

# OREGON BULLETIN

*Supplements the 2003 Oregon Administrative Rules Compilation*

**Volume 42, No. 3  
March 1, 2003**

**For January 16, 2003–February 14, 2003**



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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 LARSEN PROPERTY SITE TUALATIN, OREGON

**COMMENTS DUE:** April 3, 2003

**PROJECT LOCATION:** 5360 SW Borland Road, Tualatin, Oregon

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

**HIGHLIGHTS:** The Larsen property site is approximately 30 acres and contains a residence, a shop, and grass-covered field formerly leased for agricultural use. The property is slated for residential development. A hayshed is located southwest of the residence within about 200 feet of Saum Creek, a tributary of the Tualatin River.

The former site resident conducted small-scale fence post treatment near the hayshed utilizing a metal dip tank and a solution of pentachlorophenol in a petroleum-based carrier. Drips and spills in the treatment area, and/or leaching from treated fence posts stacked nearby, resulted in localized pentachlorophenol and polycyclic aromatic hydrocarbon (PAH) contaminated soil. PAHs are constituents of petroleum. Soil sampling showed the contamination generally was limited to the upper 1 foot of soil, and that contamination had not migrated significantly toward Saum Creek. Groundwater was not impacted. Approximately 525 tons of soil were removed and disposed off site to address the contamination. Confirmation sampling showed that the residual contaminant concentrations were below applicable risk-based standards for residential use soil. Because dioxins are often associated with PCP, additional sampling of residual soil was conducted that showed dioxin levels also were below appropriate risk-based standards for residential use soil.

**HOW TO COMMENT:** The staff memorandum and other files will be available for public review beginning Monday, March 3, 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 Thursday, April 3, 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.

### NOTICE OF FINAL APPROVAL OF ENVIRONMENTAL CLEANUP AT THE COLUMBIA COUNTY TRANSFER STATION SITE

**PROJECT LOCATION:** 2285 Gable Road in St Helens, Oregon

Pursuant to Oregon Revised Statute (ORS) 465.320, the Oregon Department of Environmental Quality (DEQ) is issuing this notice regarding the final approval of cleanup action at the Columbia County Transfer Station (CCTS). Notice of the proposed approval was published on January 1, 2003. A public comment period began January 1, 2003 and ended on February 4, 2003. No comments were received.

**BACKGROUND:** Petroleum contaminated soil was discovered during upgrading of the waste oil above-ground storage tank. Contaminated soil was excavated and disposed of offsite. Confirmation sampling from the soil removal and additional investigations indicate that residual contamination does not pose an unacceptable risk to human health or the environment.

**DETERMINATION:** It is DEQ's determination that no further action (NFA) is required at the site. The final determination will state that in the unlikely event that the residual contamination is excavated; contaminated soil will be properly managed.

**INFORMATION:** The staff report and administrative record for the site are available for public review by appointment at DEQ's Northwest Region Office. To schedule an appointment call (503) 229-6729. For additional information, contact DEQ Project Manager, Bruce Brody-Heine at (503) 229-6915.

### PROPOSED APPROVAL OF CLEANUP AT ENGINE PARTS & MACHINE MARION COUNTY OREGON

**COMMENTS DUE:** March 31, 2003

**PROJECT LOCATION:** 711 McClaine Street, Silverton Plaza, Silverton

**PROPOSAL:** The Department of Environmental Quality is proposing to issue a "No Further Action (NFA)" determination for the former Engine Parts & Machine facility, also known as Redhead Engine Remanufacturing. Site investigation activities documented a release at the site. The Voluntary Cleanup Program has reviewed the site specific analytical data gathered at the site and has determined remaining contaminants of concern are not a potential threat to human health and the environment.

**HIGHLIGHTS:** Soil and groundwater impacts from historic operations have been documented at the site. Additional site investigation activities determined low levels of metals detected in both soil and groundwater and VOCs detected in groundwater were not present at levels which were a potential threat to human health and the environment. The site is also proposed for de-listing from the Confirmed Release List.

**HOW TO COMMENT:** The project file may be reviewed by appointment at DEQ's Eastern Regional Office at 700 SE Emigrant, Suite #330, Pendleton, OR 97801. In the event a person would like to view the file but does not wish to travel to Pendleton, the file will be transferred to DEQ's Salem or Eugene office for viewing upon request. To schedule an appointment to review the file or to ask questions, please contact Katie Robertson at (541) 278-4620. Written comments should be sent by March 31, 2003 to Katie Robertson, Project Manager, at DEQ's Pendleton office.

Upon written request by ten or more persons or by a group with a membership of 10 or more, a public meeting will be held to receive verbal comments.

**THE NEXT STEP:** DEQ will consider all public comments received before making a final decision regarding the "No Further Action" determination.

### PROPOSED APPROVAL OF CLEANUP AT TOSCO/76 PRODUCTS BULK PLANT NO. 0044 BEND, OREGON

**COMMENTS DUE:** March 31, 2003

**PROJECT LOCATION:** 303 SE Scott Street, Bend, Oregon

**PROPOSAL:** The Department of Environmental Quality is proposing to issue a "No Further Action" determination based on results of site investigation and remedial activities performed at the Tosco/76 Products Bulk Plant No. 0044, currently operating as Abbott Petroleum Bulk Plant located at 303 SE Scott Street in Bend, Oregon. The site is recommended for de-listing from the Confirmed Release List.

**HIGHLIGHTS:** The Independent Cleanup Program has reviewed soil assessment and removal activities performed at the site. With the exception of a small volume of impacted soil located on the uneven basalt bedrock surface, all impacted soil exceeding generic RBCs has been removed from the site.

**HOW TO COMMENT:** The project file may be reviewed by appointment at DEQ's Eastern Regional Office at 700 SE Emigrant, Suite #330, Pendleton, OR 97801. To schedule an appointment to review the file or to ask questions, please contact Katie Robertson at (541) 278-4620. Written comments should be received by March

## OTHER NOTICES

31, 2002 and sent to Katie Robertson, Project Manager, at the address listed above.

Upon written request by ten or more persons or by a group with a membership of 10 or more, a public meeting will be held to receive verbal comments.

**THE NEXT STEP:** DEQ will consider all public comments received before making a final decision regarding the "No Further Action" determination and the de-listing of the site from the Confirmed Release List.

### **PROPOSED APPROVAL OF CLEANUP AND DE-LISTING FORMER VALVOLINE PORTLAND FACILITY 2308 N. CLARK AVENUE, PORTLAND, OREGON**

**COMMENT PERIOD:** March 1, 2003 to March 31, 2003  
**COMMENTS DUE:** March 31, 2003

**HIGHLIGHTS:** The Department of Environmental Quality (DEQ) has completed its evaluation of environmental conditions at the former Valvoline Portland site. Valvoline's operations at the site primarily consisted of blending new oils with additives, then packaging the blended oil mixtures into containers for shipment. Several phases of site characterization were conducted to characterize the extent and magnitude of soil and groundwater contamination. Petroleum contamination in soil was identified as the most significant impact. The petroleum impacted soil was excavated. Confirmation testing was conducted to verify the extent and magnitude of residual contamination. Risk screening for all applicable exposure pathways was conducted. After reviewing the investigation and cleanup results, DEQ concluded that the residual contamination does not pose an unacceptable risk to human health or the environment. DEQ proposes to issue a no further action decision and remove the facility from DEQ's Confirmed Release List and Inventory.

**PROSPECTIVE PURCHASER AGREEMENT:** The DEQ and the City of Portland entered into Prospective Purchaser Agreement (PPA) No. 02-02 on January 17, 2002 before the City purchased the property from Ashland, Inc. Valvoline Company is a division of Ashland, Inc. The work described above was conducted to fulfill commitments made by the City in the PPA.

**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 March 31, 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.

### **PROPOSED PARTIAL NO FURTHER ACTION DETERMINATION, FORMER HESSEL TRACTOR FACILITY, MEDFORD, OREGON**

**COMMENTS DUE:** April 2, 2003

**PROJECT LOCATION:** Northeast corner of Crater Lake Avenue and East Villas Road, Medford, Oregon

**PROPOSAL:** The Department of Environmental Quality is proposing to issue a partial No Further Action determination following excavation and disposal of petroleum-contaminated soil from a portion of a property at 5000 Crater Lake Avenue. This determination is based on approval of investigation and remedial measures conducted to date. Public notification is required by ORS 465.320.

**HIGHLIGHTS:** Beginning in the 1960s and until August 2002, the site has been used primarily for sales, storage, washing, repair and painting of trucks and construction vehicles. This investigation examined residual petroleum contamination on the northeast corner of the property, which had contained a stockpile of soil from truck and vehi-

cle washing conducted elsewhere on the property. In September 2002, the stockpiled soil, totaling about 375 cubic yards, was taken to the Dry Creek Landfill in Medford.

This investigation, and therefore this No Further Action determination, pertains only to this portion of the property, which extends approximately 100 feet east to west and 75 feet north to south. This determination does not pertain to groundwater, because groundwater has not been sampled.

**HOW TO COMMENT:** Comments and questions, by phone, fax, mail or email, should be directed to:

Bob Schwarz, Project Manager

Phone: 541-298-7255, ext. 30

Fax: 541-298-7330

Email: Schwarz.bob@deq.state.or.us

To schedule an appointment or to obtain a copy of the staff report, please contact Mr. Schwarz as well. Written comments should be sent by April 2, 2003

**THE NEXT STEP:** DEQ will consider all comments received. A final decision concerning the proposed remedial actions will be made after consideration of public comments.

### **OPPORTUNITY FOR PUBLIC COMMENT RECOMMENDATION FOR NO FURTHER ACTION AT THE GLENBROOK NICKEL FACILITY**

**COMMENTS DUE:** March 31, 2003

**PROJECT LOCATION:** Glenbrook Nickel Facility, 5093 Riddle By-Pass Road, Riddle, Oregon

**PROPOSAL:** Pursuant to ORS 465.320 and Oregon Administrative Rules (OAR) 340-122-465, the Department of Environmental Quality (DEQ) is extending the public comment period on the recommended no further action (NFA) for the investigation and cleanup actions at the Glenbrook Nickel Facility.

**HIGHLIGHTS:** The facility operated as a nickel mine and smelter for approximately 40 years, beginning in the late 1940s. Glenbrook Nickel Company purchased the facility in 1989, and operated intermittently from 1991 to 1998. Environmental investigations and cleanup occurred from April 2000 through October 2002. Glenbrook Nickel removal actions have been successful in eliminating threats to human health and the environment, including removal of approximately 40,000 cubic yards of soil contaminated with metals and/or petroleum hydrocarbons. All soil excavated was disposed of at Valley Landfills, Inc in Corvallis, Oregon.

Field sampling after soil removal indicates that limited levels of contamination remain in the soil. DEQ has concluded that there are no significant human health or ecological risks associated with the remaining contamination. Field sampling of permanent and temporary wells indicates that groundwater has not, or is not suspected to be, impacted.

**HOW TO COMMENT:** The Site Summary Report which provides more detail on the NFA recommendation, and the project files may be reviewed by appointment at DEQ's Eugene office, 1102 Lincoln, Suite 210, Eugene 97401. To schedule an appointment, please call (541) 686-7838. The Site Summary Report can also be reviewed by appointment at DEQ's Roseburg (541) 440-3338 office.

Please send written comments to Nancy Gramlich at the following address: DEQ's Salem Office, 750 Front Street NE, Suite 120, Salem, Oregon 97301. Comments and questions can also be directed to Nancy Gramlich by calling her at (503) 378-8240 ext. 259, or contacting her via e-mail at gramlich.nancy@deq.state.or.us. DEQ must receive written comments by 5:00 p.m. on Monday March 31, 2003.

A public meeting will be held to receive verbal comments on the proposed cleanup if there is significant interest in the project.

**THE NEXT STEP:** DEQ will consider all comments received by the March 31st, 2003 deadline before taking final action on this matter.

# NOTICES OF PROPOSED RULEMAKING

## Correction

The following notice, published in the print edition of the February 2003 *Oregon Bulletin*, incorrectly designated a hearing time as "p.m." rather than "a.m." No other information was affected. The correct information appears below. See the February *Bulletin* for additional hearing times and locations.

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

3-4-03            11 a.m.            Beaverton Library  
Meeting Rm. B  
12375 SW 5th St.  
Beaverton, OR

**Hearing Officer:** Liz Woods

**Stat. Auth.:** ORS 184.616, 184.619, 807.090, 807.120, 807.340, 807.350, 807.710, 809.410 & 809.440

**Stats. Implemented:** ORS 807.070, 807.090, 807.120, 807.340, 807.350, 807.710, 809.410 & 809.440

**Proposed Adoptions:** 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

**Proposed Amendments:** 735-076-0000, 735-076-0010, 735-076-0020, 735-076-0030, 735-076-0040, 735-076-0050, 735-076-0060

**Proposed Repeals:** 735-074-0000, 735-074-0030, 735-074-0040

**Proposed Ren. & Amendments:** 735-074-0010 to 735-074-0170, 735-074-0020 to 735-074-0180

**Last Date for Comment:** 3-12-03

**Summary:** This rulemaking deals with the revision and expansion of the Medical Reporting Program and the Driver Reexamination Program. The proposed 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 affect 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.

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

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

**Rules Coordinator:** Brenda Trump

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

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

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## 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.

## **Dispute Resolution Commission Chapter 718**

### **Rules to be Reviewed: Ch. 718**

<u>Division</u>	<u>Title</u>
005	Procedural Rules
010	General Rules
020	Oregon Community Dispute Resolution Program Rules
030	Minimum Qualifications and Training for Court Connected Domestic Relations Mediators
040	Minimum Qualifications and Minimum Training for Mediators on Court Panels
050	Minimum Qualifications and Training Requirements for Court Connected Domestic Relations Financial Mediators
060	Procedural Rules for Mediation Communications

**Last Date for Comment:** 3-21-03

**Rules Coordinator:** Evette Moser

**Comments: Division 5 Procedural Rules:** This division describes the purpose of the Oregon Dispute Resolution Commission, states its statutory authority, and describes the type of notice the public must receive prior to adoption, amendment or repeal or any rule. As part of the periodic review, the Commission intends to repeal "718-005-0005 Purpose" and "718-005-0010 Statutory Authority and Procedure."

**Division 10 General Rules:** This division covers the rules and structure of the commission's meetings. It defines a quorum and establishes rules of order; officers; the notice for location of meetings; agendas for regular meetings; how to proceed with matters not on the agenda, how the meetings address the order of business; how to request an item to be placed on the agenda, how to request commission action. It also states how the commission forms committees; what happens to the commission's files; establishes rules for commission communications, commission agreements, and commission expenditures. The division defines a conflict of interest for commissioners; discusses public records access, rules of procedure, waiver and suspension of the general rules, and how the commission may amend the rules. As part of the periodic review, the Commission intends to repeal:

"718-005-0010 Statutory Authority and Procedure,"

"718-010-0025 Matters Not on Agenda,"

"718-010-0030 Order of Business,"

"718-010-0040 Request for Commission Action,"

"718-010-0045 Committees,"

"718-010-0050 Commission Files,"

"718-010-0055 Commission Communications,"

"718-010-0060 Commission Agreements,"

"718-010-0070 Commission Expenditures," and

"718-010-0080 Conflict of Interest;"

The commission also plans to amend:

"718-010-0000 Authority and Purpose,"

"718-010-0035 Requests to Place Items on Agenda,"

"718-010-0085 Public Availability of Information," and

"718-010-0090 Rules of Procedure" after proper rulemaking procedures.

**Division 20 Oregon Community Dispute Resolution Program Rules:** This division applies to community dispute resolution programs. It defines terms and the scope of the rules. It describes program services, entities eligible for funding, fees for service, participating fund requirements, administrative procedures, qualification and minimum training requirements for mediators in community dispute resolution programs, reporting requirements, evaluation requirements, declaration of available funds for counties and funding cycles, county dispute resolution program coordinator, application processes, application requirements, selection processes, program compliance, funds available for community dispute resolution

# NOTICES OF PROPOSED RULEMAKING

programs, and funding periods for grants. As part of the periodic review, the Commission intends to amend:

"718-020-0000 Scope of Application of Rules,"

"718-020-0010 Definitions for OAR 718-020-0000 to 718-020-0160,"

"718-020-0020 Program Services,"

"718-020-0050 Participating Fund Requirements,"

"718-020-0080 Reporting Requirements,"

"718-020-0110 County Declaration of Intent to Participate,"

"718-020-0120 County Dispute Resolution Program Coordinator,"

"718-020-0130 Application Process,"

"718-020-0140 Application Requirements," and

"718-020-0150 Selection Process" after proper rulemaking procedures.

**Division 30 Minimum Qualifications and Training for Court Connected Domestic Relations Mediators:** This division relates to court connected domestic relations mediators. The rules in this division define the scope and application of rules, definitions of this division, minimum qualifications for mediators, the hiring authority and responsibilities, education requirements, mediation training requirements, subject knowledge requirements, experience requirements, and substitutions and waivers to the rules.

**Division 40 Minimum Qualifications and Minimum Training for Mediators on Court Panels:** This division relates to mediators on court panels. The rules in this division define the scope and application of rules, definitions of this division, and give specific rules and qualifications for civil case and domestic relations mediators. As part of the periodic review, the Commission intends to amend "718-040-0030 Domestic Relations Mediators — Summary of Minimum Qualifications and Training Requirements" and "718-040-0110 — All Listed Mediators Disclosure of Information About Mediator."

**Division 50 Minimum Qualifications and Training Requirements for Court Connected Domestic Relations Financial Mediators:**

This division relates to court connected domestic relations financial mediators. The rules in this division define the scope and application of rules, hiring authority responsibilities, educational requirements, training requirements, supervised experience, supervisors, qualifications review, substitution and waiver of these rules, temporary waiver of rules, malpractice insurance, continuing education, and standards of conduct. As part of the periodic review, the Commission intends to amend "718-050-0010 Definitions."

**Division 60 Procedural Rules for Mediation Communications:** This division relates to mediation communications. The rules govern confidentiality and the inadmissibility of mediation and workplace interpersonal dispute mediation communications.

Telephone: (503) 378-2877, ext. 25

## 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 Date 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 Medical Examiners Chapter 847

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.265

Proposed Amendments: 847-005-0005

Last Date for Comment: 3-24-03

**Summary:** The proposed rules would 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

**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 677.420

Proposed Amendments: 847-010-0070

Last Date for Comment: 3-24-03

**Summary:** The proposed amendment clarifies that if the Board of Medical Examiners requires a licensee to take a medical competency examination, whether it is the 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

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

Last Date for Comment: 3-24-03

**Summary:** The proposed amendment 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

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

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

### Board of Naturopathic Examiners Chapter 850

Stat. Auth.: ORS 685.125

Stats. Implemented: ORS 685.106

Proposed Adoptions: 850-010-0055

Last Date for Comment: 3-21-03

**Summary:** These rules will allow temporary licensure of qualified Naturopathic physicians in the case of an emergency declared by the Governor.

