Ren.	6-1-03	690-240-0145	3-14-03	Renumber	4-1-03
690-015-0087	5-1-03	Am. & Ren.	6-1-03	690-240-0150	3-14-03	Renumber	4-1-03
690-015-0090	5-1-03	Am. & Ren.	6-1-03	690-240-0155	3-14-03	Am. & Ren.	4-1-03
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690-015-0120	5-1-03	Renumber	6-1-03	690-240-0170	3-14-03	Renumber	4-1-03
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690-015-0240	5-1-03	Am. & Ren.	6-1-03	690-240-0240	3-14-03	Adopt	4-1-03
690-015-0300	5-1-03	Am. & Ren.	6-1-03	690-240-0250	3-14-03	Adopt	4-1-03
690-015-0310	5-1-03	Renumber	6-1-03	690-240-0260	3-14-03	Adopt	4-1-03
690-015-0320	5-1-03	Am. & Ren.	6-1-03	690-240-0270	3-14-03	Adopt	4-1-03
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690-205-0060	3-14-03	Renumber	4-1-03	690-380-3410	5-1-03	Adopt	6-1-03
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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
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738-020-0045	12-1-02	Amend	1-1-03	740-100-0090	4-21-03	Amend	6-1-03
738-030-0015	12-1-02	Amend	1-1-03	740-110-0010	4-21-03	Amend	6-1-03
738-030-0020	12-1-02	Amend	1-1-03	740-200-0010	11-18-02	Amend	1-1-03
738-030-0025	12-1-02	Amend	1-1-03	740-200-0020	11-18-02	Amend	1-1-03
738-035-0005	3-1-03	Adopt	4-1-03	740-200-0040	11-18-02	Adopt	1-1-03
738-035-0010	3-1-03	Adopt	4-1-03	741-500-0010	3-24-03	Repeal	5-1-03
738-035-0015	3-1-03	Adopt	4-1-03	741-500-0020	3-24-03	Repeal	5-1-03
738-035-0020	3-1-03	Adopt	4-1-03	741-500-0030	3-24-03	Repeal	5-1-03
738-035-0025	3-1-03	Adopt	4-1-03	741-500-0040	3-24-03	Repeal	5-1-03
738-035-0030	3-1-03	Adopt	4-1-03	741-500-0050	3-24-03	Repeal	5-1-03
738-035-0035	3-1-03	Adopt	4-1-03	801-001-0000	1-1-03	Amend	2-1-03
738-035-0040	3-1-03	Adopt	4-1-03	801-001-0005	1-1-03	Amend	2-1-03
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
738-035-0055	3-1-03	Adopt	4-1-03	801-001-0030	1-1-03	Adopt	2-1-03
738-035-0060	3-1-03	Adopt	4-1-03	801-005-0010	1-1-03	Amend	2-1-03
738-035-0065	3-1-03	Adopt	4-1-03	801-010-0010	1-1-03	Amend	2-1-03
738-035-0070	3-1-03	Adopt	4-1-03	801-010-0045	1-1-03	Amend	2-1-03
738-035-0075	3-1-03	Adopt	4-1-03	801-010-0050	1-1-03	Amend	2-1-03
738-040-0010	12-1-02	Amend	1-1-03	801-010-0060	1-1-03	Amend	2-1-03
738-040-0020	12-1-02	Amend	1-1-03	801-010-0065	1-1-03	Amend	2-1-03
738-040-0040	12-1-02	Amend	1-1-03	801-010-0075	1-1-03	Amend	2-1-03
738-050-0020	12-1-02	Amend	1-1-03	801-010-0078	1-1-03	Amend	2-1-03
738-050-0060	12-1-02	Amend	1-1-03	801-010-0079	1-1-03	Amend	2-1-03
738-050-0070	12-1-02	Amend	1-1-03	801-010-0080	1-1-03	Amend	2-1-03
738-050-0090	12-1-02	Amend	1-1-03	801-010-0085	1-1-03	Amend	2-1-03
738-060-0050	12-1-02	Amend	1-1-03	801-010-0100	1-1-03	Amend	2-1-03
738-070-0010	12-1-02	Amend	1-1-03	801-010-0110	1-1-03	Amend	2-1-03
738-070-0020	12-1-02	Amend	1-1-03	801-010-0115	1-1-03	Amend	2-1-03
738-070-0040	12-1-02	Amend	1-1-03	801-010-0340	1-1-03	Amend	2-1-03
738-070-0060	12-1-02	Amend	1-1-03	801-020-0620	1-1-03	Amend	2-1-03
738-070-0070	12-1-02	Amend	1-1-03	801-020-0690	1-1-03	Amend	2-1-03
738-070-0080	12-1-02	Amend	1-1-03	801-020-0710	1-1-03	Amend	2-1-03
738-070-0100	12-1-02	Amend	1-1-03	801-020-0720	1-1-03	Amend	2-1-03
738-070-0160	12-1-02	Amend	1-1-03	801-030-0020	1-1-03	Amend	2-1-03