**Rules Coordinator:** Anne Walsh

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

**Telephone:** (503) 731-4045

### Board of Nursing Chapter 851

**Date:**  
4-10-03

**Time:**  
9 a.m.

**Location:**  
800 NE Oregon Street  
Rm. 120-C  
Willamette River Suite  
Portland, OR 97232

# NOTICES OF PROPOSED RULEMAKING

**Hearing Officer:** Rolf Olson, Board President  
**Stat. Auth.:** ORS 348.115 & 348.117  
**Stats. Implemented:** ORS 348.115 & 348.117  
**Proposed Amendments:** 851-021-0010  
**Last Date for Comment:** 4-10-03

**Summary:** 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).

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

**Rules Coordinator:** KC Cotton  
**Address:** Board of Nursing, 800 NE Oregon St. - Suite 465, Portland, OR 97232-2162  
**Telephone:** (503) 731-4754

\*\*\*\*\*

Date:	Time:	Location:
4-10-03	9 a.m.	800 NE Oregon Street Rm. 120-C Portland, OR 97232

**Hearing Officer:** Rolf Olson, Board President  
**Stat. Auth.:** ORS 678.150 & 678.440  
**Stats. Implemented:** ORS 678.440  
**Proposed Amendments:** 851-063-0060  
**Last Date for Comment:** 4-10-03

**Summary:** This amendment to the rule adds cast removal to the additional task that Certified nursing Assistants are authorized to perform.

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

**Rules Coordinator:** KC Cotton  
**Address:** Board of Nursing, 800 NE Oregon St. - Suite 465, Portland, OR 97232-2162  
**Telephone:** (503) 731-4754

\*\*\*\*\*

Date:	Time:	Location:
4-10-03	9 a.m.	800 NE Oregon Street Rm. 120-C Portland, OR 97232

**Hearing Officer:** Rolf Olson, Board President  
**Stat. Auth.:** ORS 678.385  
**Stats. Implemented:** ORS 678.375 & 678.385  
**Proposed Amendments:** 851-050-0131  
**Last Date for Comment:** 4-10-03, 9 a.m.

**Summary:** 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 acting under ORS 678.375, including controlled substances listed in Schedules II, III, III N, N, IV and V. The amendment adds the February and March 2003 updates to Drug Facts and Comparisons to the formulary, with specific drugs proposed for inclusion or deletion. The Board may also petition to add currently excluded drugs to the Nurse Practitioner formulary.

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

**Rules Coordinator:** KC Cotton  
**Address:** Board of Nursing, 800 NE Oregon St. - Suite 465, Portland, OR 97232-2162  
**Telephone:** (503) 731-4754

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

**Stat. Auth.:** ORS 163.095, 163.105 & 163.115  
**Stats. Implemented:**  
**Proposed Amendments:** 255-032-0005, 255-032-0010, 255-032-0015  
**Last Date for Comment:** 4-3-03

**Summary:** 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  
**Address:** Board of Parole & Post-Prison Supervision, 2575 Center St. NE - Suite 100, Salem, OR 97301  
**Telephone:** (503) 945-9009

\*\*\*\*\*

**Stat. Auth.:** ORS 144.343, 163.105 & 163.115; Other Auth.: OAR 213-005-0004 & 213-011-0004  
**Stats. Implemented:**  
**Proposed Amendments:** 255-075-0067, 255-075-0079  
**Last Date for Comment:** 4-3-03

**Summary:** 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  
**Address:** Board of Parole & Post-Prison Supervision, 2575 Center St. NE - Suite 100, Salem, OR 97301  
**Telephone:** (503) 945-9009

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## Department of Administrative Services Chapter 125

**Stat. Auth.:** ORS 270.015(2) & 270.100(1)(d)  
**Stats. Implemented:** ORS 270.010, 270.100, 270.110, 270.130, 270.135 & 270.140  
**Proposed Amendments:** 125-045-0160  
**Last Date for Comment:** 3-21-03

**Summary:** This amendment adds an exclusion from the rule for Exchanges of Real Property Interests. It is in response to public comment received in December 2002 when other changes to this rule were made but the deadline for incorporation into the final rule before publication was missed. The December 2002 amendments removed the ability of the Division to grant exemptions to the rules governing Disposition and Acquisition of Real Property Interests. This final amendment was researched and approved by the Attorney General. They agreed that this exclusion statement was a necessary and appropriate addition to the rule.

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

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

**Stat. Auth.:** ORS 184.340, 240.145, 240.250, 240.306, 659A.052, 659A.043 & 659A.046  
**Stats. Implemented:**  
**Proposed Amendments:** 105-040-0020  
**Proposed Repeals:** 105-040-0020(T)  
**Last Date for Comment:** 3-28-03

**Summary:** General housekeeping was done to clarify the rule. Delete applicability statement to create consistency throughout chapter 105 of OAR. 105-040-0020(1)(a)(A) - Delete ascending to clarify that employees shall be placed on lists based on the date they make their return to work request. Update to reflect the location of eligibility requirements. 105-040-0020(1)(b) - Change language to clarify that management and classified unrepresented service employees must have been separated from state service and completed initial trial service in State service to be on the Agency Lay-off List. 105-040-0020(1)(b)(A) - Revisions to this section were made to conform the rule with HRSD State Policy. The policy allows



# NOTICES OF PROPOSED RULEMAKING

for one right of refusal before being removed off the Agency Lay-off List.

105-040-0020(1)(c) - Change Language to clarify that management and classified unrepresented service employees must have been separated from state service and completed initial trial service in State service to be 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) - Change language to clarify that employees who have gained regular status in their positions are qualified to be on the open competitive list. 105-040-0020(2) - Delete rule clarification, information is listed above in the actual rule. Language added to clarify where agency documentation retention requirements can be found.

**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

\*\*\*\*\*

**Stat. Auth.:** ORS 240.145 & 240.350  
**Stats. Implemented:** ORS 240.306, 240.309, 240.321 & 240.425  
**Proposed Amendments:** 105-040-0040  
**Proposed Repeals:** 105-040-0040(T)  
**Last Date for Comment:** 3-28-03

**Summary:** Minor housekeeping changes were needed to clarify the rule. The applicability statement is being removed because the rule should not be limited in its scope. The rule stands alone in its applicability.

105-040-0040(1)(d) and 105-040-0040(1)(d)(C): Allows agencies with limited options the flexibility to hire limited duration employees to meet critical workload needs. 105-040-0040(2): A revision of the rule was needed to remove the rule clarification. The definition referred to is in the definition rule. Documentation Retention language was added to clarify the requirements of this rule under record retention.

**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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### Department of Agriculture Chapter 603

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
3-24-03	7 p.m.	Hereford School Hereford, OR 97837

**Hearing Officer:** Lynda Horst  
**Stat. Auth.:** ORS 561.190, 561.191, 561.400, 568.900 - 568.933;  
 Other Auth.: OAR 603-090  
**Stats. Implemented:** ORS 568.900 - 568.933  
**Proposed Adoptions:** 603-095-3200, 603-095-3220, 603-095-3240, 603-095-3260  
**Last Date for Comment:** 4-15-03

**Summary:** The rules effectuate the implementation of the Burnt River 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

\*\*\*\*\*

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
3-25-03	7 p.m.	Spray Grange Hall 807 Winlock St. Spray, OR 97874

**Hearing Officer:** Lynda Horst  
**Stat. Auth.:** ORS 561.190, 561.191, 561.400, 568.900 - 568.933;  
 Other Auth.: OAR 603-090

**Stats. Implemented:** ORS 568.900 - 568.933  
**Proposed Adoptions:** 603-095-2500, 603-095-2520, 603-095-2540, 603-095-2560

**Last Date for Comment:** 4-15-03  
**Summary:** The rules effectuate the implementation of the Middle John Day Agricultural Water Quality Management Area Plan developed pursuant to ORS 568.900 et. seq.

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

**Rules Coordinator:** Sherry Kudna  
**Address:** Department of Agriculture, 635 Capitol St. NE, Salem, OR 97301-2532  
**Telephone:** (503) 986-4619

\*\*\*\*\*

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
4-2-03	7 p.m.	Paisley Community Ctr. 705 Chewaucan St. Paisley, OR 97636

**Hearing Officer:** Lynda Horst  
**Stat. Auth.:** ORS 561.190, 561.191, 561.400, 568.900 - 568.933;  
 Other Auth.: OAR 603-090

**Stats. Implemented:** ORS 568.900 - 568.933  
**Proposed Adoptions:** 603-095-3100, 603-095-3120, 603-095-3140, 603-095-3160  
**Last Date for Comment:** 4-15-03

**Summary:** The rules effectuate the implementation of the Goose and Summer Lakes Agricultural Water Quality Management Area Plan developed pursuant to ORS 568.900 et. seq.

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

**Rules Coordinator:** Sherry Kudna  
**Address:** Department of Agriculture, 635 Capitol St. NE, Salem, OR 97301-2532  
**Telephone:** (503) 986-4619

\*\*\*\*\*

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
4-4-03	10 a.m.	635 Capitol St. Salem, OR 97301

**Hearing Officer:** Lynda Horst  
**Stat. Auth.:** ORS 561.190  
**Stats. Implemented:** ORS 468A.550 - 468A.620 & 468A.992

**Proposed Amendments:** 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  
**Last Date for Comment:** 4-10-03

**Summary:** 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.

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

**Rules Coordinator:** Sherry Kudna  
**Address:** Department of Agriculture, 635 Capitol St. NE, Salem, OR 97301-2532  
**Telephone:** (503) 986-4619

\*\*\*\*\*

**Stat. Auth.:** ORS 561.190 & 561.510; Other Auth.: ORS 570.505  
**Stats. Implemented:** ORS 561.510  
**Proposed Amendments:** 603-052-1025  
**Last Date for Comment:** 4-9-03

**Summary:** The proposed amendments would eliminate mandatory seed sampling and testing from the small broomrape quarantine. Instead, red clover seed lots grown in western Oregon would 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 tested and found free of small broomrape contamination. Required reporting of infested fields and seed lots would also be eliminated.

# NOTICES OF PROPOSED RULEMAKING

**Rules Coordinator:** Sherry Kudna  
**Address:** Department of Agriculture, 635 Capitol St. NE, Salem, OR 97301-2532  
**Telephone:** (503) 986-4619

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

**Stat. Auth.:** ORS 326.051 & 341.626  
**Stats. Implemented:** ORS 341.015, 341.022, 341.317, 341.440, 341.525, 341.528, 341.626 & 341.665  
**Proposed Amendments:** 589-002-0100  
**Last Date for Comment:** 4-18-03  
**Summary:** ORS 341.626 requires the State Board of Education to adopt rules which govern the distribution of state aid to Oregon's community colleges. The amendments included here freeze enrollments at 2001-02 levels for 2003-05 and extend the "gap" calculation for an additional year. The amendments also remove outdated language regarding timberland taxes, remove line-item funding for programs phased out by the legislature, and amend dates to reflect actions needed in 2003-05.

**Rules Coordinator:** Bret West  
**Address:** Department of Community Colleges and Workforce Development, 255 Capitol St. NE, Salem, OR 97310-0001  
**Telephone:** (503) 378-8648, ext. 361

\*\*\*\*\*  
**Department of Corrections  
 Chapter 291**

**Stat. Auth.:** ORS 179.040, 423.020, 423.030 & 423.075  
**Stats. Implemented:** ORS 179.040, 423.020, 423.030 & 423.075  
**Proposed Adoptions:** 291-026-0150 - 291-026-0200  
**Proposed Repeals:** 291-026-0005 - 291-026-0135  
**Last Date for Comment:** 3-21-03  
**Summary:** These rule modifications are necessary to revise and expand the current rule to be more consistent with the operations and requirements of the department and the Department of Administrative Services for entering into personal and professional contracts. Additionally, the rule modifications make the rule more consistent with other department rules, and reflect operational and organizational changes that have occurred within the department.

**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:
3-18-03	6 p.m.	Columbia Gorge CC Bldg. #1, Board Rm. 400 E. Scenic Drive The Dalles, OR State Office Bldg. Rm. 120C 800 NE Oregon Portland, OR
3-19-03	6 p.m.	Large Meeting Rm. North Bend Library 1800 Sherman Ave. North Bend, OR
3-20-03	6 p.m.	

**Hearing Officer:** William R. Bree  
**Stat. Auth.:** ORS 459.045 & 468.020  
**Stats. Implemented:** ORS 459  
**Proposed Adoptions:** 340-093-0180  
**Proposed Amendments:** 340-093-0030  
**Last Date for Comment:** 3-26-03

**Summary:** The proposed rules streamline the management of clean dewatered sediment. These rules define "dewatered" and "clean

dewatered sediment." They add "clean dewatered sediment" to the definition of "clean fill" and thereby allow clean dewatered sediment that meets specific risk based standards to be utilized as clean fill without a solid waste disposal site permit.

To submit comments or request additional information, please write to William R. Bree at the Department of Environmental Quality (DEQ), 811 SW 6th Ave. Portland, Oregon 97204, or call toll free in Oregon at 1-800-452-4011 or (503) 229-6046; e-mail: [sediment@deq.state.or.us](mailto:sediment@deq.state.or.us); Fax (503) 229-6977, 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:
3-20-03	7 p.m.	Pendleton Convention Ctr. Rm. 1 1601 Westgate Pendleton, OR 97801
3-21-03	1 p.m.	Deschutes County Board of Commissioners 1130 NW Harrison St. Bend, OR 97701
3-25-03	9 a.m.	Jackson Co. Courthouse Auditorium 10 S. Oakdale Medford, OR 97501
3-26-03	1 p.m.	Salem Public Library Loucks Auditorium 585 Liberty St. NE Salem, OR 97301

**Hearing Officer:** Amy Verley, Richard Nichols, Dennis Belsky, Dottie Reynolds

**Stat. Auth.:** ORS 468.020, 468B.020 & 468B.050  
**Stats. Implemented:** ORS 468.065, 468B.015, 468B.035 & 468B.050

**Proposed Amendments:** 340-045-0033  
**Last Date for Comment:** 3-31-03, 5 p.m.

**Summary:** This proposal would adopt a rule amendment to OAR 340-045-0033 to issue a new National Pollutant Discharge Elimination System (NPDES) general permit #2000-J for aquatic herbicide applications into irrigation systems. This permit would regulate the application of the aquatic herbicides acrolein, copper, and xylene to control aquatic weeds in irrigation systems that are considered waters of the United States.

To submit comments or request additional information, please contact Ranei Nomura at the Department of Environmental Quality (DEQ), 811 SW 6th Ave., Portland, OR 97304, toll free in Oregon at 800-452-4011 or (503) 229-5657, [nomura.ranei@deq.state.or.us](mailto:nomura.ranei@deq.state.or.us), (503) 229-5408 fax, 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:
3-25-03	3 p.m.	811 SW 6th Ave. Rm. 3A Portland, OR

**Hearing Officer:** Gerald Ebersole  
**Stat. Auth.:** ORS 468.020, 468.035, 468.065, 468A.040 & 468A.315  
**Stats. Implemented:** ORS 468.020, 468A.010, 468A.025, 468A.045 & 468A.315

# NOTICES OF PROPOSED RULEMAKING

**Proposed Amendments:** 340-220-0030, 340-220-0040, 340-220-0050

**Last Date for Comment:** 3-28-03, 5 p.m.

**Summary:** The Department of Environmental Quality is proposing to amend its rules to increase permitting fees for the Oregon Title V Permit Program according to the U.S. Consumer Price Index (CPI). Federal law requires that Title V permitting fees be sufficient to fully fund the program. The Department proposes to increase Base Fees, Emission Fees, and Special Activity fees 4.59 percent, which represents the CPI adjustment since fees were last increased in 2001. The fee increase is needed to pay for increased program costs due to inflation and personnel service increases.

To submit comments or request additional information, please contact Scott Monzano at the Department of Environmental Quality (DEQ), 811 SW Sixth Ave., Portland, OR 97304, toll free in Oregon at 800-452-4011 or (503) 229-6821, Manzano.Scott@deq.state.or.us, Fax (503) 229-5675, 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

\*\*\*\*\*  
**Department of Fish and Wildlife**  
**Chapter 635**

Date:	Time:	Location:
4-11-03	8 a.m.	ODFW Commission Rm. 2501 SW First Ave. Portland, OR 97201

**Hearing Officer:** Fish and Wildlife Commission

**Stat. Auth.:** ORS 498.158

**Stats. Implemented:** ORS 498.158

**Proposed Adoptions:** 635-043-0056

**Last Date for Comment:** 4-11-03

**Summary:** Adopt rules to authorize Oregon Department of fish and Wildlife to trap and relocate nuisance wild turkeys found within the Roseburg City Limits. These rules will make a temporary rule permanent.

*\*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:
4-11-03	8 a.m.	ODFW Commission Rm. 2501 SW First Ave. Portland, OR 97201

**Hearing Officer:** Fish and Wildlife Commission

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

**Stats. Implemented:** ORS 496.162 & 506.129

**Proposed Amendments:** Rules in 635-017

**Last Date for Comment:** 4-11-03

**Summary:** Amend rules regarding Pacific lamprey harvest at Willamette Falls.

*\*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:
4-11-03	8 a.m.	ODFW Commission Rm. 2501 SW First Ave. Portland, OR 97201

**Hearing Officer:** Fish and Wildlife Commission

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

**Stats. Implemented:** ORS 496.162 & 506.129

**Proposed Amendments:** Rules in 635-003, 635-013, 635-014, 635-016, 635-017, 635-018, 635-023, 635-039

**Last Date for Comment:** 4-11-03

**Summary:** Amend 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.

*\*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

\*\*\*\*\*  
**Department of Forestry**  
**Chapter 629**

Date:	Time:	Location:
3-25-03	10 a.m.	Oregon Dept. of Forestry 2600 State St. Operations Bldg., Rm. 101 Salem, OR
3-27-03	10 a.m.	Douglas Forest Protection Assoc. 1758 NE Airport Rd. Roseburg, OR

**Hearing Officer:** Bill Hughes

**Stat. Auth.:** ORS 527.715; Other Auth.: ORS 527.630(3), 527.710 & 527.765

**Stats. Implemented:** ORS 527.630(3), 527.710 & 527.715

**Proposed Adoptions:** 629-605-xxxx

**Proposed Amendments:** 629-630-0500

**Last Date for Comment:** 4-30-03

**Summary:** ADOPT: 629-605-xxxx Provides notice of Endangered Species Act and possible operator responsibilities to comply with federal law. AMEND: 629-630-0500 Removes prior approval requirement for harvesting on high landslide hazard locations, provides optional review of operations.

Questions specific to the rule may be directed to Keith Mills, 503-945-7481

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

**Rules Coordinator:** Gayle Birch

**Address:** Department of Forestry, 2600 State St., Salem, OR 97310

**Telephone:** (503) 945-7210

\*\*\*\*\*  
**Department of Geology and Mineral Industries**  
**Chapter 632**

**Stat. Auth.:** ORS 517.775 & 517.992

**Stats. Implemented:** ORS 717.775 & 517.992

**Proposed Amendments:** 632-030-0017, 632-030-0022

**Last Date for Comment:** 4-20-03

**Summary:** The rules require Closure Plans for those sites mining allowed by limited exempt certificate. The purpose of the closure plan requirement is to stabilize limited exempt sites to insure there are no significant offsite impacts upon completion of mining to adjacent lands.

**Rules Coordinator:** Gary Lynch

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

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

# NOTICES OF PROPOSED RULEMAKING

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

**Date:** 3-21-03      **Time:** 10 a.m.-12 p.m.      **Location:** HSB, Rm. 137 D  
500 Summer St. NE  
Salem, OR

**Hearing Officer:** Staff

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

**Stats. Implemented:**

**Proposed Adoptions:** 410-014-0000, 410-014-0010, 410-014-0020, 410-014-0030, 410-014-0040, 410-014-0050, 410-014-0060, 410-014-0070

**Last Date for Comment:** 3-21-03

**Summary:** These DHS Privacy Rules set forth the general policies and procedures that govern the use and disclosure of Protected Information by DHS. These DHS Privacy Rules also set forth the policies and procedures that govern the use and disclosure of individually identifiable health information for the purposes of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), 42 USC 1320-d through 1320d-8, Pub L 104-191, sec. 262 and 264, and the implementing HIPAA Privacy Rules, 45 CFR 160 and 164.