738-070-0170	12-1-02	Amend	1-1-03	801-040-0010	1-1-03	Amend	2-1-03
738-070-0180	12-1-02	Amend	1-1-03	801-040-0030	1-1-03	Amend	2-1-03
738-070-0210	12-1-02	Amend	1-1-03	801-040-0050	1-1-03	Amend	2-1-03
738-070-0230	12-1-02	Amend	1-1-03	806-001-0003	7-1-03	Amend	5-1-03
738-080-0030	12-1-02	Amend	1-1-03	806-010-0080	4-11-03	Amend	5-1-03
738-090-0030	12-1-02	Amend	1-1-03	806-010-0090	1-15-03	Amend	2-1-03
738-090-0040	12-1-02	Amend	1-1-03	806-010-0095	12-12-02	Amend	1-1-03
738-090-0050	12-1-02	Amend	1-1-03	806-010-0105	1-15-03	Amend	2-1-03
738-100-0010	12-1-02	Amend	1-1-03	806-010-0110	4-11-03	Amend	5-1-03
738-100-0035	12-1-02	Amend	1-1-03	806-010-0145	1-15-03	Amend	2-1-03
740-035-0200	11-18-02	Amend	1-1-03	808-001-0000	2-1-03	Amend	3-1-03
740-035-0210	11-18-02	Repeal	1-1-03	808-001-0005	2-1-03	Amend	3-1-03
740-035-0220	11-18-02	Repeal	1-1-03	808-001-0020	12-4-02	Amend	1-1-03
740-035-0230	11-18-02	Repeal	1-1-03	808-001-0020	2-1-03	Amend	3-1-03
740-035-0240	11-18-02	Repeal	1-1-03	808-001-0030	12-4-02	Amend	1-1-03
740-035-0250	11-18-02	Amend	1-1-03	808-001-0040	2-1-03	Repeal	3-1-03
740-035-0260	11-18-02	Amend	1-1-03	808-002-0220	12-4-02	Amend	1-1-03
740-055-0120	2-13-03	Amend	3-1-03	808-002-0290	12-4-02	Adopt	1-1-03
740-100-0010	4-21-03	Amend	6-1-03	808-002-0670	12-4-02	Amend	1-1-03
740-100-0070	4-21-03	Amend	6-1-03	808-002-0670	12-4-02	Renumber	1-1-03

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808-003-0015	2-1-03	Amend	3-1-03	808-008-0420	2-1-03	Amend	3-1-03
808-003-0020	2-1-03	Amend	3-1-03	808-008-0425	2-1-03	Adopt	3-1-03
808-003-0025	12-4-02	Amend	1-1-03	808-008-0430	2-1-03	Adopt	3-1-03
808-003-0035	2-1-03	Amend	3-1-03	808-008-0440	2-1-03	Amend	3-1-03
808-003-0040	2-1-03	Amend	3-1-03	808-008-0460	2-1-03	Amend	3-1-03
808-003-0045	2-1-03	Amend	3-1-03	808-008-0480	2-1-03	Amend	3-1-03
808-003-0055	12-4-02	Amend	1-1-03	808-009-0020	12-4-02	Amend	1-1-03
808-003-0060	2-1-03	Amend	3-1-03	808-009-0020	2-1-03	Amend	3-1-03
808-003-0065	2-1-03	Amend	3-1-03	808-009-0070	12-4-02	Amend	1-1-03
808-003-0070	12-4-02	Amend	1-1-03	808-009-0100	12-4-02	Amend	1-1-03
808-003-0075	12-4-02	Amend	1-1-03	808-009-0120	12-4-02	Amend	1-1-03
808-003-0081	12-4-02	Adopt	1-1-03	808-009-0140	12-18-02	Amend	2-1-03
808-003-0085	12-4-02	Adopt	1-1-03	808-009-0160	12-4-02	Amend	1-1-03
808-003-0095	2-1-03	Amend	3-1-03	808-009-0160	2-1-03	Amend	3-1-03
808-003-0100	12-4-02	Amend	1-1-03	808-009-0200	2-1-03	Adopt	3-1-03
808-003-0105	2-1-03	Amend	3-1-03	808-009-0220	12-4-02	Amend	1-1-03
808-003-0130	2-1-03	Amend	3-1-03	808-009-0400	12-4-02	Amend	1-1-03
808-004-0120	12-4-02	Adopt	1-1-03	808-009-0400	2-1-03	Amend	3-1-03
808-004-0180	12-4-02	Amend	1-1-03	808-009-0420	12-4-02	Amend	1-1-03
808-004-0200	12-4-02	Am. & Ren.	1-1-03	808-009-0420	2-1-03	Amend	3-1-03
808-004-0250	12-4-02	Amend	1-1-03	808-009-0430	12-4-02	Adopt	1-1-03
808-004-0260	12-4-02	Adopt	1-1-03	808-009-0440	12-4-02	Amend	1-1-03
808-004-0320	12-4-02	Amend	1-1-03	809-050-0030	12-2-02	Suspend	1-1-03
808-004-0340	12-4-02	Amend	1-1-03	809-050-0030	4-4-03	Repeal	5-1-03
808-004-0440	12-4-02	Amend	1-1-03	812-001-0020	12-23-02	Amend	2-1-03
808-004-0440	2-1-03	Amend	3-1-03	812-001-0020	3-11-03	Amend(T)	4-1-03
808-004-0450	12-4-02	Adopt	1-1-03	812-002-0480	3-4-03	Amend	4-1-03
808-004-0460	12-4-02	Amend	1-1-03	812-004-0001	3-4-03	Amend	4-1-03
808-004-0480	12-4-02	Amend	1-1-03	812-004-0300	3-4-03	Amend	4-1-03
808-004-0500	12-4-02	Amend	1-1-03	812-004-0320	3-4-03	Amend	4-1-03
808-004-0520	12-4-02	Amend	1-1-03	812-004-0325	3-4-03	Adopt	4-1-03
808-004-0540	12-4-02	Amend	1-1-03	812-004-0340	3-4-03	Amend	4-1-03
808-004-0550	12-4-02	Amend	1-1-03	812-004-0350	3-4-03	Adopt	4-1-03
808-004-0560	12-4-02	Amend	1-1-03	812-004-0360	11-20-02	Amend	1-1-03
808-004-0560	2-1-03	Amend	3-1-03	812-004-0520	3-4-03	Amend	4-1-03
808-004-0580	12-4-02	Am. & Ren.	1-1-03	812-004-0535	3-4-03	Adopt	4-1-03
808-004-0590	2-1-03	Adopt	3-1-03	812-004-0540	11-20-02	Amend	1-1-03
808-004-0600	12-4-02	Amend	1-1-03	812-004-0540	3-4-03	Amend	4-1-03
808-005-0020	12-4-02	Amend	1-1-03	812-004-0550	3-4-03	Amend	4-1-03
808-005-0030	12-4-02	Amend	1-1-03	812-004-0560	11-20-02	Amend	1-1-03
808-008-0020	2-1-03	Amend	3-1-03	812-004-0560	3-4-03	Amend	4-1-03
808-008-0030	2-1-03	Adopt	3-1-03	812-004-0560(T)	11-20-02	Repeal	1-1-03
808-008-0040	2-1-03	Amend	3-1-03	812-006-0012	3-4-03	Amend	4-1-03
808-008-0060	2-1-03	Amend	3-1-03	812-006-0050	3-4-03	Amend	4-1-03
808-008-0080	2-1-03	Amend	3-1-03	812-008-0070	3-4-03	Amend	4-1-03
808-008-0085	2-1-03	Adopt	3-1-03	812-008-0072	11-20-02	Amend	1-1-03
808-008-0090	2-1-03	Adopt	3-1-03	812-008-0110	1-14-03	Amend(T)	2-1-03
808-008-0100	2-1-03	Amend	3-1-03	812-009-0020	11-20-02	Amend	1-1-03
808-008-0110	2-1-03	Amend	3-1-03	812-009-0070	3-4-03	Amend	4-1-03
808-008-0120	2-1-03	Amend	3-1-03	812-009-0100	3-4-03	Amend	4-1-03
808-008-0140	2-1-03	Amend	3-1-03	812-009-0120	3-4-03	Amend	4-1-03
808-008-0160	2-1-03	Amend	3-1-03	812-009-0160	11-20-02	Amend	1-1-03
808-008-0180	2-1-03	Amend	3-1-03	812-009-0400	3-4-03	Amend	4-1-03
808-008-0220	2-1-03	Amend	3-1-03	812-009-0440	3-4-03	Amend	4-1-03
808-008-0300	2-1-03	Amend	3-1-03	812-010-0100	11-20-02	Amend	1-1-03

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812-010-0100(T)	11-20-02	Repeal	1-1-03	813-200-0020	11-20-02	Amend(T)	1-1-03
812-010-0110	11-20-02	Amend	1-1-03	813-200-0020	5-15-03	Amend	6-1-03
812-010-0110(T)	11-20-02	Repeal	1-1-03	813-200-0020	5-15-03	Repeal	6-1-03
812-010-0120	11-20-02	Amend	1-1-03	813-200-0030	11-20-02	Amend(T)	1-1-03
812-010-0120(T)	11-20-02	Repeal	1-1-03	813-200-0030	5-15-03	Amend	6-1-03
812-010-0220	11-20-02	Amend	1-1-03	813-200-0030	5-15-03	Repeal	6-1-03
812-010-0420	11-20-02	Amend	1-1-03	813-200-0040	11-20-02	Amend(T)	1-1-03
812-010-0440	11-20-02	Amend	1-1-03	813-200-0040	5-15-03	Amend	6-1-03
812-010-0440(T)	11-20-02	Repeal	1-1-03	813-200-0040	5-15-03	Repeal	6-1-03
813-008-0005	12-5-02	Amend	1-1-03	813-200-0050	11-20-02	Amend(T)	1-1-03
813-008-0010	12-5-02	Amend	1-1-03	813-200-0050	5-15-03	Amend	6-1-03
813-008-0015	12-5-02	Amend	1-1-03	813-200-0050	5-15-03	Repeal	6-1-03
813-008-0020	12-5-02	Amend	1-1-03	813-200-0060	11-20-02	Amend(T)	1-1-03
813-008-0025	12-5-02	Amend	1-1-03	813-200-0060	5-15-03	Amend	6-1-03
813-008-0030	12-5-02	Amend	1-1-03	813-200-0060	5-15-03	Repeal	6-1-03
813-008-0040	12-5-02	Adopt	1-1-03	813-202-0005	5-15-03	Adopt	6-1-03
813-047-0001	11-20-02	Amend(T)	1-1-03	813-202-0010	5-15-03	Adopt	6-1-03
813-047-0005	11-20-02	Amend(T)	1-1-03	813-202-0015	5-15-03	Adopt	6-1-03
813-047-0006	11-20-02	Adopt(T)	1-1-03	813-202-0020	5-15-03	Adopt	6-1-03