Interested persons may obtain copies or submit data or views concerning the proposed rulemaking by writing to the address below.

**Rules Coordinator:** Lynn Hanson

**Address:** Department of Human Services, Departmental Administration and Medical Assistance Programs, 500 Summer St. NE, Salem, OR 97301-1077

**Telephone:** (503) 947-5247

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**Date:** 3-21-03      **Time:** 10:30 a.m.-12 p.m.      **Location:** HSB, Rm. 137 B  
500 Summer St. NE  
Salem, OR

**Hearing Officer:** Darlene Nelson

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

**Stats. Implemented:** ORS 414.065

**Proposed Amendments:** 410-133-0000, 410-133-0040, 410-133-0080, 410-133-00120, 410-133-0200, 410-133-0220, 410-133-0300, 410-133-0320

**Proposed Repeals:** 410-133-0020, 410-133-0240

**Last Date for Comment:** 3-21-03

**Summary:** The School-Based Health Services program rules govern Office of Medical Assistance Programs (OMAP) payments for services provided to Medicaid eligible clients. Rules 410-133-0000, 410-133-0040, 410-133-0080, 410-133-00120, 410-133-0200, 410-133-0220, 410-133-0300, 410-133-0320 will be amended, and Rules 410-133-0020, 410-133-0240 will be repealed, to conform to federal guidance for medically related services for Oregon's chronically disabled children in the school setting. These amendments are a result of federal guidance and requirements for Health Insurance Portability and Privacy Act (HIPAA).

*\*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, Salem, OR 97301-1077

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

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**Date:** 3-21-03      **Time:** 10:30 a.m.-12 p.m.      **Location:** HSB, Rm. 137 B  
500 Summer St. NE  
Salem, OR

**Hearing Officer:** Darlene Nelson

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

**Stats. Implemented:** ORS 414.065

**Proposed Amendments:** 410-121-0030, 410-121-0040

**Last Date for Comment:** 3-21-03

**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 amended to add drug categories to Table 121-0030-1, the PMPDP, Plan Drug List (PDL). Rule 410-121-0040 is being amended to add an item to the list of items needing prior authorization.

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**Rules Coordinator:** Darlene Nelson

**Address:** Department of Human Services, Departmental Administration and Medical Assistance Programs, 500 Summer St. NE, Salem, OR 97301-1077

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

\*\*\*\*\*

**Date:** 3-21-03      **Time:** 10:30 a.m.-12 p.m.      **Location:** HSB, Rm. 137 B  
500 Summer St. NE  
Salem, OR

**Hearing Officer:** Darlene Nelson

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

**Stats. Implemented:** ORS 414.065

**Proposed Amendments:** 410-141-0520

**Last Date for Comment:** 3-21-03

**Summary:** The Oregon Health Plan services program Administrative rules govern Office of Medical Assistance Programs (OMAP) payments for services provided to clients. Rule 410-141-0520 is being revised to reference the updated Health Services Commission's Prioritized List of Health Services, effective April 1, 2003.

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

**Rules Coordinator:** Darlene Nelson

**Address:** Department of Human Services, Departmental Administration and Medical Assistance Programs, 500 Summer St. NE, Salem, OR 97301-1077

**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:** 3-21-03

**Summary:** The rules of Pharmacy Services govern Office of Medical Assistance Programs (OMAP) payment to providers for pharmaceutical services provided for clients of the Medical Assistance programs. Effective upon filing, 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 is the Notice for permanent filing for this rule.

**Rules Coordinator:** Darlene Nelson

**Address:** Department of Human Services, Departmental Administration and Medical Assistance Programs, 500 Summer St. NE, Salem, OR 97301-1077

**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:** 3-21-03

**Summary:** The rules of Pharmacy Services govern Office of Medical Assistance Programs (OMAP) payment to providers for pharmaceutical services provided for clients of the Medical Assistance programs. As a result of the First Health Service's OMAC monthly lists for December 1, 2002, January 1, 2003 and February 1, 2003, OMAP temporarily amended Rule 410-121-0320, effective upon filing in February 2003; this is the Notice of Permanent rulemaking for

## NOTICES OF PROPOSED RULEMAKING

that filing. 410-121-0320 is revised to include the OMAC listings for December 1, 2002, January 1, 2003 and February 1, 2003.

**Rules Coordinator:** Darlene Nelson

**Address:** Department of Human Services, Departmental Administration and Medical Assistance Programs, 500 Summer St. NE, Salem, OR 97301-1077

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

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**Department of Human Services,  
Public Health  
Chapter 333**

**Stat. Auth.:** ORS 448

**Stats. Implemented:** ORS 448.455

**Proposed Amendments:** 333-061-0250, 333-061-0260

**Last Date for Comment:** 3-21-03

**Summary:** 0250 is amended to provide further clarification to treatment definitions to bring in line with terminology that is commonly used in the industry.

0260 is amended to allow water distribution operators applying for level 3 and level 4 certification to substitute additional years of experience for currently required post high school education. Minor housekeeping changes are also proposed to make the format more consistent.

**Rules Coordinator:** Jana Fussell

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

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

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

Date:	Time:	Location:
3-25-03	10 a.m.	Rm. 251 500 Summer St. NE Salem, OR

**Hearing Officer:** Annette Tesch

**Stat. Auth.:** ORS 411.060, 411.816 & 418.100

**Stats. Implemented:** ORS 411.060, 411.070, 411.700, 410.816 & 418.100

**Proposed Adoptions:** 461-135-0301, 461-135-0701, 461-135-0721, 461-155-0526, 461-155-0551

**Proposed Amendments:** 461-145-0540, 461-155-0035, 461-155-0150, 461-155-0500, 461-155-0600, 461-155-0610

**Proposed Repeals:** 461-155-0560

**Last Date for Comment:** 3-25-03

**Summary:** Rule 461-135-0301 is being adopted to close the Emergency Assistance (EA) program.

Rule 461-135-0701 is being adopted to terminate the General Assistance (GA) program.

Rule 461-135-0721 is being adopted to terminate the Oregon Supplemental Income Program Medical-Medically Needy (OSIPM-MN) program.

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.

Rule 461-155-0035 is being amended because the amount of the Cooperation Incentive Payment (COI) is being reduced based on need group size.

Rule 461-155-0150 is amended to lower the Employment Related Day Care (ERDC) income limit from 185% to 150% of the Federal Poverty Level, to increase copays by \$18 to \$50 a month, and to eliminate the reduced copay for the first two months of ERDC eligibility. This rule is also being amended to reflect the correct OAR reference reflecting the annual increase in the federal poverty levels as published in the Federal Register. This rule includes references based on the federal poverty levels.

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.

(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, E48, Salem, OR 97301-1066

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

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Date:	Time:	Location:
3-26-03	10 a.m.	Rm. 255 500 Summer St. NE Salem, OR

**Hearing Officer:** Anita Staver

**Stat. Auth.:** ORS 411.060

**Stats. Implemented:** ORS 411.060

**Proposed Amendments:** 461-193-0560

**Last Date for Comment:** 3-26-03

**Summary:** Rule 461-193-0560 is being amended because the amount of the Refugee Case Service Project payment standards is being reduced based on case size.

(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, E48, Salem, OR 97301-1066

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

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

Date:	Time:	Location:
3-25-03	1:30 p.m.	500 Summer St. NE Rm. 137D Salem, OR

**Hearing Officer:** Pam Rouske

**Stat. Auth.:** ORS 410.070 & 410.420

**Stats. Implemented:** ORS 410.410 - 0410.080

**Proposed Amendments:** Rules in 411-032

**Last Date for Comment:** 4-8-03

**Summary:** These amendments are proposed to become effective April 30, 2003. They will update Oregon Project Independence (OPI) program goals; increase program policy requirements for the Area Plan; clarify requirements for client notification; add a provision

# NOTICES OF PROPOSED RULEMAKING

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.

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

**Rules Coordinator:** Pam Rouske

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

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

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Date:	Time:	Location:
3-24-03	1:30 p.m.	500 Summer St. NE Rm. 137B&C Salem, OR

**Hearing Officer:** Pam Rouske

**Stat. Auth.:** ORS 409.050 & 410.070

**Stats. Implemented:** ORS 427.330 - 427.345

**Proposed Adoptions:** 411-310-0010 - 411-310-0070

**Last Date for Comment:** 3-25-03

**Summary:** These are new rules proposed for adoption effective April 1, 2003. ORS 427.330 - 427.345 gave broad new authority and responsibilities to the Department of Human Services concerning activities related to the development and maintenance of community housing to provide care for individuals with developmental disabilities. The rules describe the operation of the housing program, operational procedures for accomplishing major developmental projects, minor home adaptations, and maintenance of community housing that was developed for the former residents of Fairview State Training Center. The rules also describe the Developmental Disability Housing Fund established at the State Treasury by ORS 427.340. Finally, the rules describe procedures for the disposition of surplus property that may be used in the care of persons with developmental disabilities.

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

**Rules Coordinator:** Pam Rouske

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

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

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Date:	Time:	Location:
3-24-03	2:30 p.m.	500 Summer St. NE Rm. 137B&C Salem, OR

**Hearing Officer:** Pam Rouske

**Stat. Auth.:** ORS 409.050 & 410.070

**Stats. Implemented:** ORS 427.330 - 427.345

**Proposed Adoptions:** 411-315-0010 - 411-315-0100

**Last Date for Comment:** 3-25-03

**Summary:** These are new rules proposed for adoption effective April 1, 2003 that describe the policy, procedures and responsibilities for operation of the Developmental Disabilities Housing Trust Account established by ORS 427.340. The rules define procedures for the operation of a program to perform adaptations to non-licensed homes where persons with developmental disabilities reside or intend to reside. The purpose of funding those adaptations is to protect the health and safety of the individual, or to provide opportunities for greater independence and participation in their community. Included are eligibility requirements, fund allocation, project monitoring, disbursement and grievance procedures. The rule also establishes a Technical Advisory Committee made up of representatives of the developmental disability community to recommend policy and provide feedback on its implementation.

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

**Rules Coordinator:** Pam Rouske

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

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## Department of Public Safety Standards and Training Chapter 259

**Stat. Auth.:** ORS 181.875, 181.878 & 181.883

**Stats. Implemented:** ORS 181.875 & 181.878

**Proposed Amendments:** 259-060-0020, 259-060-0300, 259-060-0500

**Last Date for Comment:** 3-24-03

**Summary:** Allows a fee to be charged for not sufficient checks, outlines who is eligible for the waiver process and adds language to the section of convictions that was taken out in error.

A copy of the proposed rules is available on our web page, [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 181.610 & 181.640

**Stats. Implemented:** ORS 181.610 & 181.640

**Proposed Amendments:** 259-008-0070

**Last Date for Comment:** 3-24-03

**Summary:** Administrative rule 259-008-0070 speaks as to Public Safety Professionals which include Fire Services Professionals. With the creation of the new chapter for fire service rules the current administrative rule needs to be updated to show officer, telecommunicator, emergency medical dispatchers and instructors instead of the all inclusive title of Public Safety Professionals.

**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

Date:	Time:	Location:
3-26-03	2 p.m.	ODOT Bldg. Rm. 122 135 Capitol St. NE Salem, OR

**Hearing Officer:** David Eyerly

**Stat. Auth.:** ORS 184.616, 814.619, 802.012 & 803.460

**Stats. Implemented:** ORS 802.012, 802.560, 803.200, 803.220, 803.360, 803.370, 803.450, 803.460, 807.420 & 807.560

**Proposed Adoptions:** 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

**Last Date for Comment:** 4-11-03

**Summary:** The proposed rules are needed to 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.

# NOTICES OF PROPOSED RULEMAKING

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

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

**Rules Coordinator:** Brenda Trump  
**Address:** Department of Transportation, Driver and Motor Vehicle Services Division, 1905 Lana Ave. NE, Salem, OR 97314  
**Telephone:** (503) 945-5278

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**Stat. Auth.:** ORS 148.616, 148.619, 807.070, 807.120 & 807.150

**Stats. Implemented:** ORS 807.120, 807.150 & 807.310

**Proposed Amendments:** 735-062-0060

**Last Date for Comment:** 4-11-03

**Summary:** This rule establishes the requirement for a vision check every eight years for a person 50 years of age or older. The proposed 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.

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, Rail Division Chapter 741

**Stat. Auth.:** ORS 184.616, 184.619, 823.011, 824.202 & 824.220  
**Stats. Implemented:** ORS 824.018, 824.200 - 824.212, 824.220, 824.222, 824.224 & 824.244

**Proposed Adoptions:** 741-100-0030, 741-115-0070, 741-115-0080, 741-120-0025, 741-125-0030

**Proposed Amendments:** 741-100-0020, 741-105-0010, 741-105-0020, 741-105-0030, 741-110-0010, 741-110-0020, 741-110-0030, 741-110-0040, 741-110-0050, 741-110-0060, 741-110-0070, 741-110-0090, 741-115-0010, 741-115-0020, 741-115-0030, 741-115-0040, 741-115-0050, 741-115-0060, 741-120-0010, 741-120-0020, 741-120-0030, 741-120-0040, 741-120-0050, 741-125-0010, 741-200-0030, 741-200-0040, 741-200-0050, 741-200-0060, 741-200-0090

**Proposed Repeals:** 741-200-0070

**Last Date for Comment:** 4-11-03

**Summary:** The Rail Crossing Safety rules have not been revised since 1983. There have been numerous changes within the railroad industry and crossing safety community, making these rules obsolete. Significant staff time is being spent addressing crossing safety issues that would be better set forth in the rules. This rulemaking represents a general updating of the Rail Crossing Safety rules, tables and figures in Chapter 741, Divisions 100 through 200. Any rules in Chapter 741, Divisions 100 through 200 that are not cited above for proposed adoption, amendment or repeal, are also open for public comment.

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, Rail Division, 1905 Lana Ave. NE, Salem, OR 97314  
**Telephone:** (503) 945-5278

## Department of Veterans' Affairs Chapter 274

**Stat. Auth.:** ORS 406.030, 407.115, 407.325 & 407.327

**Stats. Implemented:** ORS 407.325 & 407.327

**Proposed Amendments:** 274-020-0341

**Proposed Repeals:** 274-020-0341(T)

**Last Date for Comment:** 3-21-03

**Summary:** This rule replaces and supersedes the Temporary rule 274-020-0341(T) file on January 17, 2003, and effective January 21, 2003 through March 24, 2003.

Applications on all ODVA's Veterans' Loan Program 1990 loans that have a maturity date of no more than 30 years and are received on or after January 21, 2003, shall have the interest rate of 5.55 percent with an origination fee of 1.0 percent; 5.39 percent with an origination fee of 1.5 percent, or 5.25 percent with an origination fee of 2.0 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 are received on or after January 21, 2003, shall have the interest rate of 5.95 percent with an origination fee of 1.0 percent; 5.79 percent with an origination fee of 1.5 percent; or 5.65 percent with an origination fee of 2.0 percent.

**Rules Coordinator:** Charles E. Gehley

**Address:** Department of Veterans' Affairs, 700 Summer St. NE, Salem, OR 97301-1285

**Telephone:** (503) 373-2142

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## Dispute Resolution Commission Chapter 718

Date:	Time:	Location:
3-17-03	3 p.m.	1201 Court St. NE Rm. 113 Salem, OR

**Hearing Officer:** Mike Niemeyer

**Stat. Auth.:** ORS 36.175 & 183.355

**Stats. Implemented:** ORS 36.100 - 36.245

**Proposed Amendments:** 718-005-0015, 718-010-0000, 718-010-0005, 718-010-0035, 718-010-0085, 718-010-0090, 718-020-0000, 718-020-0010, 718-020-0020, 718-020-0050, 718-020-0080, 718-020-0110, 718-020-0120, 718-020-0130, 718-020-0140, 718-020-0150, 718-040-0030, 718-040-0110, 718-050-0010

**Proposed Repeals:** 718-005-0005, 718-005-0010, 718-010-0025, 718-010-0030, 718-010-0040, 718-010-0045, 718-010-0050, 718-010-0055, 718-010-0060, 718-010-0070, 718-010-0080

**Last Date for Comment:** 3-21-03

**Summary:** **718-005-0015 - Notice:** Amends rule by adding "of rulemaking" to the title. Also amends the rule by changing "or" to "of" in the first sentence and adding "e-mailing" to section (3) as a way to furnish notice to newspapers. Amends the rule by adding "The Oregonian" and "The Statesman Journal" as newspapers and deletes "The Capital Press Room." It deletes the wording "Associations which have expressed an interest in and requested notice about the commission's activities."

**718-010-0000 - Authority and Purpose:** Amends section (1) by deleting Oregon Law cite and adding ORS 36.175 and deletes section (2) relating to the current rules superseding the temporary rules of 16 Feb 1990. Amends section (1) by deleting "(1)."

**718-010-0005 - Quorum and Rules of Order:** Amends section (2) to the active voice at the end to read, "before the Commission may take a vote." Amends section (4) by adding "of" between the words "listing" and "members" in the middle of the section.

**718-010-0035 - Requests to Place Items on Agenda:** Amends the language by deleting "for discussion only" in the beginning of the second sentence and by adding "The foregoing does not apply to petitions requesting the Commission to initiate a rulemaking proceeding, or petitions requesting the Commission to issue a declaratory ruling, for which procedures are set forth in the Attorney Gen-

# NOTICES OF PROPOSED RULEMAKING

eral's Model Rules of Procedure under the Administrative Procedures Act, as adopted by the Commission."

**718-010-0085 - Public Availability of Information:** Amends rule by deleting section (2) relating to how many days the commission shall have to respond to a public request for information, and section (4) relating to the discretion the Commission has to waive or reduce fees. Considering the deletion of sections (2) and (4), section (3) is renumbered as section (2). Amends the new section (2) by adding "a" between "that" and "request."

**718-010-0090 - Rules of Procedure:** Amends by deleting first paragraph relating to Attorney General's Model Rules and adds paragraph stating, "Pursuant to the provisions of ORS 183.341, the dispute Resolution Commission adopts the Attorney General's Model Rules of Procedure, October 2001 version, as its rule of procedure."

**718-020-0000 - Scope of Application of Rules:** Amends rule by deleting ORS 36.155(1)(b) and adding ORS 36.155 to reflect accurate cite.

**718-020-0010 - Definitions for OAR 718-020-0000 to 718-020-0160:** Amends rule by deleting ORS 36.155(1)(b) and adding ORS 36.155 to reflect accurate cite in sections (1), (5) and (6).

**718-020-0020 - Program Services:** Amends rule by deleting ORS 36.155(1)(b) and adding ORS 36.155 to reflect accurate cite in section (1). Amends section (2)(c) by changing "dispute resolvers" to "individuals who resolve disputes."

**718-020-0050 - Participating Fund Requirements:** Amends rule by deleting ORS 36.155(1)(b) and adding ORS 36.155 to reflect accurate cite in section (1). Amends section (6) by deleting "; and" at the end of section (a) and by deleting subsection (b) "Volunteer time provided for mediation, arbitration or other dispute resolution services."

**718-020-0080 - Reporting Requirements:** Amends rule by deleting "annually" and "statistical" in section (1) and by adding "each grantee shall report the information annually and as the Commission shall direct in writing."

**718-020-0110 - County Declaration of Intent to Participate:** Amends rule by deleting ORS 36.155(1)(b) and adding ORS 36.155 to reflect accurate cite in sections (1) and (2); and deletes "December 31" and adds "March 15" as notification dates in sections (1) and (3)(b).