813-047-0010	11-20-02	Amend(T)	1-1-03	813-202-0030	5-15-03	Adopt	6-1-03
813-047-0015	11-20-02	Amend(T)	1-1-03	813-202-0040	5-15-03	Adopt	6-1-03
813-047-0020	11-20-02	Amend(T)	1-1-03	813-202-0050	5-15-03	Adopt	6-1-03
813-047-0025	11-20-02	Amend(T)	1-1-03	813-202-0060	5-15-03	Adopt	6-1-03
813-140-0000	11-25-02	Adopt	1-1-03	813-205-0000	12-13-02	Adopt	1-1-03
813-140-0000(T)	11-25-02	Repeal	1-1-03	813-205-0000(T)	12-13-02	Repeal	1-1-03
813-140-0010	11-25-02	Adopt	1-1-03	813-205-0010	12-13-02	Adopt	1-1-03
813-140-0010(T)	11-25-02	Repeal	1-1-03	813-205-0010(T)	12-13-02	Repeal	1-1-03
813-140-0020	11-25-02	Adopt	1-1-03	813-205-0020	12-13-02	Adopt	1-1-03
813-140-0020(T)	11-25-02	Repeal	1-1-03	813-205-0020(T)	12-13-02	Repeal	1-1-03
813-140-0030	11-25-02	Adopt	1-1-03	813-205-0030	12-13-02	Adopt	1-1-03
813-140-0030(T)	11-25-02	Repeal	1-1-03	813-205-0030(T)	12-13-02	Repeal	1-1-03
813-140-0040	11-25-02	Adopt	1-1-03	813-205-0040	12-13-02	Adopt	1-1-03
813-140-0040(T)	11-25-02	Repeal	1-1-03	813-205-0040(T)	12-13-02	Repeal	1-1-03
813-140-0050	11-25-02	Adopt	1-1-03	813-205-0050	12-13-02	Adopt	1-1-03
813-140-0050(T)	11-25-02	Repeal	1-1-03	813-205-0050(T)	12-13-02	Repeal	1-1-03
813-140-0060	11-25-02	Adopt	1-1-03	813-205-0051	12-13-02	Adopt	1-1-03
813-140-0060(T)	11-25-02	Repeal	1-1-03	813-205-0060	12-13-02	Adopt	1-1-03
813-140-0070	11-25-02	Adopt	1-1-03	813-205-0060(T)	12-13-02	Repeal	1-1-03
813-140-0070(T)	11-25-02	Repeal	1-1-03	813-205-0070	12-13-02	Adopt	1-1-03
813-140-0080	11-25-02	Adopt	1-1-03	813-205-0070(T)	12-13-02	Repeal	1-1-03
813-140-0080(T)	11-25-02	Repeal	1-1-03	813-205-0080	12-13-02	Adopt	1-1-03
813-140-0090	11-25-02	Adopt	1-1-03	813-205-0080(T)	12-13-02	Repeal	1-1-03
813-140-0090(T)	11-25-02	Repeal	1-1-03	813-205-0090	12-13-02	Adopt	1-1-03
813-140-0100	11-25-02	Adopt	1-1-03	813-205-0090(T)	12-13-02	Repeal	1-1-03
813-140-0100(T)	11-25-02	Repeal	1-1-03	813-220-0000	5-12-03	Am. & Ren.	6-1-03
813-140-0110	11-25-02	Adopt	1-1-03	813-220-0001	5-12-03	Adopt	6-1-03
813-140-0110(T)	11-25-02	Repeal	1-1-03	813-220-0010	5-12-03	Amend	6-1-03
813-200-0000	11-20-02	Am. & Ren.(T)	1-1-03	813-220-0015	5-12-03	Adopt	6-1-03
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



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813-250-0030	5-12-03	Amend	6-1-03	813-300-0180(T)	4-4-03	Repeal	5-1-03
813-250-0040	5-12-03	Amend	6-1-03	813-350-0005	5-1-03	Adopt	6-1-03
813-250-0050	5-12-03	Adopt	6-1-03	813-350-0010	5-1-03	Adopt	6-1-03
813-280-0000	12-13-02	Adopt	1-1-03	813-350-0020	5-1-03	Adopt	6-1-03
813-280-0000(T)	12-13-02	Repeal	1-1-03	813-350-0030	5-1-03	Adopt	6-1-03
813-280-0010	12-13-02	Adopt	1-1-03	813-350-0040	5-1-03	Adopt	6-1-03
813-280-0010(T)	12-13-02	Repeal	1-1-03	813-350-0050	5-1-03	Adopt	6-1-03
813-280-0020	12-13-02	Adopt	1-1-03	813-350-0060	5-1-03	Adopt	6-1-03
813-280-0020(T)	12-13-02	Repeal	1-1-03	813-350-0070	5-1-03	Adopt	6-1-03
813-280-0030	12-13-02	Adopt	1-1-03	818-021-0011	4-18-03	Amend	6-1-03
813-280-0030(T)	12-13-02	Repeal	1-1-03	818-021-0025	4-18-03	Amend	6-1-03
813-280-0040	12-13-02	Adopt	1-1-03	820-010-0200	1-28-03	Amend	3-1-03
813-280-0040(T)	12-13-02	Repeal	1-1-03	820-010-0202	3-14-03	Adopt	4-1-03
813-280-0050	12-13-02	Adopt	1-1-03	820-010-0305	12-3-02	Amend	1-1-03