**718-020-0120 - County Dispute Resolution Program Coordinator:** Amends rule by adding, "oversee, work for, volunteer, or otherwise take part" to section (1).

**718-020-0130 - Application Process:** Amends rule by deleting ORS 36.155(1)(b) and adding ORS 36.155 to reflect accurate cite in section (1). Deletes section (4) and renumbers section (5), so it is now section (4).

**718-020-0140 - Application Requirements:** Amends rule by deleting section (3) which stated, "A description of the applicant's organizational structure, and by adding the word "structure" to section (7). After the deletion of section (3), the sections received new numbers. The words "An applicant's request shall not exceed the Commission's budget projection" are added to the new section (7).

**718-020-0150 - Selection Process:** Amends rule by adding "as of the date of application" to the end of the first sentence of section (1).

**718-040-0030 - Domestic Relations Mediators - Summary of Minimum Qualifications and Training Requirements:** Amends rule by adding OAR 718-040-0070 and deleting OAR 718-040-0090 to reflect accurate cite.

**718-040-0110 - All Listed Mediators - Disclosure of Information About Mediator:** Amends rule by adding OAR 718-040-0100 and deleting OAR 718-040-0090 to reflect accurate cite.

**718-050-0010 - Definitions:** Amends rule by adding "Presiding Judge, a representative of the court, or" to the definition of hiring authority.

**718-050-0070 - Qualifications Review:** Amends rule by adding "Presiding Judge" in the first sentence of section (1) replacing "hiring authority." Also, amends rule by adding "court" in place of "hiring authority" towards the end of section (1). Replaces "hiring

authority" in sections (2) and (3) with Presiding Judge, or a representative of the court."

**718-005-0005 - Purpose:** Repeals rule relating to the purposes of the commission.

**718-005-0010 - Statutory Authority and Procedure:** Repeals section relating the authorization and purpose of the rules.

**718-010-0025 - Matters Not on Agenda:** Repeals rule giving members of the Commission with approval opportunity to raise matters at a meeting which were not on the agenda.

**718-010-0030 - Order of Business:** Repeals rule governing how the order of business of Commission meetings shall follow.

**718-010-0040 - Request for Commission Action:** Repeals rule allowing any person wishing the Commission to take formal action with respect to a particular subject to file such request.

**718-010-0045 - Committees:** Repeals rule allowing the chairperson to appoint committees.

**718-010-0050 - Commission Files:** Repeals rule requiring all Commission files to be assembled in the Commission's official office and maintained under the direction of the chairperson. The rule also required the Commission to maintain a record of the location of all files and minutes of all Commission meetings for the last five years.

**718-010-0055 - Commission Communications:** Repeals rule requiring that only the chairperson shall write other than routine or form letter in the name of the Commission unless members are specifically authorized in a Commission meeting to do so. It allowed Commission staff to prepare and send letters on behalf of the Commission. It advised that the Commission should approve in advance any correspondence which may materially affect policies and procedures.

**718-010-0060 - Commission Agreements:** Repeals rule allowing only the chairperson, unless the Commission authorizes another member to do so, may enter into agreements on behalf of the Commission.

**718-010-0070 - Commission Expenditures:** Repeals rule allowing only the chairperson, unless the Commission authorizes another member to do so, may incur financial obligations or authorize expenditures on behalf of the Commission. Under the rule, all expenditures must be consistent with the legislatively approved budget and applicable state rules.

**718-010-0080 - Conflict of Interest:** Repeals rule requiring (1) prior to each meeting the chairperson to announce that there may be a potential conflict of interest or (2) individuals who have announced a potential conflict of interest arising from consideration of or action on any agenda item to be excused from further deliberations or action on that item.

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

**Rules Coordinator:** Evette Moser

**Address:** Dispute Resolution Commission, 1201 Court St. NE, Suite 305, Salem, OR 97310

**Telephone:** (503) 378-2877, ext. 25

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## Employment Department Chapter 471

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
3-18-03	1 p.m.	Employment Dept. Auditorium 875 Union NE Salem, OR 97311

**Hearing Officer:** Richard Luthé

**Stat. Auth.:** ORS 657.610

**Stats. Implemented:** ORS 657.610

**Proposed Amendments:** 471-030-0036

**Last Date for Comment:** 3-18-03, 5 p.m.

**Summary:** The Employment Department is proposing to adopt a new rule to allow that an individual who is not willing to or capable of working a particular shift because of lack of child care may remain eligible for benefits.



# NOTICES OF PROPOSED RULEMAKING

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

**Rules Coordinator:** Richard L. Luthé  
**Address:** Employment Department, 875 Union St. NE - Room 312, Salem, OR 97311  
**Telephone:** (503) 947-1724

\*\*\*\*\*  
**Health Licensing Office  
Chapter 331**

Date:	Time:	Location:
4-14-03	9 a.m.	Health Licensing Office Rhoades Conference Rm. 700 Summer St. NE Salem, OR 97301-1287

**Hearing Officer:** Michael Reed  
**Stat. Auth.:** ORS 690.550 (Ch. 562 OL 1995); Other Auth.: ORS 183

**Stats. Implemented:** ORS 690.550  
**Proposed Amendments:** 331-205-0030  
**Last Date for Comment:** 3-28-03

**Summary:** 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.

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

**Rules Coordinator:** Patricia C. Allbritton  
**Address:** Department of Human Services, Health Division Licensing Programs, 700 Summer St. NE, Suite 320, Salem, OR 97301-1287  
**Telephone:** (503) 378-8667, ext. 4322

\*\*\*\*\*  

Date:	Time:	Location:
4-14-03	9 a.m.	Health Licensing Office Auditorium 700 Summer St. NE Salem, OR 97301-1287

**Hearing Officer:** Michael Reed  
**Stat. Auth.:** ORS 680.525; Other Auth.: ORS 183  
**Stats. Implemented:** ORS 680.525  
**Proposed Amendments:** 331-405-0030  
**Last Date for Comment:** 3-28-03

**Summary:** The Board is proposing fee increases 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.

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

**Rules Coordinator:** Patricia C. Allbritton  
**Address:** Department of Human Services, Health Division Licensing Programs, 700 Summer St. NE, Suite 320, Salem, OR 97301-1287  
**Telephone:** (503) 378-8667, ext. 4322

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**Oregon Board of Dentistry  
Chapter 818**

Date:	Time:	Location:
5-22-03	7 p.m.	OHSU School of Dentistry 611 SW Campus Dr. Rooms 220 & 225 Portland, OR

**Hearing Officer:** Board President or Designee  
**Stat. Auth.:** ORS 679 & 680  
**Stats. Implemented:** ORS 679.250(7) & 679.250(10)  
**Proposed Adoptions:** 818-026-0055

**Proposed Amendments:** 818-026-0010, 818-026-0020, 818-026-0030, 818-026-0035, 818-026-0040, 818-026-0050, 818-026-0060, 818-026-0070, 818-026-0080, 818-026-0100, 818-026-0110, 818-026-0120, 818-026-0130

**Last Date for Comment:** 5-22-03

**Summary:** Proposed rule changes bring the Board's anesthesia rules in line with the recommendations of the American Dental Association, "Guidelines for the Use of Conscious Sedation, Deep Sedation and General Anesthesia for Dentists." Specifically, Class 2 permit requirements are changed to cover any combination of sedative agents that produce conscious sedation and Class 3 permit is amended to require a higher level of life support training and certification (ACLS or PALS). A new rule is added to allow dental hygienists and dental assistants to provide care within the scope of their license/certification for patients under Conscious Sedation. Clarification is made in the rules that Health Care Provider BLS/CPR certification may be "or equivalent" and that the certification must be kept current. Changes are also made regarding the continuing education requirements for maintaining an anesthesia permit. Other minor changes are made to add definitions, to clarify the Board's position that no anesthesia permit is required when a single sedative is provided for anxiolysis only, and to further conform the Board's rules with the ADA "Guidelines" referred to above.

Copies of the full text of proposed changes can be found on the Board's website ([www.oregondentistry.org](http://www.oregondentistry.org)) under What's New or by calling the Board of Dentistry at 503-229-5520.

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

**Rules Coordinator:** Sharon Ingram  
**Address:** Oregon Board of Dentistry, 1515 SW 5th - Suite 602, Portland, OR 97201  
**Telephone:** (503) 229-5520

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**Stat. Auth.:** ORS 679 & 680  
**Stats. Implemented:** ORS 679.060, 679.065, 679.070, 680.040, 680.050 & 680.060  
**Proposed Amendments:** 818-021-0011, 818-021-0025, 818-042-0050, 818-042-0060, 818-042-0120, 818-042-0130  
**Last Date for Comment:** 4-15-03

**Summary:** Licensure Without Further Examination. 818-021-0011 and 818-021-0025 are permanently 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.

X-ray Certification for Dental Assistants. 818-042-0050, 818-042-0060, 818-042-0120 and 818-042-0130 are amended to conform the Board of Dentistry with rules promulgated by the Department of Human Services, Radiation Protection Services, under the authority of ORS 453.775 regarding of x-ray machine operator training.

**Rules Coordinator:** Sharon Ingram  
**Address:** Oregon Board of Dentistry, 1515 SW 5th - Suite 602, Portland, OR 97201  
**Telephone:** (503) 229-5520

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**Oregon Housing and Community Services  
Chapter 813**

Date:	Time:	Location:
3-17-03	10 a.m.	1600 State St. Salem, OR

**Hearing Officer:** David Foster  
**Stat. Auth.:** ORS 456.555, 456.625 & 458.700  
**Stats. Implemented:** ORs 458.670 - 458.700  
**Proposed Adoptions:** 813-300-0005, 813-300-0010, 813-300-0020, 813-300-0030, 813-300-0040, 813-300-0050, 813-300-0060, 813-300-0070, 813-300-0080, 813-300-0090, 813-300-0100, 813-300-0110, 813-300-0120, 813-300-0130, 813-300-0140, 813-300-0150, 813-300-0160, 813-300-0170, 813-300-0180

# NOTICES OF PROPOSED RULEMAKING

**Proposed Repeals:** 813-300-0005(T), 813-300-0010(T), 813-300-0020(T), 813-300-0030(T), 813-300-0040(T), 813-300-0050(T), 813-300-0060(T), 813-300-0070(T), 813-300-0080(T), 813-300-0090(T), 813-300-0100(T), 813-300-0110(T), 813-300-0120(T), 813-300-0130(T), 813-300-0140(T), 813-300-0150(T), 813-300-0160(T), 813-300-0170(T), 813-300-0180(T)

**Last Date for Comment:** 4-4-03

**Summary:** The rule implements the creation of Individual Development Accounts (IDAs) between low-income account holders and authorized fiduciary organizations.

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

**Rules Coordinator:** Sandy McDonnell

**Address:** Housing and Community Services, 1600 State St., Salem, OR 97301-4246

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

\*\*\*\*\*  
**Oregon Liquor Control Commission**  
**Chapter 845**

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

**Stats. Implemented:** ORS 471.340, 471.345 & 471.445

**Proposed Amendments:** 845-010-0915

**Last Date for Comment:** 4-1-03

**Summary:** This is the rule wherein the Commission lists grape variety names which can be designated on a wine label brand. The Commission has received a petition for rulemaking to amend the rule to add the grape variety name Albarino to the list.

**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**

**Date:**  
3-20-03

**Time:**  
2 p.m.

**Location:**  
Boardroom  
PERS Headquarters  
11410 SW 68th Pkwy.  
Tigard, OR

**Hearing Officer:** Holly Hayes

**Stat. Auth.:** ORS 238.630 & 238.650

**Stats. Implemented:** ORS 238.630(3)(g)

**Proposed Adoptions:** 456-005-0058, 456-005-0060

**Last Date for Comment:** 3-31-03

**Summary:** The PERS Board has requested that staff develop a new rule to specify the standards for the adoption of new actuarial equivalency factors. This concept has been developed into two new rules, one rule that lists the Board's standards for adoption of the new actuarial equivalency factors and one that specifies which actuarial equivalency factor tables the Board is adopting and establishes the effective date of new factors. Language that specified this in OAR 459-005-0055, *Actuarial Equivalency Factors*, has now been deleted from that rule.

In addition to the public hearing, the Board invites public comment on the proposed rules at its meeting on March 31, 2003, which begins at 8:30 a.m. 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 [holly.v.hayes@state.or.us](mailto:holly.v.hayes@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

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

**Date:**  
3-21-03

**Time:**  
3 p.m.

**Location:**  
SOU  
Churchhill Hall, Rm. 220  
Ashland, OR

**Hearing Officer:** Mary Ellen Fleeger

**Stat. Auth.:** ORS 351.070

**Stats. Implemented:** ORS 351.070

**Proposed Amendments:** 573-040-0005

**Last Date for Comment:** 3-28-03

**Summary:** The proposed rule amendments will eliminate fees that are no longer necessary and establish, increase, or decrease fees to more accurately reflect the actual costs of instruction for certain courses and special services not otherwise funded through the institution's operating budget.

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

**Rules Coordinator:** Deborah S. Drost

**Address:** Oregon State System of Higher Education, Southern Oregon University, 1250 Siskiyou Blvd., Ashland, OR 97520

**Telephone:** (541) 552-8550

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**Stat. Auth.:** ORS 351.070

**Stats. Implemented:**

**Proposed Amendments:** 573-020-0000 - 573-020-0130

**Proposed Repeals:** 573-071-0030

**Last Date for Comment:** 3-28-03

**Summary:** OAR 573-071-0030 is being repealed and the family housing fees incorporated into OAR 573-040-0005. Division 20, student rights and responsibilities, will be amended throughout to update position titles and reporting structures.

**Rules Coordinator:** Deborah S. Drost

**Address:** Oregon State System of Higher Education, Southern Oregon University, 1250 Siskiyou Blvd., Ashland, OR 97520

**Telephone:** (541) 552-8550

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**Public Utility Commission**  
**Chapter 860**

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

**Stats. Implemented:** ORS 756.040, 756.512, 756.500 - 756.575, 756.600 - 667 759.045 & 759.500

**Proposed Amendments:** 860-011-0010, 860-021-0015, 860-034-0060, 860-034-0310, 860-038-0420, 860-038-0445

**Last Date for Comment:** 3-21-03

**Summary:** The Commission's mailing address at PO Box 2148, Salem, Oregon 97308-2148 has been added to the physical location at 550 Capitol Street NE Suite 215, Salem, OR 97301-2551.

**Rules Coordinator:** Lauri Salsbury

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

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

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**Stat. Auth.:** ORS 183, 756, 757 & 758

**Stats. Implemented:** ORS 756.040, 756.105, 756.500, 756.512, 757.020, 757.035, 757.061, 757.120, 757.125, 757.135, 757.225, 757.250, 757.480, 757.750, 757.755 & 757.300 - 757.320

**Proposed Adoptions:** 860-036-0250, 860-036-0365, 860-036-0716, 860-036-0756

**Proposed Amendments:** 860-036-0010, 860-036-0015, 860-036-0025, 860-036-0030, 860-036-0045, 860-036-0060, 860-036-0080, 860-036-0105, 860-036-0210, 860-036-0240, 860-036-0245, 860-036-0305, 860-036-0405, 860-036-0410, 860-036-0620, 860-036-0710, 860-036-0900, 860-036-0905

**Last Date for Comment:** 3-21-03

# NOTICES OF PROPOSED RULEMAKING

**Summary:** In response to concerns expressed by the 2001 Legislature, the Public Utility Commission (Commission) convened a Water Issues Steering Committee to conduct a broad review of the state's water regulation. The Committee made its Report to the Commission in August 2002. Included in the Report are the following recommendations that require revisions to Division 036 Rules:

1. Establish procedures for third-party operational control of a water utility when the operator has abandoned the system (860-036-0365).

2. Encourage consolidation of water utilities by allowing an acquisition adjustment in rates contingent on a showing that customers benefit overall (860-036-0716).

3. Improve long-term financial health of water utilities by no longer including contributed plant in rates (860-036-0756).

In late 2002, a regulated water utility requested that the Commission implement a rule to address theft of service. The Commission proposes OAR 860-036-0250 to address that issue.

The proposed housekeeping changes should be made to Division 036 to make the rules clearer to lessen the likelihood of misinterpretation, and to update the Commission's mailing address, consistent with AR 457.

**Rules Coordinator:** Lauri Salsbury

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

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

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**Racing Commission**  
**Chapter 462**

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
3-20-03	10 a.m.	Rm. 140 Portland State Office Bldg. 800 NE Oregon St. Portland, OR 97232

**Hearing Officer:** Stephen S. Walters, Chair

**Stat. Auth.:** ORS 462.270(3); Other Auth.: ORS 462.725

**Stats. Implemented:** ORS 462.725

**Proposed Adoptions:** 462-180-0070

**Proposed Amendments:** 462-110-0030, 462-140-0120, 462-140-0400, 462-140-0420, 462-140-0460, 462-170-0030, 462-170-0050, 462-170-0080, 462-180-0010

**Last Date for Comment:** 3-20-03

**Summary:** Amendments to greyhound rules pertaining to definitions; duties of commission photofinish operator, director of racing, kennel owner, paddock judge/kennel master; grading system, forming the race, withdrawals, skate races; order of finish, dead heats, prize dissention; purchase, sale and adoption; adoption of record-keeping requirements.

**Rules Coordinator:** Carol N. Morgan

**Address:** Oregon Racing Commission, 800 NE Oregon St. #11, Suite 405, Portland, OR 97232

**Telephone:** (503) 731-4052

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

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
4-8-03	9-9:30 a.m.	255 Capitol St. NE Basement C Salem, OR 97310

**Hearing Officer:** Brenda Bayes

**Stat. Auth.:** ORS 246.150 & 250.015; Other Auth.: Measure 26 (2002 General Election)

**Stats. Implemented:** ORS 250.045, 250.065, 255.135 & Measure 26 (2002 General Election)

**Proposed Amendments:** 165-014-0005, 165-020-0005

**Last Date for Comment:** 4-8-03

**Summary:** 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.

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

**Rules Coordinator:** Brenda Bayes

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

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

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**Travel Information Council**  
**Chapter 733**

**Stat. Auth.:** ORS 377.700 - 377.840

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

**Proposed Amendments:** Rules in 733-030

**Last Date for Comment:** 3-31-03

**Summary:** The Travel Information Council held a quarterly Council meeting on June 7, 2002. The Council proposed rule changes to change fees for Museum or Historic Site signs. The initial one-time fee will be reduced to \$75 and the annual permit fee will be set at an equal amount to provide consistency with other sign program fees.

**Rules Coordinator:** Angela Willhite

**Address:** Travel Information Council, 229 Madrona Ave. SE, Salem, OR 97302

**Telephone:** (503) 378-4508

# ADMINISTRATIVE RULES

## Appraiser Certification and Licensure Board Chapter 161

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

**Filed with Sec. of State:** 1-27-2003

**Certified to be Effective:** 1-27-03

**Notice Publication Date:** 12-1-02

**Rules Amended:** 161-002-0000, 161-010-0020, 161-020-0015, 161-020-0045, 161-020-0055, 161-020-0150, 161-025-0060

**Rules Repealed:** 161-020-0080

**Subject:** Proposed changes to Oregon Administrative Rules 161, Division 2 regarding specific definitions; Division 10 regarding licensure and certification requirements; Division 20 regarding educational courses, requirements and providers; and Division 25 regarding scope of practice and procedures.

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

### 161-002-0000

#### Definitions

(1) "Administrator" means the administrator of the Board appointed by the Board.