813-280-0050(T)	12-13-02	Repeal	1-1-03	820-010-0325	7-1-03	Amend	6-1-03
813-280-0060	12-13-02	Adopt	1-1-03	820-010-0500	5-15-03	Amend	6-1-03
813-280-0060(T)	12-13-02	Repeal	1-1-03	820-010-0635	1-28-03	Amend	3-1-03
813-280-0070	12-13-02	Adopt	1-1-03	820-040-0040	1-28-03	Adopt	3-1-03
813-280-0070(T)	12-13-02	Repeal	1-1-03	833-020-0015	12-16-02	Amend(T)	1-1-03
813-300-0005	4-4-03	Adopt	5-1-03	833-020-0015	4-28-03	Amend	6-1-03
813-300-0005(T)	4-4-03	Repeal	5-1-03	833-020-0015(T)	4-28-03	Repeal	6-1-03
813-300-0010	4-4-03	Adopt	5-1-03	833-020-0040	12-16-02	Amend(T)	1-1-03
813-300-0010(T)	4-4-03	Repeal	5-1-03	833-020-0040	4-28-03	Amend	6-1-03
813-300-0020	4-4-03	Adopt	5-1-03	833-020-0040(T)	4-28-03	Repeal	6-1-03
813-300-0020(T)	4-4-03	Repeal	5-1-03	833-020-0060	12-16-02	Amend(T)	1-1-03
813-300-0030	4-4-03	Adopt	5-1-03	833-020-0060	4-28-03	Amend	6-1-03
813-300-0030(T)	4-4-03	Repeal	5-1-03	833-020-0060(T)	4-28-03	Repeal	6-1-03
813-300-0040	4-4-03	Adopt	5-1-03	833-020-0090	12-16-02	Amend(T)	1-1-03
813-300-0040(T)	4-4-03	Repeal	5-1-03	833-020-0090	4-28-03	Amend	6-1-03
813-300-0050	4-4-03	Adopt	5-1-03	833-020-0090(T)	4-28-03	Repeal	6-1-03
813-300-0050(T)	4-4-03	Repeal	5-1-03	833-020-0111	12-16-02	Amend(T)	1-1-03
813-300-0060	4-4-03	Adopt	5-1-03	833-020-0111	4-28-03	Amend	6-1-03
813-300-0060(T)	4-4-03	Repeal	5-1-03	833-020-0111(T)	4-28-03	Repeal	6-1-03
813-300-0070	4-4-03	Adopt	5-1-03	833-020-0130	12-16-02	Suspend	1-1-03
813-300-0070(T)	4-4-03	Repeal	5-1-03	833-020-0130	4-28-03	Repeal	6-1-03
813-300-0080	4-4-03	Adopt	5-1-03	833-025-0001	12-16-02	Amend(T)	1-1-03
813-300-0080(T)	4-4-03	Repeal	5-1-03	833-025-0001	4-28-03	Amend	6-1-03
813-300-0090	4-4-03	Adopt	5-1-03	833-025-0001(T)	4-28-03	Repeal	6-1-03
813-300-0090(T)	4-4-03	Repeal	5-1-03	833-025-0005	12-16-02	Amend(T)	1-1-03
813-300-0100	4-4-03	Adopt	5-1-03	833-025-0005	4-28-03	Amend	6-1-03
813-300-0100(T)	4-4-03	Repeal	5-1-03	833-025-0005(T)	4-28-03	Repeal	6-1-03
813-300-0110	4-4-03	Adopt	5-1-03	833-025-0006	12-16-02	Amend(T)	1-1-03
813-300-0110(T)	4-4-03	Repeal	5-1-03	833-025-0006	4-28-03	Amend	6-1-03
813-300-0120	4-4-03	Adopt	5-1-03	833-025-0006(T)	4-28-03	Repeal	6-1-03
813-300-0120(T)	4-4-03	Repeal	5-1-03	833-040-0001	12-16-02	Amend(T)	1-1-03
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
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836-011-0160	11-27-02	Amend	1-1-03	837-012-0720	2-10-03	Amend	3-1-03
836-011-0170	11-27-02	Amend	1-1-03	837-012-0740	2-10-03	Amend	3-1-03
836-011-0180	11-27-02	Amend	1-1-03	837-012-0760	2-10-03	Amend	3-1-03
836-011-0190	11-27-02	Amend	1-1-03	837-012-0780	2-10-03	Amend	3-1-03
836-011-0200	11-27-02	Amend	1-1-03	837-012-0790	2-10-03	Amend	3-1-03
836-011-0210	11-27-02	Amend	1-1-03	837-012-0810	2-10-03	Amend	3-1-03
836-011-0220	11-27-02	Amend	1-1-03	837-012-0820	2-10-03	Amend	3-1-03
836-011-0230	11-27-02	Amend	1-1-03	837-012-0830	2-10-03	Amend	3-1-03
836-011-0500	11-27-02	Adopt	1-1-03	837-012-0835	2-10-03	Amend	3-1-03
836-011-0505	11-27-02	Adopt	1-1-03	837-012-0860	2-10-03	Amend	3-1-03
836-011-0510	11-27-02	Adopt	1-1-03	837-012-0865	2-10-03	Amend	3-1-03
836-011-0515	11-27-02	Adopt	1-1-03	837-012-0940	2-10-03	Amend	3-1-03
836-011-0520	11-27-02	Adopt	1-1-03	837-020-0040	12-6-02	Amend	1-1-03