(2) "Affiliate" means a business organization sharing with a financial institution or insurance company some aspect of common ownership and control.

(3) "Appraisal" or "Real Estate Appraisal" means "appraisal" as defined in USPAP.

(4) "Appraisal Foundation" means the Appraisal Foundation established on November 30, 1987, as a not-for-profit corporation under the laws of Illinois.

(5) "Appraisal Report" means "report" as defined in USPAP.

(6) "Appraiser Assistant" means a person who is not licensed or certified as an appraiser, but is registered as an appraiser assistant under ORS 674.310, and who assists with real estate appraisal activity under the direct supervision of a certified or licensed appraiser.

(7) "Appraisal Subcommittee" means the Appraisal Subcommittee of the Federal Financial Institutions Examination Council (FFIEC) established pursuant to the Federal Act.

(8) "Board" or "ACLB" means the Appraiser Certification and Licensure Board established under ORS Chapter 674.

(9) "Certificate" means the document issued by the Board indicating that the person named thereon has satisfied the requirements for certification as a state certified residential or state certified general appraiser.

(10) "Classroom hour" as used in reference to qualifying and continuing education means 50 minutes out of each 60 minute segment.

(11) "Completion" means interpreting, analyzing and reconciling data or compiled data, including reviewing and adopting another person's interpretations and reconciliations as one's own.

(12) "Complex one-to-four family residential property appraisal" means an appraisal in which the property to be appraised, market conditions, or form of ownership is atypical. For example, atypical factors may include, but are not limited to:

- (a) Architectural style;
- (b) Age of improvements;
- (c) Size of improvements;
- (d) Size of lot;
- (e) Neighborhood land use;
- (f) Potential environmental hazard liability;
- (g) Property interests;
- (h) Limited readily available comparable sales data; or
- (i) Other unusual factors.

(13) "Continuing Education" means education that is creditable toward the education requirements that must be satisfied to renew licensure as a state licensed appraiser or certification as a state certified residential or state certified general appraiser.

(14) "Direct Supervision" of an appraiser assistant means:

(a) Disclosing in the appraisal report that the supervising appraiser has inspected the subject property both inside and out, and has made an exterior inspection of all comparables relied upon in the appraisal or disclose that the supervising appraiser did not inspect the subject property both inside and out, and did not inspect the exterior of comparables relied upon in the appraisal; and

(b) Reviewing the appraiser assistant's appraisal report(s); and

(c) Accepting responsibility for the appraisal report by signing and certifying that the report has been prepared in compliance with the Uniform Standards of Professional Appraisal Practice.

(15) "Federal Act" means Title XI of the Federal Financial Institutions Reform, Recovery and Enforcement Act of 1989 (12 U.S.C. 3310 et seq.).

(16) "Federal Financial Institution Regulatory Agency" means:

(a) The Board of Governors of the Federal Reserve System;

(b) The Federal Deposit Insurance Corporation;

(c) The Office of the Comptroller of the Currency;

(d) The Office of Thrift Supervision; or

(e) The National Credit Union Administration.

(17) "Financial Institution" means an insured depository institution as defined in section 3 of the Federal Deposit Insurance Act or an insured credit union as defined in section 101 of the Federal Credit Union Act.

(18) "Issuance" means the act of communicating the opinion of value either in writing or orally.

(19) "License" means the document issued by the Board indicating that the person named thereon has satisfied all requirements for licensure as a state licensed appraiser.

(20) "Mortgage banker" has the meaning defined in ORS 59.840.

(21) "Non-residential" appraising means to render a value on real property other than one-to-four family residential properties.

(22) "One-to-four family residential property" means a property that includes one to four residential units and is residential in character, i.e., zoning, land use.

(23) "Preparation" means compiling data, including reviewing and adopting such compiled data as one's own.

(24) "Prerequisite education" means the initial qualifying educational requirements to become licensed or certified with the Board.

(25) "Professional real estate activity" has the meaning defined in ORS 696.010.

(26) "Qualifying Education" means education that is creditable toward the education requirements for initial licensure or certification under one or more of the three real estate appraiser classifications.

(27) "Real estate appraisal activity" has the meaning defined in ORS 674.100.

(28) "Real Estate" or "Real Property" means an identified parcel or tract of land, together with any improvements, that includes easements, rights-of-way, undivided or future interests or similar rights in a tract of land, but does not include mineral rights, timber rights, growing crops, water rights or similar interests severable from the land when the transaction does not involve the associated parcel or tract of land.

(29) "State Certified General Appraiser" means an individual who has been certified as a state certified general appraiser by the Board.

(30) "State Certified Residential Appraiser" means an individual who has been certified as a state certified residential appraiser by the Board.

(31) "State Licensed Appraiser" means an individual who has been licensed as a state licensed appraiser by the Board.

(32) "Transaction Value" means:

(a) For loans or other extensions of credit, the amount of the loan or extension of credit; and

(b) For sales, leases, purchases and investments in or exchange of real property, the market value of the real property interest involved; and

(c) For the pooling of loans or interest in real property for resale or purchase, the amount of the loan or market value of the real property calculated with respect to each such loan or interest in real property.

(d) For determinations of the transaction value of real property or interests in real property in circumstances other than described in the preceding (a) to (c) of this section (36), the market value of the real property interest involved.

(e) In condemnation or partial taking actions, the transaction value is deemed to be the value of the larger parcel before the taking.

(33) "Uniform Standards of Professional Appraisal Practice" or "USPAP" means the standards adopted and published by the Appraisal Standards Board of the Appraisal Foundation dated April 27, 1987, as amended January 1, 2003.

(34) "Workfile" means "workfile" as defined in USPAP.

[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 1-1993(Temp), f. & cert. ef. 3-3-93; ACLB 1-1994, f. & cert. ef. 2-1-94; Renumbered from 161-10-000; ACLB 4-1994, f. & cert. ef. 7-27-94; ACLB 4-1994, f. & cert. ef. 7-27-94; ACLB 2-1996, 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 1-1999, f. 1-28-99, cert. ef. 3-31-99; ACLB 1-2000, f. & cert. ef. 2-29-00; ACLB 1-2001(Temp), f. & cert. ef. 1-26-01 thru 7-25-01; ACLB 2-2001, f. 4-11-01, cert. ef. 4-12-01; ACLB 3-2001(Temp), f. & cert. ef. 7-12-01 thru

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1-8-02; ACLB 1-2002, f. & cert. ef. 2-26-02; ALCB 2-2002, f. & cert. ef. 5-30-02; ACLB 2-2003, f. & cert. ef. 1-27-03

## 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) Ad Valorem Tax Appraisal (mass appraisals) prepared in conformance with USPAP;
- (d) Review Appraisal prepared in conformance with USPAP;
- (e) Real Estate Consulting prepared in conformance with USPAP;
- (f) Highest and Best Use Analysis prepared in conformance with USPAP;

(g) Feasibility Analysis prepared in conformance with USPAP;

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

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. 6-24-98, cert. ef. 7-1-98; ACLB 1-2002, f. & cert. ef. 2-26-02; ACLB 2-2003, f. & cert. ef. 1-27-03

## 161-020-0015

### Course Approval

(1) Courses shall be reviewed and approved under these rules as either Qualifying Education or Continuing Education. A course approved for Qualifying Education may also be used for continuing Education if the course meets the requirements of this section. An appraiser does not need to take or pass an examination for Continuing Education credit.

(a) A Qualifying Education Course must include an examination, provide at least 15 classroom hours of instruction, and be consistent, in terms of content, with the qualifying education course content guidelines in these rules;

(b) A Continuing Education Course must include a minimum of 2 hours of instruction and be consistent, in terms of content, with the Continuing Education course content guidelines in these rules.

(2) Course approval commences on the date initial approval is granted by the Administrator:

(a) Course approval by the Administrator is not retroactive (applicable prior to the date approval is initially granted) because previous offerings of an approved course have not been reviewed under these rules.

(b) Previous offerings of a Board approved course may be approved at the discretion of the Administrator.

(3) Each approved course shall be assigned a maximum number of classroom hours of instruction (including examination time if applicable).

(4) Each approved course shall have an index number assigned to indicate approval.

(5) Upon receipt of course approval, the course owner/affiliated entity (such as a state or local chapter of a national organization that owns a course) may represent in any advertising or other materials that the course is a Board approved course, provided that the number of classroom hours credit awarded by the Administrator is also clearly indicated when the number of credit hours awarded is less than the actual number of scheduled classroom hours.

(6) Course approval granted to a course owner shall apply to any affiliated entity subject to the following conditions:

(a) The course owner requires the affiliated entity to conduct the course:

(A) Utilizing the owner's course materials (including textbook and examinations, if any); and

(B) Allowing the same number of classroom hours as the course owner;

(C) In accordance with the course owner's policies relating to instructor qualifications, student attendance, course scheduling and course prerequisites (if applicable).

(b) The course owner assumes full responsibility in the event the affiliated entity violates any of the provisions of these rules.

(7) The Administrator reserves the right to conduct a full review of any approved course for any reason in connection with any course approval or at any other time. Further, the Administrator may establish a system of periodic course review.

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

Stats. Implemented: ORS 674.310

Hist.: ACLB 1-1994, f. & cert. ef. 2-1-94; ACLB 1-2002, f. & cert. ef. 2-26-02; ACLB 2-2003, f. & cert. ef. 1-27-03

## 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

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(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:

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

(B) The instructor must be an AQB certified 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.

(15) All course providers offering qualifying appraisal education in Oregon must first obtain a license with the Department of Education as required by ORS 345.030.

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

### 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;

(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 and the seven-hour USPAP Update Course:

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

(B) The instructor must be an AQB certified 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

### 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) All qualifying education for applicants applying to be a registered appraiser assistant must be obtained within five (5) years preceding the date

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of application, with the exception of licensed or certified appraisers registering as an appraiser assistant to upgrade their license; and

(B) 15 classroom hours of study specifically relating to USPAP must be obtained within five (5) years preceding the date of application, along with successful passage of the final examination thereon;

(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) Prior to January 1, 2003, the Appraisal Foundation's National USPAP Course, which includes the successful completion of an examination, is required for renewal for all licensed and certified individuals within five (5) years from the date of initial licensing or certification, and every five (5) years thereafter from the completion date of the last USPAP course;

(B) Effective January 1, 2003, 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

### 161-025-0060

#### Appraisal Standards and USPAP

(1) All appraisal reports shall be prepared in accordance with these administrative rules and USPAP.

(2) In addition to the Ethics Provision of the USPAP, it is unethical to knowingly violate USPAP.

(3) An individual appraiser employed by a group or organization which conducts itself in a manner that does not conform to these standards shall nonetheless comply with the standards.

(4) An appraiser who signs the appraisal report must inspect the subject property both inside and out, and must inspect the exterior of all comparables relied upon in the appraisal, or disclose that the appraiser did not inspect the subject property both inside and out, and did not inspect the exterior of comparables relied upon in the appraisal.

(5) All testimony before an administrative or judicial proceeding will be based upon written reports prepared in conformance with USPAP.

(6) The "Uniform Standards of Professional Appraisal Practice", 2003 Edition, approved and adopted by the Appraisal Standards Board of the Appraisal Foundation, dated April 27, 1987, as amended on January 1, 2003, are incorporated into the Administrative Rules of the Appraiser Certification and Licensure Board as the standards of professional conduct which shall guide the behavior of licensed and certified appraisers in the State of Oregon. Copies of the Uniform Standards of Professional

Appraisal Practice may be obtained from the Appraisal Foundation located at 1029 Vermont Avenue, N.W., Suite 900, Washington D.C. 20005-3517.

(7) The appraiser shall list his/her certificate or license number in the appraisal report.

(8) State licensed, State Certified Residential and State Certified General appraisers shall comply with USPAP in all valuation work as provided in ORS 674.100(2), (3).

(9) Notwithstanding any other provision of these rules, the following licensed or certified appraisers are not subject to the requirements of Standard 3 of USPAP when examining an appraisal as part of an official investigation conducted by the Appraiser Certification and Licensure Board:

(a) State Licensed, State Certified Residential or State Certified General Appraisers who are serving on the Board;

(b) State Licensed, State Certified Residential or State Certified General Appraisers who are employed by the Board;

(c) State Licensed, State Certified Residential or State Certified General Appraisers acting as volunteers at the request of the Board.

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

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

Stats. Implemented: ORS 674

Hist.: ACLB 1-1992(Temp), f. & cert. ef. 1-23-92; 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 4-1994, f. & cert. ef. 7-27-1994; ACLB 2-1996, 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. 7-1-89; ACLB 1-1999, f. 1-28-99, cert. ef. 3-31-99; ACLB 3-1999, f. 9-23-99, cert. ef. 1-1-00; ACLB 1-2000, f. & cert. ef. 2-29-00; ACLB 3-2000(Temp), f. 11-9-00, cert. ef. 11-9-00 thru 5-8-01; ACLB 1-2001(Temp), f. & cert. ef. 1-26-01 thru 7-25-01; ACLB 2-2001, f. 4-11-01, cert. ef. 4-12-01; ACLB 3-2001(Temp), f. & cert. ef. 7-12-01 thru 1-8-02; ACLB 1-2002, f. & cert. ef. 2-26-02; ALCB 2-2002, f. & cert. ef. 5-30-02; ACLB 2-2003, f. & cert. ef. 1-27-03

## Board of Examiners for Engineering and Land Survey Chapter 820

Adm. Order No.: BEELS 1-2003

Filed with Sec. of State: 1-28-2003

Certified to be Effective: 1-28-03

Notice Publication Date: 9-1-02

Rules Adopted: 820-040-0040

Rules Amended: 820-010-0200, 820-010-0635

Subject: 820-010-0200 offers registration as a Professional Engineer especially qualified in Geotechnical engineering, establishes a procedure for adding the new branch. 820-010-0635 adds enhancements to existing procedures related to alternative methods of obtaining compliance with Continuing Professional Development requirements. 820-040-0040 adopts definitions of Geotechnical engineering and Geotechnical engineer to clarify practice in the new branch. Rules Coordinator: Edward B. Graham—(503) 362-2666

### 820-010-0200

#### Application for Registration as Professional Engineers (PE)

(1) (References are to Engineers' and Land Surveyors' Registration Law, ORS Chapter 672, as amended.) Applications may be made for admission to examination for registration as provided in ORS 672.255. Professional engineers registered in other states may file applications for registration on the basis of comity with such other state as provided in ORS 672.125. The National Council of Examiners for Engineering and Surveying Certificate verified record may be accepted at full value. Experience records and references of the NCEES verified record are to be current within the last two years. If not, they must be verified by the Board.

(2) Applicants who are not registered in any state or jurisdiction but who meet all requirements for registration in Oregon may be considered for registration if the application is submitted within 2 years following completion of the practical examination. This section does not apply to applicants who are not currently registered due to expired, delinquent, or otherwise invalid certificates.

(3) Professional engineers currently registered in another jurisdiction that, at the time of that registration, did not require an examination equivalent to the Fundamentals of Engineering may be considered as having met substantially-equivalent requirements for registration in Oregon after providing evidence of each of the following:

(a) Graduation in an engineering curriculum of four years or more;

(b) Passage of a written examination devoted to practical engineering problems; and

(c) No less than 12 years of qualifying engineering practice, approved by the Board, as a registered professional or a chartered engineer in a juris-

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diction identified as approved by the Board through the agreement on education known as the "Washington Accord";

(d) Successful passage of an oral exam if required by the Board;

(e) Applicants are advised that registration under this equivalent provision may not satisfy requirements in other jurisdictions.

(4) The Board shall recognize as professional structural engineers those engineers registered by the Board prior to October 23, 1999, on the basis of passing a structural engineering examination acceptable to the Board.

(5) An individual registered by the Board prior to October 23, 1999, in a branch other than "structural engineering" may be considered for registration as a professional structural engineer providing an application is submitted prior to October 23, 2000, that includes:

(a) A detailed summary of at least four (4) years experience in structural engineering as defined in OAR 820-010-0010(e). The summary is to contain a description of each project's structural system and the element used to resist seismic forces;

(b) At least three (3) references acceptable to the Board from professional engineers stating what portion of the individual's summary meets the requirements for structural engineering as defined in OAR 820-010-0010(e). In order to be accepted, the work must be attested to by a reference, and in order to add the structural branch, the applicant must receive the approval of the Board as having met all the requirements for registration as a professional structural engineer.

(6) Prior to issuing an initial certificate of registration to practice in Oregon, each applicant must pass a "take-home" examination on the laws and rules that regulate practice.

(7) The Board shall grant registration as a "Geotechnical Engineer" to a professional engineer especially qualified in civil engineering if the professional engineer:

(a) Holds an unexpired, valid Oregon license as a professional engineer especially qualified in civil engineering;

(b) Passes the geotechnical engineering examination offered by the Board; and

(c) Submits evidence satisfactory to the Board demonstrating four (4) years of qualifying experience as required by ORS 672.255(1)(d) and as defined in Section 820-040-0040. In addition, up to one year credit for qualifying experience will be given for possession of post graduate degree(s) from a Board approved school of engineering with major studies in soil engineering. Credit for post graduate degree(s) will not be given if already applied to the experience requirement for professional engineering licensure.

(8) A professional engineer may qualify for registration as a professional geotechnical engineer without taking the geotechnical exam if the engineer, within one year after the date the board first gives an examination in the new branch, submits an application that demonstrates qualifying experience to the satisfaction of the Board.

(9) "Qualifying experience" as used in section (8) of this rule means:

(a) At least four (4) years of experience having responsible charge of soil engineering projects in geotechnical engineering as defined in 820-040-0040 and accumulated since licensure as a professional engineer. The application must contain a description of the pertinent geotechnical aspects of each project claimed as part of the minimum experience. Teaching soil engineering and related courses at a board approved school of engineering will be given credit as qualifying experience.

(b) Unless waived by the Board, an applicant must provide at least three (3) references acceptable to the Board from professional engineers substantiating the applicant's experience and that the application meets the requirements for geotechnical engineering as defined in 820-040-0040. Additional references may be required to substantiate all of the minimum experience.

(10) The titles "geotechnical engineer," "soils engineer," "foundation engineer," and "soil engineer" are identifications of competence and specialization in the geotechnical subspecialty of professional engineering and necessitates experience in addition to that required for registration as a professional engineer. Use of any of the above designations without licensure as a geotechnical engineer is misleading to the public and may subject the registrant to disciplinary action 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 16, f. 3-5-74, ef. 3-25-74; EE 20, f. & ef. 12-15-77; EE 1-1992, f. & cert. ef. 2-3-92; EE 1-1993, f. 1-28-93, cert. ef. 2-1-93; EE 1-1995, f. 8-15-95, cert. ef. 9-1-95; BEELS 1-1998, f. & cert. ef. 2-10-98; BEELS 1-2000, f. & cert. ef. 1-14-00; BEELS 3-2001, f. & cert. ef. 11-26-01; BEELS 1-2003, f. & cert. ef. 1-28-03

## 820-010-0635

### Continuing Professional Development

The purpose of professional development requirements is to demonstrate a continuing level of competency of professional land surveyors and engineers. Every registrant shall meet the professional development requirements as a condition of registration renewal.

(1) Requirements. Every registrant is required to obtain 30 PDH units during each biennial renewal period. Registrants who are licensed for a part of a renewal period shall obtain a prorated amount of PDH. If a registrant exceeds the annual requirement in any renewal period, a maximum of 15 PDH units in courses/activities may be carried forward into the next renewal period.

(2) PDH units may be earned as follows:

(a) Successful completion of college courses.