836-011-0525	11-27-02	Adopt	1-1-03	837-020-0050	12-6-02	Amend	1-1-03
836-011-0530	11-27-02	Adopt	1-1-03	837-020-0060	12-6-02	Amend	1-1-03
836-011-0535	11-27-02	Adopt	1-1-03	837-020-0080	12-6-02	Amend	1-1-03
836-011-0540	11-27-02	Adopt	1-1-03	837-020-0125	12-6-02	Amend	1-1-03
836-011-0545	11-27-02	Adopt	1-1-03	837-020-0150	12-6-02	Amend	1-1-03
836-011-0550	11-27-02	Adopt	1-1-03	837-110-0007	2-1-03	Adopt	2-1-03
836-012-0000	11-27-02	Amend	1-1-03	837-110-0060	2-1-03	Amend	2-1-03
836-012-0011	11-27-02	Amend	1-1-03	837-110-0070	2-1-03	Amend	2-1-03
836-012-0021	11-27-02	Amend	1-1-03	837-110-0075	2-1-03	Adopt	2-1-03
836-012-0031	11-27-02	Amend	1-1-03	837-110-0140	2-1-03	Amend	2-1-03
836-012-0041	11-27-02	Amend	1-1-03	837-110-0150	2-1-03	Amend	2-1-03
836-012-0051	11-27-02	Amend	1-1-03	837-110-0155	2-1-03	Adopt	2-1-03
836-012-0060	11-27-02	Amend	1-1-03	839-016-0700	1-1-03	Amend	2-1-03
836-012-0070	11-27-02	Amend	1-1-03	839-016-0700	2-14-03	Amend	3-1-03
836-012-0080	11-27-02	Amend	1-1-03	839-016-0700	4-1-03	Amend(T)	5-1-03
836-012-0090	11-27-02	Amend	1-1-03	839-016-0750	3-28-03	Amend(T)	5-1-03
836-012-0100	11-27-02	Amend	1-1-03	845-004-0005	2-1-03	Amend	3-1-03
836-020-0900	11-27-02	Am. & Ren.	1-1-03	845-004-0100	5-1-03	Amend	6-1-03
836-043-0024	1-17-03	Amend	3-1-03	845-005-0327	4-1-03	Adopt	5-1-03
836-043-0044	1-17-03	Amend	3-1-03	845-006-0345	4-1-03	Amend	5-1-03
836-052-0142	12-13-02	Amend	1-1-03	845-006-0450	1-1-03	Amend	2-1-03
836-053-0005	7-1-03	Adopt	5-1-03	845-009-0140	4-1-03	Amend	5-1-03
836-053-0021	11-27-02	Amend	1-1-03	845-010-0166	5-1-03	Amend	6-1-03
836-053-0430	11-27-02	Amend	1-1-03	845-010-0210	5-1-03	Amend	6-1-03
836-053-0440	11-27-02	Amend	1-1-03	845-013-0030	5-1-03	Amend	6-1-03
836-054-0300	11-27-02	Amend	1-1-03	845-015-0007	2-1-03	Am. & Ren.	3-1-03
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836-080-0430	6-1-03	Adopt	2-1-03	845-015-0012	2-1-03	Am. & Ren.	3-1-03
836-080-0432	6-1-03	Adopt	2-1-03	845-015-0020	2-1-03	Am. & Ren.	3-1-03
836-080-0435	6-1-03	Adopt	2-1-03	845-015-0022	2-1-03	Am. & Ren.	3-1-03
836-080-0440	6-1-03	Adopt	2-1-03	845-015-0025	2-1-03	Am. & Ren.	3-1-03
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836-081-0106	3-17-03	Adopt	5-1-03	845-015-0028	2-1-03	Am. & Ren.	3-1-03
836-081-0111	3-17-03	Adopt	5-1-03	845-015-0030	2-1-03	Am. & Ren.	3-1-03
836-081-0116	3-17-03	Adopt	5-1-03	845-015-0032	2-1-03	Am. & Ren.	3-1-03
836-081-0121	3-17-03	Adopt	5-1-03	845-015-0035	2-1-03	Renumber	3-1-03
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837-012-0610	2-10-03	Amend	3-1-03	845-015-0055	2-1-03	Am. & Ren.	3-1-03
837-012-0615	2-10-03	Amend	3-1-03	845-015-0060	2-1-03	Renumber	3-1-03
837-012-0630	2-10-03	Amend	3-1-03	845-015-0065	2-1-03	Am. & Ren.	3-1-03
837-012-0635	2-10-03	Amend	3-1-03	845-015-0070	2-1-03	Am. & Ren.	3-1-03
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845-015-0080	2-1-03	Am. & Ren.	3-1-03	855-080-0021	1-14-03	Amend	2-1-03
845-015-0085	2-1-03	Repeal	3-1-03	855-110-0005	1-14-03	Amend	2-1-03
845-015-0086	2-1-03	Am. & Ren.	3-1-03	856-010-0010	2-26-03	Amend	4-1-03
845-015-0090	2-1-03	Renumber	3-1-03	856-010-0028	3-21-03	Adopt	5-1-03
845-015-0091	2-1-03	Am. & Ren.	3-1-03	860-012-0010	12-9-02	Amend	1-1-03
845-015-0092	2-1-03	Am. & Ren.	3-1-03	860-012-0035	3-11-03	Amend	4-1-03