(b) Successful completion of short courses, tutorials, correspondence, web based courses, televised and videotaped courses.

(c) Active participation in seminars, in-house courses, workshops, and professional conventions.

(d) Teaching or instructing in (a) through (c) above.

(e) Authoring or co-authoring published papers, articles or books.

(f) Active participation in professional or technical societies.

(g) Self study.

(h) Mentoring of engineering topics.

(i) Non-technical educational activities related to the registrants employment.

(j) Passing a board prepared take home test.

(3) PDH units for each renewal period may be obtained as follows:

(a) 1 College Semester hour equals 45 PDH.

(b) 1 College Quarter hour equals 30 PDH.

(c) 1 Continuing Education unit equals 10 PDH.

(d) 1 hour of professional education in course work, seminars, professional conventions, workshops equals 1 PDH.

(e) For teaching, apply multiple of 2 (teaching credit is valid for teaching a given course or seminar one time only and does not apply to full time faculty teaching college courses).

(f) For authoring or co-authoring a paper, article or book, appearing in a recognized professional or technical publication, up to a maximum of 10 PDH.

(g) Active participation in a professional or technical society (each organization up to a maximum of 6). 2 PDH.

(h) Self study of relevant materials such that the registrant's knowledge of the subject significantly improves the registrant's ability to work in the subject area. Up to a maximum of 6 PDH.

(i) Mentoring of nonlicensed individuals not under your supervision in the field of engineering. Each 10 hours spent mentoring will provide 1 PDH with a maximum of 2 PDH per year.

(4) Determination of Credit. The Board has final authority with respect to approval of courses, credit, PDH values for courses and other methods of earning credit. The Board may maintain a list of courses and activities which it has approved. The Board will approve without listing courses which are sponsored by nationally recognized technical societies and those technical societies listed in 820-001-000(b)(A) through (F) and (c)(A) through (G). Criteria for determination of credit shall follow these guidelines:

(a) Credit for college or community college approved courses will be based upon course credit established by the college.

(b) Credit for qualifying seminars and workshops will be based on one PDH unit for each hour of attendance. Attendance at qualifying programs presented at professional and/or technical society meetings will earn PDH units for the actual time of each program.

(c) Credit determination for activities (3)(f) and (3)(h) is the responsibility of the registrant and is subject to review by the Board.

(5) Record keeping. Each registrant is charged with the responsibility of maintaining records of his/her own professional education activities. Every registrant shall report their professional education activities on a form approved by the Board only when requested by the Board to do so. The duty of maintaining records to support credits claimed is the responsibility of the registrant. Records required include, but are not limited to:

(a) A record showing the activity claimed, sponsoring organization, date, location, duration, instructor's or speaker's name, and PDH units earned; and

(b) Attendance verification records in the form of completion certificates, paid receipts, or other documents supporting evidence of attendance. These records must be retained for three (3) years. Copies may be requested by the Board for audit verification purposes.



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(6) Exemptions. A registrant may be exempted from the professional development requirements for one of the following reasons.

(a) A registrant serving on active duty in the armed forces of the United States for a period of time exceeding one hundred twenty (120) consecutive days in a calendar year shall be exempt from obtaining the PDH units required for that year.

(b) Registrants experiencing physical disability, illness or other extenuating circumstances as reviewed and approved by the Board may be exempt. Supporting documentation must be furnished to the Board.

(c) Registrants who are listed as "Retired" or those who have requested an Exempt Status and certify they are no longer providing professional engineering or land surveying services shall be exempt from the PDH units required. A registrant may bring an exempt license to active status by obtaining all delinquent PDH units. However, if the total number required to become current exceeds 30, then 30 shall be the maximum number required.

(7) Out of Jurisdiction Resident. Continued Professional Development requirements will be satisfied when a non-resident certifies to be licensed in and having met the mandatory Continued Professional Development requirements of any NCEES member jurisdiction.

(8) Multiple Registrants. The number of PDH units required shall remain a total of 30 PDH per renewal period for persons who hold registration as an engineer or a land surveyor or more than one discipline of engineering. At least one third (1/3) of the PDH units required in courses/activities shall be related to each registration.

Stat. Auth.: ORS 670.310, ORS 672.097 & ORS 672.255

Stats. Implemented: ORS 672.002 - ORS 672.375

Hist.: BEELS 2-2000, f. & cert. ef. 2-17-00; BEELS 5-2000, f. & cert. ef. 10-19-00; BEELS 3-2002, f. & cert. ef. 11-13-02; BEELS 1-2003, f. & cert. ef. 1-28-03

## 820-040-0040

### Geotechnical Engineering

(1) Geotechnical Engineering is defined as the investigation and the evaluation of the physical and engineering properties of earth materials, such as soil and rock, including impacts of ground water and earthquakes, and their application to the design and construction of civil engineering works, such as foundations, earth dams, retaining walls, and similar, using soil and rock mechanics and earthquake engineering principles and related engineering laws, formula, and procedures. Further, the practice involves the application of soil and rock mechanics and related engineering laws and procedures to an evaluation of the performance of constructed civil engineering works as influenced by earth materials, groundwater, and earthquakes and to an evaluation of the performance, including stability, of natural and man-made slopes, including man-made fills and embankments, and for the design of mitigation measures to reduce risk and/or hazards as disclosed by the evaluation.

(2) Geotechnical Engineer: A Geotechnical Engineer is defined as a professional engineer especially qualified in civil engineering, licensed to practice in the state of Oregon who is additionally licensed as a Geotechnical Engineer.

Stat. Auth.: ORS 670.310 & ORS 672.255

Stats. Implemented: ORS 672.002 - 672.325

Hist.: BEELS 1-2003, f. & cert. ef. 1-28-03

## Board of Massage Therapists Chapter 334

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

**Filed with Sec. of State:** 1-24-2003

**Certified to be Effective:** 1-24-03

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

**Rules Amended:** 334-001-0060, 334-010-0005, 334-010-0010, 334-010-0015, 334-010-0016, 334-010-0017, 334-010-0025, 334-010-0033, 334-010-0050

**Subject:** Some of these changes update and maintain continuity between OARs and office procedure. The amount of Continuing Education has increased to 25 total hours. Many of the rules change to reflect these amounts or partial amounts. The intent to cure specific medical problems has been deleted.

**Rules Coordinator:** Michelle Sherman—(503) 365-8657

### 334-001-0060

#### Definitions

(1) "Accountability" means the ability to acknowledge and evaluate one's choices and behaviors, and when necessary, to make changes in or amend professional relationships and practices.

(2) "Actual conflict of interest" means any action or any decision or any recommendation by an L.M.T. within the context of professional activities which has the effect of benefiting the L.M.T. at the expense of the best interests of a client.

(3) "Agency" means the ability to exert personal power or produce an effect.

(4) "Autonomy" means personal freedom or self-determination.

(5) "Barter" means partial or complete trade or exchange of massage or bodywork services for some other type of goods or service other than money.

(6) "Board" means the State Board of Massage Therapists or its authorized representatives as provided by ORS 687.115.

(7) "Boundary" means the limits in a professional relationship which allow for a safe connection based on the needs of the client.

(8) "Boundary violation" means an alteration or shift in the limits of a professional relationship so that what is allowed in the relationship becomes ambiguous and/or may not be based on the needs of the client.

(9) "Caring" means acting in a manner in which things, events, people or relationships matter.

(10) "Certified Class" means a class that is approved by the Board and is offered:

(a) By a person or institution licensed as a career school under ORS 345.010 to 345.450; or

(b) By a community college or university approved by the Department of Education; or

(c) In another state and licensed or approved by the appropriate agency in that state.

(11) "Client" means any individual, group of individuals, or organization to whom an L.M.T. provides massage for compensation and for purposes other than sexual contact, as defined in ORS 167.002(5). Client does not include the licensed massage therapist's family members or significant other.

(12) "Client vulnerability" means factors which diminish a client's ability to be self-determining.

(13) "Compassion" means being genuinely empathic and sensitive toward others.

(14) "Compensation" means something given or received as payment including but not limited to bartering, tips, monies or donations.

(15) "Confidential information" means any public record that is exempt from disclosure under ORS 192.410 to 192.505, and other state and federal laws.

(16) "Critical Reflection" means a process whereby knowledge and action are connected to each other through the application of careful, conscious, deliberate reflection on:

(a) Personal practice (perceptions, assumptions, motivations, values, behaviors)

(b) Assessment and understanding of a situation.

(c) Likely or actual consequences or impact of one's actions.

(17) "Dual Relationship" means any relationship of a personal or business nature with a client that is in addition to or concurrent with a professional relationship in which the L.M.T. is providing or has provided massage or bodywork services to that same client.

(18) "Ethics" means a system of valued societal beliefs and behaviors that may be used to guide and evaluate conduct to ensure the protection of an individual's person and rights.

(19) "Fraud or misrepresentation" means knowingly giving misinformation or a false impression through the intentional misstatement of, concealment of, or failure to make known a material fact or by other means.

(20) "Indorsement" means

(a) the process of evaluating and recognizing the credentials of a person licensed in Oregon in another health care specialty which may, as part of its scope of practice, engage in acts defined as massage: or

(b) the process of evaluating and recognizing the credentials of a massage or bodywork practitioner authorized to practice massage or bodywork in another state, country, foreign territory, or District of Columbia.

(21) "Informed consent" means a process wherein clients have knowledge of what will occur, that participation is voluntary, and that the client is competent to give consent.

(22) "Licensee" means any person holding a license, permit, or certificate issued by this Board; an L.M.T.

(23) "L.M.T." means a Licensed Massage Therapist.

(24) "Manual" means the use of hands or the feet, or both, in the performance of massage.

(25) "Massage" or "massage therapy" means the use on the body of pressure, friction, stroking, tapping or kneading, vibration or stretching by

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manual or mechanical means or gymnastics, with or without appliances such as vibrators, infrared heat, sun lamps and external baths, and with or without lubricants such as salts, powders, liquids or creams for the purpose of, but not limited to, maintaining good health and establishing and maintaining good physical condition.

(26) "Massage or bodywork practice" means the activities related to the L.M.T.'s provision of massage or bodywork services in his or her capacity as a practitioner, teacher, supervisor, consultant, mentor or educator.

(27) "Massage Therapist" means a person licensed under ORS 687 to practice massage.

(28) "Morals" means standards of right and wrong usually acquired through social learning and normally based on cultural and religious beliefs.

(29) "Official transcript" means a transcript copy certified by an official seal of the program or institution or by a designated authority of the program or institution to be authentic and accurate.

(30) "Personal power" means recognizing and taking personal responsibility for the inherent power differential between the L.M.T. and the client and recognizing and taking personal responsibility for the impact of professional decisions, actions and behavior on the client.

(31) "Potential conflict of interest" means any action or any decision or any recommendation by an L.M.T. within the context of professional activities which could have the effect of benefiting the L.M.T. at the expense of the best interests of a client.

(32) "Power differential" means the basic inequality inherent in the professional relationship between an L.M.T. and a client in terms of who has the advantage in the relationship. The L.M.T. is presumed to have the advantage by virtue of the authority which emerges from the role of professional and the vulnerability which is automatically part of the role of client.

(33) "Practice of massage" means the performance of massage:

(a) For purposes other than sexual contact, as defined in ORS 167.002(5); and

(b) For compensation.

(34) "Preceptor" means a licensed massage therapist who contracts with an approved school or program of massage to provide direct on-site clinical supervision of a massage student enrolled in a certified class.

(35) "Professional authority" means the power inherent in the professional role and which is derived from a combination of an L.M.T.'s specialized or expert knowledge, societal expectations, stated and unstated client expectations, and an L.M.T.'s personal power.

(36) "Professional relationship" means the relationship established when an L.M.T. contracts with a client, verbally or in writing, to provide any service associated with the practice of massage or bodywork.

(37) "Professional role" means assuming the demands and responsibilities of professional authority by taking charge of the conditions which create and maintain client safety and trust in the professional-client relationship.

(38) "Reciprocity" means recognition and acceptance of credentials from another massage or bodywork licensing authority in any state, country, foreign territory, or District of Columbia as equivalent to or exceeding Oregon's requirements for licensure as an L.M.T.

(39) "Respect" means the act of showing consideration or courteous regard toward an idea or person.

(40) "Responsibility" means the ability to engage in appropriate action within the context of professional practice in response to diverse and changing situations and events.

(41) "Service" means making a free choice to be helpful and beneficial.

(42) "Standard" means a quality or measure serving as a basis, example, or principle to which a licensed massage practitioner should conform.

(43) "Supervision" means:

(a) The process of overseeing and directing the training of massage students as set forth in the rules of the Board;

(b) The process of overseeing and directing a licensee being disciplined by the Board; or

(c) Voluntary consultation with, and education of, less experienced licensed massage therapists or practitioners in related fields.

(44) "Therapeutic relationship" means an element of professional practice based on principles of caring, respect, appropriate boundaries, and appropriate use of personal power in the professional relationship of an L.M.T. and client.

(45) "Treatment" means the selection, application and practice of massage or massage therapy essential to the effective execution and management of a plan of care.

(46) "Unprofessional or dishonorable conduct" means behavior, practice or condition that is contrary to the ethical standards adopted by the Board as well as general society standards.

(47) "Values" means concepts or ideals that provide a framework for making decisions and taking actions.

Stat. Auth.: ORS 687.121

Stats. Implemented: ORS 687.011

Hist.: BMT 2-1998, f. & cert. ef. 7-22-98; BMT 1-2003, f. & cert. ef. 1-24-03

## 334-010-0005

### Applications

(1) All applications for examinations, licensure, inactive status, renewal, or temporary permit shall be made on forms provided by the Board. Only applications that are completed and on Board approved forms, without alterations, will be accepted for filing and review by the Board.

(2) All applications made to the Board shall be accompanied by the required fee.

(3) All application materials shall be filed with the Board office or postmarked on or before the scheduled deadline date set by the Board for the intended examination.

(4) Applicants for examination shall submit the following with their application:

(a) A copy of a legal picture identification. This identification could be a valid driver's license, a current U.S. passport, immigration/naturalization papers, or a current, valid state identification card;

(b) An official certificate or transcript from the administering institutions, instructors, or programs showing successful completion of study and practice in the required subject matter and hours required by the Board; or, for reciprocity applicants, verification from original licensing state of successful completion of a written examination and an active license in that state; or, for endorsement applicants, verification of current license from the state of licensing.

(A) Official copies of transcripts or certificates presented to the Board in an envelope sealed by the program or institution or instructor and verified as sealed may be accepted directly from the applicant.

(B) If a program or institution granting credit is no longer in business, the Board will accept for review a copy of a certificate of completion or transcript or diploma in the required subject matter and hours. The Board may require additional information to verify the authenticity of such documents; or verification of licensure as a Licensed Massage Therapist.

(c) Proof of current certification in cardiopulmonary resuscitation;

(d) A current photograph of the applicant;

(5) Transcripts must include a minimum of 500 hours of certified classes. The 500 hours must include the knowledge and skills identified in the Entry Level Competency Document and shall be comprised of :

(a) A minimum of 200 hours of health sciences to include Anatomy & Physiology, Pathology, and Kinesiology;

(b) A minimum of 300 hours of Massage Theory and Practical Application, Clinical Practice, Business Development, Communication and Ethics, Sanitation, and Hydrotherapy; and

(c) Content that incorporates the Entry Level Competencies established by the Board (334-010-0047).

(6) If for any reason an applicant does not appear to be qualified for admission to take the examination, the applicant shall be so notified and invited to submit additional evidence that he/she is entitled to have his/her case considered or to be admitted to examination.

(7) **Documents in a Foreign Language:** All application documents for examination and licensure submitted in a language other than English shall be accompanied by:

(a) An accurate translation of those documents into English;

(b) A notarized affidavit certifying that the translator is competent in both the language of the document and the English language;

(c) A notarized affidavit certifying that the translation is a true and complete translation of the foreign language original.

(8) Any costs of translation of all documents required by the Board shall be at the expense of the applicant.

Stat. Auth.: ORS 183, ORS 687.121 & SB 1127

Stats. Implemented: ORS 687.011, ORS 687.051, ORS 687.057, ORS 687.061, ORS 687.081, ORS 687.086 & ORS 687.121

Hist.: HB 88, f. 3-16-56; Renumbered from 333-035-0002; MTB 1-1979, f. & ef. 5-22-79; MTB 2-1985, f. & ef. 1-23-85; MB 3-1985(Temp), f. & ef. 9-20-85; MTB 1-1986, f. & ef. 1-29-86; MTB 1-1990, f. & cert. ef. 4-20-90; MTB 1-1992, f. & cert. ef. 7-28-92; Section (7)(d) Renumbered from 334-010-0036; BMT 2-1998, f. & cert. ef. 7-22-98; BMT 2-2002, f. & cert. ef. 5-8-02; BMT 1-2003, f. & cert. ef. 1-24-03

## 334-010-0010

### Examination

(1) The L.M.T. examination shall be held at least twice annually.

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(2) The applicant shall be notified of the time and place to appear for the examination when all required application materials have been reviewed and within two weeks of the examination date.

(3) Applicants who request an extension in writing to the Board post-marked 14 days in advance for the practical examination may have their examination fees apply to a subsequent examination so long as the applicant sits for the examination within a year of the date of the extension. Only one extension shall be permitted. Exceptions will be reviewed on a case-by-case basis by the Board. Refund of the examination fee will be granted should the applicant request a refund in writing 14 days postdated prior to the exam.

(4) Applicants are required to take and pass both the NCBTMB's certifying exam in massage and bodywork and the Oregon practical examination which includes a written test on Oregon statutes and administrative rules.

(5) **Failure to Pass:** An applicant must pass the practical examination within 24 months of the initial examination with a maximum of three attempts. If the applicant fails to pass in three attempts, he/she must re-establish eligibility to apply and sit for the massage therapist licensing examinations by undertaking and satisfactorily completing a Board approved program of remedial study from a certified school and/or instructor(s).

(6) Applicants for reciprocity or indorsement who are sitting only for the practical examination shall take the examination during the regularly scheduled examination dates.

(7) The Board may elect to administer examinations at other than regularly scheduled times if such administration

(a) Does not interfere with the normal workload and work duties of the Board and its staff and

(b) Additional costs associated with administering an unscheduled examination are paid by the applicant.

(8) **Examinee Conduct:** An examinee, whose conduct interferes with the testing process or whose behavior violates ethical practices or jeopardizes the safety of a volunteer subject, may be dismissed and disqualified from examination. Such conduct includes but is not limited to the following behaviors:

(a) Giving or receiving examination data, either directly or indirectly, during the examination process;

(b) Failure to follow written or oral instructions relative to conducting the examination, including termination times and procedures;

(c) Endangering the life or health of a model, other examinees, or examination staff;

(d) Introducing unauthorized materials during any portion of the examination;

(e) Attempting to remove examination materials or notations from the testing site; or

(9) Violating the credentialing process such as falsifying or misrepresenting educational credentials or other information required for admission to the examination, impersonating an examinee, or having an impersonator take the licensing examination on one's behalf.

(10) Test questions, scoring keys, and other examination data used to administer the qualifying examination are exempt from disclosure under ORS 192.410 to 192.505 as amended.

(11) The Board may release statistical information regarding examination pass/fail rates by group, type of examination, school, year, and subject area to any interested party.

(12) All examinations are given in the English language. An applicant is presumed to possess sufficient sensory, visual, hearing and psychomotor skills to independently perform massage and bodywork skills.

(13) **Applicants with Special Needs:** An applicant with special needs may apply to the Board for the provision of special conditions to complete the examination.