845-015-0093	2-1-03	Renumber	3-1-03	860-012-0040	4-28-03	Adopt	6-1-03
845-015-0095	2-1-03	Renumber	3-1-03	860-014-0023	12-6-02	Adopt(T)	1-1-03
845-015-0096	2-1-03	Renumber	3-1-03	860-014-0023	3-11-03	Adopt	4-1-03
845-015-0100	2-1-03	Renumber	3-1-03	860-016-0050	12-9-02	Amend	1-1-03
845-016-0020	5-1-03	Amend	6-1-03	860-021-0036	4-28-03	Amend	6-1-03
847-001-0010	1-27-03	Amend	3-1-03	860-021-0037	4-28-03	Adopt	6-1-03
847-005-0005	4-24-03	Amend	6-1-03	860-021-0335	12-9-02	Amend	1-1-03
847-008-0005	1-27-03	Amend	3-1-03	860-022-0070	4-14-03	Amend	5-1-03
847-010-0051	1-27-03	Amend	3-1-03	860-027-0052	12-20-02	Amend	2-1-03
847-010-0052	1-27-03	Amend	3-1-03	860-032-0001	2-12-03	Amend	3-1-03
847-010-0056	1-27-03	Amend	3-1-03	860-032-0002	3-11-03	Amend	4-1-03
847-010-0070	5-2-03	Amend	6-1-03	860-032-0005	3-11-03	Amend	4-1-03
847-020-0170	1-27-03	Amend	3-1-03	860-032-0020	2-12-03	Amend	3-1-03
847-020-0170	5-2-03	Amend	6-1-03	860-032-0095	4-28-03	Amend	6-1-03
847-020-0180	5-2-03	Amend	6-1-03	860-032-0097	4-28-03	Adopt	6-1-03
847-035-0030	1-27-03	Amend	3-1-03	860-032-0610	12-9-02	Adopt	1-1-03
847-050-0020	1-27-03	Amend	3-1-03	860-032-0620	12-9-02	Adopt	1-1-03
847-050-0029	1-27-03	Amend	3-1-03	860-032-0630	12-9-02	Adopt	1-1-03
847-050-0042	1-27-03	Amend	3-1-03	860-032-0640	12-9-02	Adopt	1-1-03
847-080-0022	1-27-03	Amend	3-1-03	860-032-0650	12-9-02	Adopt	1-1-03
848-030-0000	2-6-03	Amend	3-1-03	860-032-0660	12-9-02	Adopt	1-1-03
850-010-0055	12-6-02	Adopt(T)	1-1-03	860-032-0670	4-28-03	Adopt	6-1-03
850-010-0055	4-11-03	Adopt	5-1-03	860-034-0095	4-28-03	Amend	6-1-03
850-010-0195	2-14-03	Adopt	3-1-03	860-034-0097	4-28-03	Adopt	6-1-03
850-010-0210	12-10-02	Amend	1-1-03	860-034-0250	12-9-02	Amend	1-1-03
851-001-0020	12-17-02	Adopt	2-1-03	860-034-0394	12-20-02	Amend	2-1-03
851-021-0120	4-23-03	Amend	6-1-03	860-034-0740	12-20-02	Amend	2-1-03
851-031-0005	3-6-03	Amend	4-1-03	860-036-0080	12-9-02	Amend	1-1-03
851-031-0006	3-6-03	Amend	4-1-03	860-036-0250	5-15-03	Adopt	6-1-03
851-031-0010	3-6-03	Amend	4-1-03	860-036-0365	5-15-03	Adopt	6-1-03
851-031-0025	3-6-03	Repeal	4-1-03	860-036-0716	5-15-03	Adopt	6-1-03
851-031-0030	3-6-03	Amend	4-1-03	860-036-0756	5-15-03	Adopt	6-1-03
851-031-0040	3-6-03	Amend	4-1-03	860-037-0075	12-9-02	Amend	1-1-03
851-031-0045	3-6-03	Amend	4-1-03	863-001-0005	2-28-03	Amend(T)	4-1-03
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851-031-0085	3-6-03	Adopt	4-1-03	863-015-0040	2-28-03	Amend(T)	4-1-03
851-031-0086	3-6-03	Amend	4-1-03	863-015-0045	2-28-03	Amend(T)	4-1-03
851-031-0090	3-6-03	Amend	4-1-03	863-015-0055	2-28-03	Amend(T)	4-1-03
851-050-0131	12-17-02	Amend	2-1-03	863-015-0065	2-28-03	Amend(T)	4-1-03
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851-050-0131	4-23-03	Amend	6-1-03	863-015-0085	2-28-03	Amend(T)	4-1-03
851-063-0060	4-23-03	Amend	6-1-03	863-015-0090	2-28-03	Amend(T)	4-1-03
852-010-0027	12-18-02	Amend	2-1-03	863-015-0095	2-28-03	Amend(T)	4-1-03
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863-015-0255	2-28-03	Amend(T)	4-1-03	918-306-0780	5-5-03	Amend(T)	6-1-03
863-015-0260	2-28-03	Amend(T)	4-1-03	918-307-0000	1-1-03	Repeal	2-1-03
863-025-0010	2-28-03	Amend(T)	4-1-03	918-308-0020	1-1-03	Amend	2-1-03