(a) The Board may require proof, provided by a qualified professional on letterhead, of the nature of the special need and type of special conditions recommended to complete the exam.

(b) A request for special conditions must be made to the Board in writing no later than three weeks prior to the date of the examination.

Stat. Auth.: ORS 183, ORS 687.121 & SB 1127

Stats. Implemented: ORS 687.011, ORS 687.051, ORS 687.057, ORS 687.061, ORS 687.081, ORS 687.086 & ORS 687.121

Hist.: HB 88, f. 3-16-56; Renumbered from 333-035-0004; MTB 1-1979, f. & cf. 5-22-79; MTB 2-1982, f. & cf. 7-21-82; MTB 2-1985, f. & cf. 1-23-85; MTB 1-1992, f. & cert. ef. 7-28-92; BMT 2-1998, f. & cert. ef. 7-22-98, Renumbered from 334-010-0021 [Hist.: MTB 1-1990, f. & cert. ef. 4-20-90; MTB 1-1992, f. & cert. ef. 7-28-92; Sections (6) - (20)(h) Renumbered from 334-030-0020]; BMT 1-1999(Temp), f. 6-14-99, cert. ef. 7-4-99 thru 12-31-99; BMT 1-2000, f. & cert. ef. 1-12-00; BMT 2-2000, f. & cert. ef. 8-3-00; BMT 1-2001(Temp), f. & cert. ef. 1-9-02 thru 7-5-02; BMT 2-2002, f. & cert. ef. 5-8-02; BMT 1-2003, f. & cert. ef. 1-24-03

### 334-010-0015

#### Licensure

(1) An applicant for a renewal or initial massage therapist license shall complete, without alterations, an application furnished by the Board.

(2) Application for a massage therapist license shall contain information stating whether the applicant has ever been arrested or convicted of a misdemeanor or crime and if so, stating the nature of the offense, the location of the arrest or conviction and the date(s) of occurrence(s).

(3) Applicants for renewal of licensure shall sign a statement of completion of a minimum of 25 hours of continuing education.

(4) Applicants for license renewal shall furnish a copy of a current certificate in cardiopulmonary resuscitation.

(5) Applicants for initial licensure must apply within one year of the successful completion of the license examination.

(a) If an applicant does not apply within one year, then re-examination shall be required.

(b) At the time of re-examination, the applicant must meet all current licensing requirements and submit original documents as required by the Board.

(6) All applicants for initial, renewal, or reinstated license must sign a statement verifying that they have read all current Oregon Statutes (ORS 687), Rules (OAR 334), and policy statements of the Board.

(7) Licenses issued by the Board shall not be transferable.

Stat. Auth.: ORS 687.121 & ORS 687.051

Stats. Implemented: ORS 687.011, ORS 687.051, ORS 687.057, ORS 687.061, ORS 687.081, ORS 687.086 & ORS 687.121

Hist.: HB 88, f. 3-16-56; Renumbered from 333-035-0006; MTB 1-1979, f. & cf. 5-22-79; MTB 1-1990, f. & cert. ef. 4-20-90; MTB 1-1992, f. & cert. ef. 7-28-92; BMT 2-1998, f. & cert. ef. 7-22-98; BMT 1-2003, f. & cert. ef. 1-24-03

### 334-010-0016

#### Inactive Licenses

(1) A person licensed by the State Board of Massage Therapists to practice massage may move to an inactive status by notifying the board in writing on a form provided by the Board. Following approval by the Board and upon payment of the appropriate fee, the applicant will be issued an inactive license. During the period of inactive status, no such person may practice massage for a fee in the State of Oregon.

(2) Application for reinstatement of an inactive license shall include sufficient information to assure the Board of current competency in the practice of massage and bodywork. Depending on the length of inactive status and evidence of the practice of massage in another legal jurisdiction, the Board may require additional continuing education and/or a period of supervised practice to assure that the applicant can safely and competently practice the profession of massage.

(3) An application to reactivate a license shall be accompanied by

(a) Current licensing fee;

(b) Proof of current certification in cardiopulmonary resuscitation;

(c) Proof of 25 hours of continuing education for each biennium or fraction of the biennium the license was inactive; and

(d) A statement indicating whether the applicant has engaged in the practice of massage and bodywork in another legal jurisdiction during the period of inactive status.

(4) An individual who has held inactive status for greater than five years must

(a) Provide proof of clinical practice in another legal jurisdiction or

(b) Successfully complete a refresher course approved by the Board from a certified program of at least 50 hours or

(c) Successfully pass the practical examination.

Stat. Auth.: ORS 687.121 & ORS 687.121

Stats. Implemented: ORS 687.011, ORS 687.051, ORS 687.057, ORS 687.061, ORS 687.081, ORS 687.086 & ORS 687.121

Hist.: MTB 1-1990, f. & cert. ef. 4-20-90; MTB 1-1992, f. & cert. ef. 7-28-92; BMT 2-1998, f. & cert. ef. 7-22-98; BMT 1-2003, f. & cert. ef. 1-24-03

### 334-010-0017

#### Lapsed License

(1) The massage therapist license shall be considered lapsed if an individual fails to pay the licensing fee when due or fails to meet continuing education requirements.

(2) During the lapsed status, no such person shall practice massage in the State of Oregon.

(3) A license in lapsed status shall not be placed in an inactive status.

(4) If the lapsed license is activated within the first two years of lapsed status, the following must be included with the completed application:

(a) late fee;

(b) Current licensing fee;

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(c) Proof of 25 hours of continuing education;

(d) Proof of current CPR.

(5) An applicant whose license has been lapsed for more than two years but less than three years may reinstate by including the following with the completed application:

(a) Payment of the licensing fee applicable for the two years of the lapsed license;

(b) Payment of the current fee for activation of the license;

(c) Late fee payment;

(d) Proof of current CPR;

(e) Proof of 25 hours continuing education for the two year lapsed period; and

(f) Proof of 25 hours continuing education for the current licensing period.

(6) All information required for restoring a lapsed license after the first two years of lapsed status must be received by December 31 of the third year of lapsed status. After December 31, the license is expired. To become licensed, one must apply as a new applicant.

(7) **Inactive License Prior to Lapsed Status:** If the license was in an inactive status prior to the current lapsed status, the applicant shall provide the following with the completed application:

(a) Payment of the current licensing fee for activation of the license;

(b) If the license is in the third year of lapsed status but still eligible for reactivation, payment of the licensing fee applicable for the two years of the lapsed license and payment of the current licensing fee are both required;

(c) Late payment fee;

(d) Proof of current CPR;

(e) Proof of 25 hours of continuing education for the two year inactive period; and

(f) Proof of 25 hours of continuing education to activate the license, or

(g) If in the third year of lapsed status, proof of an additional 25 hours of continuing education for the two years of lapsed status.

Stat. Auth.: ORS 183, ORS 687.121 & SB 1127

Stats. Implemented: ORS 687.011, ORS 687.051, ORS 687.057, ORS 687.061, ORS 687.081, ORS 687.086 & ORS 687.121

Hist.: BMT 2-1998, f. & cert. ef. 7-22-98; BMT 2-2002, f. & cert. ef. 5-8-02; BMT 1-2003, f. & cert. ef. 1-24-03

## 334-010-0025

### Practice of Massage

(1) The practice of massage shall consist of applying pressure on, friction against, stroking, and kneading the body by manual or mechanical means, and gymnastics, with or without appliances such as vibrators, infrared heat, sun lamps, and external baths such as steam, tub, or shower baths for the purpose of maintaining good health and establishing and maintaining good physical condition as stated in ORS 687.011.

(a) Gymnastics is defined as: Exercise intended to stretch and strengthen soft tissues in a general fashion.

(b) Massage is defined in part as treatment of soft tissue by means of manual techniques which include:

(A) Applying pressure, holding, or causing movement to the body with hand, elbow, knee, or foot;

(B) Passive, active, and resisted movement within the normal range of a client's physical capabilities;

(C) External use of hot, cold, or topical preparations such as lubricants and other preparations available to the general public;

(D) Application of any tool or device in common use which mimics or enhances the actions possible by the hands.

(2) Massage treatment does not include:

(a) The application of high velocity/low amplitude force further defined as thrust techniques directed toward joint surfaces;

(b) The application of ultrasound, diathermy, and electrical neuromuscular stimulation or substantially similar modalities;

(c) Colonic irrigation;

(d) Making a medical diagnosis.

(3) Any person who represents himself or herself as a massage therapist when the person adopts or uses the word massage or any derivation of the word massage or any other word that implies a massage technique or method.

(4) Any person who holds a license as a massage therapist in this state may use the abbreviation "L.M.T." No other person(s) may assume such title or such abbreviation or any other word, letters, signs, or figures to indicate that the person using the title is a licensed massage therapist.

(5) No licensed massage therapist shall perform or offer to perform any services for customers other than those incidental to or connected with

the giving of massage treatments or rendered pursuant to a state issued license.

(6) All licensed massage therapists must notify the Board office in writing of any change of residence, business or mailing address within 30 days of change of address.

(7) For purposes of ORS 687.031(1) the Board deems "direction" to mean massage performed on the written order of the licensee. The Board does not recognize any such "direction" unless it is under the specific sanction of a rule of the licensing agency defining the scope of the licensee's authority to delegate and the extent of supervision required of the licensee.

(8) All licensed massage therapists must clearly display their license at their place of business.

(9) All licensed massage therapists are required to include their license number in all advertisements, including but not limited to: written, electronic, televised and audio.

Stat. Auth.: ORS 183, ORS 687.121 & SB 1127

Stats. Implemented: ORS 687.011, ORS 687.051, ORS 687.057, ORS 687.061, ORS 687.081, ORS 687.086 & ORS 687.121

Hist.: HB 88, f. 3-16-56; Renumbered from 333-035-0010; MTB 1-1979, f. & ef. 5-22-79; MTB 2-1985, f. & ef. 1-23-85; MTB 3-1985(Temp), f. & ef. 9-20-85; MTB 1-1986, f. & ef. 1-29-86; MTB 1-1990, f. & cert. ef. 4-20-90; MTB 1-1992, f. & cert. ef. 7-28-92; BMT 2-1998, f. & cert. ef. 7-22-98; BMT 3-2002, f. 5-8-02, cert. ef. 1-1-03; BMT 1-2003, f. & cert. ef. 1-24-03

## 334-010-0033

### Fees

Licensure fees will not be refunded:

(1) The fee for a massage therapist license and renewal license is \$80.

(2) The fee for inactive license is \$40.

(3) The fee for the practical examination and retake is \$100.

(4) Application fee \$40.

(5) Examination fee will be refunded only when the applicant is unqualified by Oregon statutes and no inquiry or investigation is initiated.

(6) A \$25.00 fee will be charged for any late license renewal.

(7) The temporary license fee is \$25.

(8) The fee for mailing list is \$50.

(9) The fee for a license reprint is \$5.

(10) The fee for credit card usage is \$2.50.

(11) The fee for license verification is \$5.00.

Stat. Auth.: ORS 183, ORS 687.121 & SB 1127

Stats. Implemented: ORS 687.011, ORS 687.051, ORS 687.057, ORS 687.061, ORS 687.081, ORS 687.086 & ORS 687.121

Hist.: MTB 1-1986, f. & ef. 1-29-86; MTB 1-1989(Temp), f. & cert. ef. 7-27-89; MTB 1-1990, f. & cert. ef. 4-20-90; MTB 1-1992, f. & cert. ef. 7-28-92 (and corrected 8-6-92); BMT 2-1998, f. & cert. ef. 7-22-98; BMT 1-2000, f. & cert. ef. 1-12-00; BMT 2-2002, f. & cert. ef. 5-8-02; BMT 1-2003, f. & cert. ef. 1-24-03

## 334-010-0050

### Continuing Education

(1) At the biennial renewal time, each licensee shall sign a statement and provide proof that they have completed 25 hours of continuing education not to include CPR.

(2) All continuing education must be completed within the 24 months preceding the date renewal is due. Hours in excess of the total number required may not be carried over for credit toward future renewals.

(3) The continuing education requirement shall not apply to a massage therapist's first license renewal, but will apply every biennium thereafter.

(4) Each licensee must provide records of all continuing education hours at the time of renewal in the manner prescribed below:

(a) Official abstract of research conducted;

(b) Copy of official certificate or letter of attendance at seminars, workshops, institutes, classes;

(c) Official transcripts from a university, college, or technical school demonstrating successful completion of a course;

(d) Official letter from a designated agent of a Board or national or state agency or organization verifying participation as a Board member, test item writer, or examiner;

(e) Type, title, date and name of publications and a one page summary;

(f) Official letter from designated agent of agency for whom students are precepted or supervised with information stating number of students and dates of supervision or precepting;

(g) Type, name and dates of production of media materials;

(h) Dates and hours of mentoring contact;

(i) Names, author(s), and date of publication of reading material used for self study;

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- (j) Name, producer, date of telecommunication conferences or videotaped presentations;
- (k) Certificate of completion from agency or program providing self-study credits;
- (l) Name, topic, date and hours of presentation for classes, workshops, seminars, institutes taught by licensee.
- (5) Continuing education records shall be maintained by each licensee for no less than three years.
- (6) Falsification of continuing education records will result in disciplinary action.
- (7) Failure to complete continuing education hours by the time of renewal will result in non-issuance of a license.
- (8) If the Board determines that the licensee does not meet continuing education requirements, licensee has thirty days from date of notification of non-compliance to come into compliance. Failure to be in compliance within thirty days shall result in suspension of license to practice massage.
- (9) If the Board finds indications of fraud, investigative action shall be instituted. Findings of fraud may result in loss of license.
- (10) Topic Areas: Continuing education must be in areas related to the practice of massage or bodywork including theory, research, technique or practice. Topic areas may include, but are not limited to:
- (a) Sciences related to massage or bodywork;
  - (b) Movement modalities related to massage or bodywork;
  - (c) Psychosocial sciences;
  - (d) Somatics;
  - (e) Medicinal substances (allopathic, herbal, homeopathic, naturopathic);
  - (f) Devices related to massage or bodywork practice;
  - (g) Communication principles & techniques including group, interpersonal, and documentary;
  - (h) Ethics;
  - (i) Health care contexts related to massage or bodywork such as business practices, insurance, standards, politics;
  - (j) Specialized forms or modalities of massage and bodywork;
  - (k) Communicable disease principles and prevention;
  - (l) Sanitation practices related to massage or bodywork practice;
  - (m) Regulatory and legal requirements related to massage or bodywork;
  - (n) Theories of massage & bodywork paradigms, principles & practice; and
  - (o) Interventions and techniques;
- (11) Categories. The required 25 hours of continuing education per biennium shall be selected from one of the following categories however, 12 of the continuing education hours must be in activities that involve attendance at organized events involving other massage and bodywork practitioners unless otherwise specified in the rules.
- (a) Attendance at an accredited university, college or technical course — may claim 3 hours per credit hour earned;
- (b) Attendance at seminars, workshops, or institutes — may claim 1 hour per direct hour of contact (up to 25 hours);
- (c) Attendance at telecommunication presentations of educational courses, seminars, workshops — may claim 1 hour per direct hour (up to 12 hours);
- (d) Completion of a self-study course sponsored and credited by an agency or organization approved by the Board—may claim one hour of credit per unit.
- (e) Attendance at educational sessions at state and national conferences related to massage or bodywork — may claim 1 hour per hour of attendance (up to 25 hours);
- (f) Professional presentation (as presenter) for a class, seminar, or workshop — may claim two hours of credit for every hour of actual presentation up to 25 hours of credit. No additional hours may be claimed for subsequent presentation.
- (g) Author or co-author of a publication related to massage or bodywork may claim 25 hours of credit one time only per publication.
- (h) Research related to massage or bodywork as a principal investigator or co-investigator or as an associate investigator in an established research project — may claim
- (A) 25 hours of credit if principal or co-investigator;
  - (B) 12 hours of credit if associate investigator;
- (i) Participation as an item writer for a state or national licensing or certifying examination — may claim up to 12 hours of credit;

- (j) Supervision of massage or mentoring of massage or bodywork students in a formal program of study—may claim 2 hours of credit for each student supervised during the course up to a total of 12 hours of credit
- (k) Participation as an examiner for a state or national practical examination for licensure or certification — may claim up to 12 hours of credit;
- (l) Serving as a Board member on a state licensing board for massage or bodywork or on a state or national professional organization for massage or bodywork — may claim 6 hours of credit for every year served up to a total of 12 hours of credit for the biennium.

Stat Auth: ORS 687.081, ORS 687.121 & ORS 687.122

Stats. Implemented: ORS 687.011, ORS 687.051, ORS 687.057, ORS 687.061, ORS 687.081, ORS 687.086 & ORS 687.121

Hist.: BMT 1-1998(Temp), f. & cert. ef. 2-3-98 thru 7-31-98; BMT 2-1998, f. & cert. ef. 7-22-98; BMT 1-2003, f. & cert. ef. 1-24-03

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## Board of Medical Examiners Chapter 847

**Adm. Order No.:** BME 1-2003  
**Filed with Sec. of State:** 1-27-2003  
**Certified to be Effective:** 1-27-03  
**Notice Publication Date:** 12-1-02  
**Rules Amended:** 847-035-0030

**Subject:** The adopted rule clarifies the use of lidocaine and nitroglycerine in the EMT-Intermediate scope of practice.  
**Rules Coordinator:** Diana M. Dolstra—(503) 229-5873, ext. 223

### 847-035-0030 Scope of Practice

- (1) The Board of Medical Examiners has established a scope of practice for emergency and nonemergency care for First Responders and EMTs. First Responders and EMTs may provide emergency and nonemergency care in the course of providing prehospital care as an incident of the operation of ambulance and as incidents of other public or private safety duties, but is not limited to "emergency care" as defined in OAR 847-035-0001(5).
- (2) The scope of practice for First Responders and EMTs is not intended as statewide standing orders or protocols. The scope of practice is the maximum functions which may be assigned to a First Responder or EMT by a Board-approved supervising physician.
- (3) Supervising physicians may not assign functions exceeding the scope of practice; however, they may limit the functions within the scope at their discretion.
- (4) Standing orders for an individual EMT may be requested by the Board or Section and shall be furnished upon request.
- (5) No EMT may function without assigned standing orders issued by Board-approved supervising physician.
- (6) An Oregon-certified First Responder or EMT, acting through standing orders, shall respect the patient's wishes including life-sustaining treatments. Physician supervised First Responders and EMTs shall comply with life-sustaining treatment orders executed by a physician or a nurse practitioner. A patient with life-sustaining treatment orders always requires respect, comfort and hygienic care.
- (7) The scope of practice for emergency and nonemergency care established by the Board for First Responders is intended as authorization for performance of procedures by First Responders without direction from a Board-approved supervising physician, except as limited by subsection (2) of this rule. A First Responder may perform the following emergency care procedures without having signed standing orders from a supervising physician:
- (a) Conduct primary and secondary patient examinations;
  - (b) Take and record vital signs;
  - (c) Open and maintain an airway by positioning the patient's head;
  - (d) Provide external cardiopulmonary resuscitation and obstructed airway care for infants, children, and adults;
  - (e) Provide care for soft tissue injuries;
  - (f) Provide care for suspected fractures;
  - (g) Assist with prehospital childbirth; and
  - (h) Complete a clear and accurate prehospital emergency care report form on all patient contacts and provide a copy of that report to the senior EMT with the transporting ambulance.
- (8) A First Responder may perform the following procedures only when the First Responder is providing emergency care as part of an agency which has a Board-approved supervising physician who has issued written standing orders to that First Responder authorizing the following:
- (a) Administration of medical oxygen;

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(b) Open and maintain an airway through the use of an oropharyngeal and nasopharyngeal airway and pharyngeal suctioning devices;

(c) Operate a bag mask ventilation device with reservoir;

(d) Provision of care for suspected medical emergencies, including administering liquid oral glucose for hypoglycemia; and

(e) Perform cardiac defibrillation with an automatic or semi-automatic defibrillator, only when the First Responder is certified by the Section as a First Responder and:

(A) Has successfully completed a Section-approved course of instruction in the use of the automatic or semi-automatic defibrillator; and

(B) Complies with the periodic requalification requirements for automatic or semi-automatic defibrillator as established by the Section.