863-025-0020	2-28-03	Amend(T)	4-1-03	918-308-0020(T)	1-1-03	Repeal	2-1-03
863-025-0025	2-28-03	Amend(T)	4-1-03	918-308-0060	1-1-03	Amend	2-1-03
863-025-0030	2-28-03	Amend(T)	4-1-03	918-308-0060(T)	1-1-03	Repeal	2-1-03
863-025-0035	2-28-03	Amend(T)	4-1-03	918-308-0200	1-1-03	Amend	2-1-03
863-025-0050	2-28-03	Amend(T)	4-1-03	918-308-0200(T)	1-1-03	Repeal	2-1-03
863-025-0065	2-28-03	Amend(T)	4-1-03	918-308-0210	1-1-03	Amend	2-1-03
877-020-0020	7-1-03	Amend(T)	6-1-03	918-308-0210(T)	1-1-03	Repeal	2-1-03
918-001-0010	1-1-03	Amend	2-1-03	918-309-0000	4-1-03	Amend	4-1-03
918-001-0036	1-1-03	Adopt	2-1-03	918-400-0280	1-1-03	Amend	2-1-03
918-008-0100	1-1-03	Repeal	2-1-03	918-400-0280	3-1-03	Amend	4-1-03
918-090-0900	1-1-03	Repeal	2-1-03	918-400-0280(T)	1-1-03	Repeal	2-1-03
918-225-0240	3-14-03	Amend	4-1-03	918-400-0333	1-1-03	Adopt	2-1-03
918-225-0315	3-14-03	Adopt	4-1-03	918-400-0333(T)	1-1-03	Repeal	2-1-03
918-225-0560	3-14-03	Amend	4-1-03	918-400-0335	1-1-03	Repeal	2-1-03
918-225-0562	7-1-03	Adopt	4-1-03	918-400-0340	1-1-03	Amend	2-1-03
918-225-0610	1-1-03	Amend	2-1-03	918-400-0340(T)	1-1-03	Repeal	2-1-03
918-225-0610(T)	1-1-03	Repeal	2-1-03	918-400-0345	1-1-03	Repeal	2-1-03
918-225-0660	3-14-03	Amend	4-1-03	918-400-0350	1-1-03	Repeal	2-1-03
918-225-0665	3-14-03	Adopt	4-1-03	918-400-0355	1-1-03	Repeal	2-1-03
918-225-0670	2-3-03	Amend	3-1-03	918-400-0360	1-1-03	Repeal	2-1-03
918-225-0690	7-1-03	Repeal	4-1-03	918-400-0365	1-1-03	Repeal	2-1-03
918-225-0691	7-1-03	Adopt	4-1-03	918-400-0370	1-1-03	Repeal	2-1-03
918-225-0700	7-1-03	Amend	4-1-03	918-400-0375	1-1-03	Repeal	2-1-03
918-225-0720	7-1-03	Amend	4-1-03	918-400-0380	1-1-03	Adopt	2-1-03
918-225-0740	7-1-03	Amend	4-1-03	918-400-0380(T)	1-1-03	Repeal	2-1-03
918-225-0760	1-1-03	Repeal	2-1-03	918-400-0385	1-1-03	Adopt	2-1-03
918-225-0900	2-3-03	Adopt	3-1-03	918-400-0385(T)	1-1-03	Repeal	2-1-03
918-225-0910	2-3-03	Adopt	3-1-03	918-400-0390	1-1-03	Adopt	2-1-03
918-225-0920	2-3-03	Adopt	3-1-03	918-400-0390(T)	1-1-03	Repeal	2-1-03
918-225-0930	2-3-03	Adopt	3-1-03	918-400-0395	1-1-03	Adopt	2-1-03
918-225-0940	2-3-03	Adopt	3-1-03	918-400-0395(T)	1-1-03	Repeal	2-1-03
918-225-0950	2-3-03	Adopt	3-1-03	918-400-0455	3-1-03	Amend	4-1-03
918-225-0960	2-3-03	Adopt	3-1-03	918-400-0465	3-1-03	Amend	4-1-03
918-225-0970	2-3-03	Adopt	3-1-03	918-400-0525	3-1-03	Amend	4-1-03
918-251-0090	1-1-03	Amend	2-1-03	918-400-0630	3-1-03	Amend	4-1-03
918-251-0090(T)	1-1-03	Repeal	2-1-03	918-400-0740	3-1-03	Amend	4-1-03
918-282-0017	1-1-03	Adopt	2-1-03	918-400-0780	1-1-03	Repeal	2-1-03
918-282-0017(T)	1-1-03	Repeal	2-1-03	918-400-0800	1-1-03	Amend	2-1-03
918-282-0185	1-1-03	Adopt	2-1-03	918-400-0800(T)	1-1-03	Repeal	2-1-03
918-282-0185(T)	1-1-03	Repeal	2-1-03	918-480-0005	4-1-03	Amend	2-1-03
918-282-0290	1-1-03	Amend	2-1-03	918-480-0010	1-1-03	Amend	1-1-03
918-282-0290(T)	1-1-03	Repeal	2-1-03	918-480-0010	1-10-03	Amend(T)	2-1-03
918-306-0700	5-5-03	Amend(T)	6-1-03	918-480-0010	4-1-03	Amend	2-1-03
918-306-0705	5-5-03	Amend(T)	6-1-03	918-480-0010(T)	1-1-03	Repeal	1-1-03
918-306-0710	5-5-03	Amend(T)	6-1-03	918-480-0020	4-1-03	Amend	2-1-03
918-306-0715	5-5-03	Amend(T)	6-1-03	918-650-0085	1-1-03	Repeal	2-1-03
918-306-0720	5-5-03	Amend(T)	6-1-03	918-785-0030	1-1-03	Repeal	2-1-03
918-306-0730	5-5-03	Amend(T)	6-1-03				