(9) An Oregon-certified EMT-Basic may perform emergency and nonemergency procedures. Emergency care procedures shall be limited to the following basic life support procedures:

(a) Perform all procedures that an Oregon-certified First Responder can perform;

(b) Open and maintain an airway by using oropharyngeal and nasopharyngeal airways and pharyngeal suctioning devices;

(c) Ventilate with a non-invasive positive pressure delivery device;

(d) Insert a dual lumen airway device in the practice of airway maintenance after completing a Section-approved course;

(e) Provide external cardiopulmonary resuscitation and obstructed airway care for infants, children, and adults;

(f) Provide care for suspected shock, including the use of the pneumatic anti-shock garment;

(g) Provide care for suspected medical emergencies, including:

(A) Obtaining a peripheral blood specimen for blood glucose monitoring, obtained via fingerstick, heelstick, or earlobe puncture;

(B) Administer oral glucose for hypoglycemia;

(C) Administer epinephrine by subcutaneous or automatic injection device for anaphylactic shock;

(D) Administer activated charcoal for poisonings, following local written standing orders; and

(E) Administer aspirin for suspected myocardial infarction after completing a Section approved course in the administration of aspirin.

(h) Perform cardiac defibrillation with an automatic or semi-automatic defibrillator;

(i) Transport stable patients with saline locks, heparin locks, foley catheters, or in-dwelling vascular devices;

(j) Perform other emergency tasks as requested if under the direct visual supervision of a physician and then only under the order of that physician;

(k) Complete a clear and accurate prehospital emergency care report form on all patient contacts;

(l) Assist a patient with administration of sublingual nitroglycerine tablets or spray and with metered dose inhalers that have been previously prescribed by that patient's personal physician and that are in the possession of the patient at the time the EMT-Basic is summoned to assist that patient; and

(m) In the event of a release of military chemical warfare agents from the Umatilla Army Depot, the EMT-Basic who is a member or employee of an EMS agency serving the DOD-designated Immediate Response Zone who has completed a Section-approved training program may administer atropine sulfate and pralidoxime chloride from a Section-approved pre-loaded auto-injector device, and perform endotracheal or pharyngoesophageal intubation, using protocols promulgated by the Section and adopted by the supervising physician. 100% of EMT-Basic actions taken pursuant to this section shall be reported to the Section via a copy of the prehospital emergency care report and shall be reviewed for appropriateness by Section staff and the Subcommittee on EMT Certification, Education and Discipline.

(n) In the event of a release of chemical agents the EMT-Basic, who has completed Section-approved training, may administer atropine sulfate and pralidoxime chloride, using protocols approved by the Section and adopted by the supervising physician, if:

(A) The supervising physician provides the EMT-Basic with a direct, verbal order through radio or telephone contact, or

(B) The EMT-Basic is under the direction of an EMT-Paramedic who is on the scene.

(10) An Oregon-certified EMT-Intermediate may perform emergency and nonemergency care procedures. The emergency care procedures shall be limited to the following:

(a) Perform all procedures that an Oregon-certified EMT-Basic can perform;

(b) Initiate and maintain peripheral intravenous (I.V.) lines;

(c) Initiate and maintain an intraosseous infusion;

(d) Initiate saline or similar locks when specifically authorized by the physician;

(e) Infuse any physiologic isotonic crystalloid solution;

(f) Draw peripheral blood specimens;

(g) Initiate or administer the following medications:

(A) Epinephrine 1:10,000;

(B) Atropine sulfate;

(C) Lidocaine bolus for ventricular fibrillation, post ventricular fibrillation/ventricular tachycardia cardiac arrest, ventricular tachycardia, or wide complex tachycardia;

(D) Naloxone hydrochloride;

(E) Hypertonic glucose;

(F) Nitroglycerine for chest pain;

(G) Beta-2-specific nebulized bronchodilators;

(h) Insert a pharyngeal esophageal airway device in the practice of airway maintenance;

(i) Insert an orogastric tube;

(j) Maintain during transport any intravenous medication infusions or other procedures which were initiated in a medical facility, and if clear and understandable written and verbal instructions for such maintenance have been provided by the personnel at the sending medical facility.

(k) Perform cardiac defibrillation with a manual defibrillator if the EMT-Intermediate has satisfactorily completed a Section-approved training course in manual defibrillation, including written and practical examinations and the EMT-Intermediate is, at the time of performing manual defibrillation, in the service of an agency which has been granted an "EMT-Intermediate Manual Defibrillation Waiver" by the Section.

(11) An Oregon-certified EMT-Paramedic may perform emergency and nonemergency care procedures. The emergency care procedures shall be limited to:

(a) Perform all procedures that an Oregon-certified EMT-Intermediate can perform;

(b) Initiate the following airway management techniques:

(A) Endotracheal intubation;

(B) Tracheal suctioning techniques;

(C) Needle cricothyrotomy; and

(D) Transtracheal jet insufflation which may be used when no other mechanism is available for establishing an airway.

(e) Initiate a nasogastric tube;

(d) Initiate electrocardiographic monitoring and interpret presenting rhythm;

(e) Provide advanced life support in the resuscitation of patients in cardiac arrest;

(f) Perform emergency cardioversion in the compromised patient;

(g) Attempt external transcutaneous pacing of bradycardia that is causing hemodynamic compromise;

(h) Initiate needle thoracocentesis for tension pneumothorax in a pre-hospital setting;

(i) Initiate placement of a femoral intravenous line when a peripheral line cannot be placed;

(j) Initiate placement of a urinary catheter for trauma patients in a pre-hospital setting who have received diuretics and where the transport time is greater than thirty minutes; and

(k) Initiate or administer any medications or blood products under specific written protocols authorized by the supervising physician, or direct orders from a licensed physician.

(12) The Board has delegated to the Section the following responsibilities for ensuring that these rules are adhered to:

(a) Designing the supervising physician and agent application;

(b) Approving a supervising physician or agent; and

(c) Investigating and disciplining any EMT or First Responder who violates their scope of practice.

(d) The Section shall provide copies of any supervising physician or agent applications and any EMT or First Responder disciplinary action reports to the Board upon their request.

(13) The Section shall immediately notify the Board when questions arise regarding the qualifications or responsibilities of the supervising physician or agent of the supervising physician.

Stat. Auth.: ORS 682.245

Stats. Implemented: ORS 682.245

Hist.: ME 2-1983, f. & ef. 7-21-83; ME 3-1984, f. & ef. 1-20-84; ME 12-1984, f. & ef. 8-2-84; ME 7-1985, f. & ef. 8-5-85; ME 12-1987, f. & ef. 4-28-87; ME 27-1987(Temp), f. & ef. 11-5-87; ME 5-1988, f. & cert. ef. 1-29-88; ME 12-1988, f. & cert. ef. 8-5-88; ME 15-1988, f. & cert. ef. 10-20-88; ME 2-1989, f. & cert. ef. 1-25-89; ME 15-1989, f. & cert. ef. 9-5-89, & corrected 9-22-89; ME 6-1991, f. & cert. ef. 7-24-91; ME 10-1993, f. & cert. ef. 7-27-93;

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ME 3-1995, f. & cert. ef. 2-1-95; ME 1-1996, f. & cert. ef. 2-15-96; ME 3-1996, f. & cert. ef. 7-25-96; BME 6-1998, f. & cert. ef. 4-27-98; BME 13-1998(Temp), f. & cert. ef. 8-6-98 thru 2-2-99; BME 14-1998, f. & cert. ef. 10-26-98; BME 16-1998, f. & cert. ef. 11-24-98; BME 13-1999, f. & cert. ef. 7-23-99; BME 14-2000, f. & cert. ef. 10-30-00; BME 11-2001, f. & cert. ef. 10-30-01; BME 9-2002, f. & cert. ef. 7-17-02; BME 10-2002, f. & cert. ef. 7-22-02; BME 1-2003, f. & cert. ef. 1-27-03

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

**Filed with Sec. of State:** 1-27-2003

**Certified to be Effective:** 1-27-03

**Notice Publication Date:** 12-1-02

**Rules Amended:** 847-001-0010

**Subject:** The adopted rules state that the Board's contested case hearings will be closed to members of the public.

**Rules Coordinator:** Diana M. Dolstra—(503) 229-5873, ext. 223

**847-001-0010**

**Public Attendance**

Contested case hearings are closed to members of the public.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 183.341

Hist.: BME 13-2000, f. & cert. ef. 10-30-00; BME 2-2003, f. & cert. ef. 1-27-03

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

**Filed with Sec. of State:** 1-27-2003

**Certified to be Effective:** 1-27-03

**Notice Publication Date:** 12-1-02

**Rules Amended:** 847-008-0005

**Subject:** The adopted rules require the registration renewal forms to be received in the Board office on the last day of the biennium for each licensee group of the Board, and also changes the biennial renewal period for physician assistants from February 1 - January 31 of every even-numbered year and January 1 - December 31 of every odd-numbered year.

**Rules Coordinator:** Diana M. Dolstra—(503) 229-5873, ext. 223

**847-008-0005**

**Registration Periods**

Every licensee of the Board shall renew their registration prior to the last day of each renewal period as follows:

(1) The registration renewal form and fee for Doctors of Medicine, Doctors of Osteopathy, and Physician Assistants must be received in the Board office during regular business hours on or before December 31 of each odd-numbered year.

(2) The registration renewal form and fee for Doctors of Podiatric Medicine and Licensed Acupuncturists must be received in the Board office during regular business hours on or before June 30 of each even-numbered year.

(3) If the registration renewal form and fee are not received in the Board office during regular business hours on or before the last day of the renewal period the license shall lapse.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.172

Hist.: ME 5-1990, f. & cert. ef. 4-25-90; ME 5-1991, f. & cert. ef. 7-24-91; ME 11-1992, f. & cert. ef. 10-22-92; BME 7-1998, f. & cert. ef. 7-22-98; BME 3-2003, f. & cert. ef. 1-27-03

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**Adm. Order No.:** BME 4-2003

**Filed with Sec. of State:** 1-27-2003

**Certified to be Effective:** 1-27-03

**Notice Publication Date:** 12-1-02

**Rules Amended:** 847-010-0051, 847-010-0052, 847-010-0056

**Subject:** The adopted rules add language to the Limited License, Postgraduate stating that it is granted for one year and is renewable, and rewrites some other language so the language is consistent between all the limited license categories.

**Rules Coordinator:** Diana M. Dolstra—(503) 229-5873, ext. 223

**847-010-0051**

**Limited License, Postgraduate**

(1) This limited license applies to interns (PG1) and residents as defined in ORS 677.010. This limited license permits the physician to practice medicine only as part of a supervised postgraduate training program of a school of medicine or hospital approved by the Board.

(2) The Limited License, Postgraduate shall be granted for a period of one year, and may be renewed for each additional year of training. For each year of additional training, the physician must submit a limited license form and fee 30 days before the end of the year to be granted a new limited license.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.132

Hist.: ME 10-1989(Temp), f. & cert. ef. 8-4-89; ME 18-1989, f. & cert. ef. 10-20-89; ME 9-1992, f. & cert. ef. 7-17-92; BME 4-2003, f. & cert. ef. 1-27-03

**847-010-0052**

**Limited License, Visiting Professor**

(1) Any physician qualifying under OAR 847-030-0140(3) who has received a teaching position in an approved medical school or affiliated teaching institution in this state may be issued a Limited License, Visiting Professor. This license shall allow the physician to practice medicine only to the extent that such practice is incident to and a necessary part of the applicant's duties as approved by the Board in connection with such faculty position.

(2) The Limited License, Visiting Professor shall be granted for a period of one year, and upon written request may be renewed for one additional year. The two years must be consecutive, and any unused portion of time can not be requested at a later date.

(3) Every physician who is issued a Limited License, Visiting Professor to practice in this state shall pay the limited license application fee as of the beginning of his appointment, and 30 days before the end of the first year must submit a new limited license application and fee for the second year.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.132

Hist.: ME 21-1987, f. & cert. ef. 10-29-87; ME 11-1988, f. & cert. ef. 8-5-88; ME 1-1991(Temp), f. 1-30-91, cert. ef. 1-31-91; ME 2-1991, f. & cert. ef. 4-19-91; ME 4-1993, f. & cert. ef. 4-22-93; BME 2-2002, f. & cert. ef. 1-28-02; BME 4-2003, f. & cert. ef. 1-27-03

**847-010-0056**

**Limited License, Fellow**

(1) Any physician who proposes to do a fellowship in Oregon and who does not wish to register under OAR 847-020-0120 or 847-020-0130 may apply for a Limited License, Fellow. A fellow is a physician who is pursuing some special line of study as part of a supervised program of an approved school of medicine or affiliated teaching institution. A Limited License, Fellow permits the physician to practice medicine only as part of a supervised fellowship program.

(2) A Limited License, Fellow shall be granted for a period of one year, and upon written request from the head of the training program submitted 60 days before the end of the first year, may be renewed for only one additional year. The two years must be consecutive.

(3) A request for a Limited License, Fellow must be accompanied by a copy of the appointment letter or contract, and a letter sent directly from the head of the training program advising that the applicant has been offered a fellowship position and the dates of the program.

(4) Every physician who is issued a Limited License, Fellow to practice in this state shall complete a limited license application form and pay the limited license fee as of the beginning of his appointment, and 30 days before the end of the first year must submit a new limited license application form and fee for the second year.

(5) Fellowships approved by the Accreditation Council for Graduate Medical Education (ACGME) may be used to qualify for a license under OAR 847-020-0120 or 847-020-0130. Non-approved fellowships may not be used toward licensure.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.132

Hist.: ME 9-1992, f. & cert. ef. 7-17-92; ME 2-1993, f. & cert. ef. 1-29-93; BME 2-2002, f. & cert. ef. 1-28-02; BME 4-2003, f. & cert. ef. 1-27-03

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**Adm. Order No.:** BME 5-2003

**Filed with Sec. of State:** 1-27-2003

**Certified to be Effective:** 1-27-03

**Notice Publication Date:** 12-1-02

**Rules Amended:** 847-020-0170

**Subject:** The adopted rules require the applicant for licensure to have passed each step of the United States Medical Licensure Examination (USMLE) within three attempts and within the seven-year time limit. The rules also allow a physician applicant to request a waiver if he/she has not been able to comply with the seven year require-

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ment because of a personal illness or enrollment in a dual MD/PhD program.

**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-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 States 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 completed an accredited one year residency, or an accredited or Board approved one year clinical fellowship, or been certified or recertified by a specialty board recognized by the American Board of Medical Specialties or the American Osteopathic Association.

(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

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**Adm. Order No.:** BME 6-2003

**Filed with Sec. of State:** 1-27-2003

**Certified to be Effective:** 1-27-03

**Notice Publication Date:** 12-2-02

**Rules Amended:** 847-050-0020, 847-050-0029, 847-050-0042

**Subject:** The adopted rules delete some administrative rule language regarding physician assistants practicing in medically disadvantaged areas since statutory language was also deleted from the Medical Practice Act (ORS Chapter 667) when Senate Bill 570 was passed in 2001. The adopted rules also change the renewal period for physician assistants from February 1 - January 31 of every even-numbered year and to January 1 - December 31 of every odd-numbered year.

**Rules Coordinator:** Diana M. Dolstra—(503) 229-5873, ext. 223

### 847-050-0020

#### Qualifications

On or after July 12, 1984, an applicant for original licensure as a physician assistant in this state must possess the following qualifications:

(1) Have successfully completed a course in physician assistant training which is approved by the American Medical Association Committee on Allied Health Education and Accreditation (C.A.H.E.A.), the Commission on Accreditation for Allied Health Education Programs (C.A.A.H.E.P.), or the Accreditation Review Commission on Education for the Physician Assistant (A.R.C.P.A.).

(2) Have passed the Physician Assistant National Certifying Examination (PANCE) given by the National Commission on Certification of Physician Assistants (N.C.C.P.A.). Those who have met the requirements of section (1) of this rule may make application for a Limited License, Postgraduate before passing the aforementioned examination with the stip-



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ulation that if the examination is not passed within one year from the date of application, the Board shall withdraw its approval.

(3) Applicants that apply for prescription privileges must meet the requirements specified in OAR 847-050-0041.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.510

Hist.: ME 23(Temp), f. & ef. 10-12-71; ME 25, f. 1-20-72, ef. 2-1-72; ME 1-1979, f. & ef. 1-29-79; ME 5-1979, f. & ef. 11-30-79; ME 4-1980(Temp), f. 8-5-80, ef. 8-6-80; ME 7-1980, f. & ef. 11-3-80; ME 4-1981(Temp), f. & ef. 10-20-81; ME 2-1982, f. & ef. 1-28-82; ME 10-1984, f. & ef. 7-20-84; ME 5-1986, f. & ef. 4-23-86; ME 2-1990, f. & cert. ef. 1-29-90; ME 10-1992, f. & cert. ef. 7-17-92; ME 5-1993, f. & cert. ef. 4-22-93; ME 17-1994, f. & cert. ef. 10-25-94; BME 1-1998, f. & cert. ef. 1-30-98; BME 2-2000, f. & cert. ef. 2-7-00; BME 1-2001, f. & cert. ef. 1-25-01; BME 6-2003, f. & cert. ef. 1-27-03

## 847-050-0029

### Locum Tenens

Locum tenens means a temporary absence by the physician assistant or physician is filled by a substitute physician assistant or physician. The following is required of an applicant for locum tenens:

(1) A minimum of two weeks prior to the intended locum tenens, the supervising physician of the practice which desires the substitute must submit a letter of request to the Board.

(2) The request must include the name of the substitute physician assistant or physician, duration of the locum tenens, a description of how supervision of the physician assistant will be maintained, and any changes in the approved practice description for the practice during the locum tenens. Approval must be obtained in advance from the Executive Director of the Board of Medical Examiners.

(3) The physician assistant or physician must be currently licensed in Oregon and in good standing with the Board.

(4) The physician assistant must be qualified to provide the same type of service as described in the current approved practice description for the locum tenens.

(5) The physician must be as qualified as the physician who is being replaced during the locum tenens.

(6) The Board Executive Director may give temporary approval which is subject to approval.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.510

Hist.: ME 1-1986, f. & ef. 1-21-86; ME 2-1990, f. & cert. ef. 1-29-90; ME 7-1990, f. & cert. ef. 4-25-90; BME 6-2003, f. & cert. ef. 1-27-03

## 847-050-0042

### Registration

(1) The registration renewal form and fee must be received in the Board office during regular business hours on or before December 31 of each odd-numbered year in order for the physician assistant's registration to be renewed for the next 24 months.

(2) Upon failure to comply with section (1) of this rule, the registration shall automatically lapse as per ORS 677.228.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.510

Hist.: ME 1-1979, f. & ef. 1-2-79; ME 5-1979, f. & ef. 11-30-79; ME 4-1980(Temp), f. 8-5-80, ef. 8-6-80; ME 7-1980, f. & ef. 11-3-80; ME 4-1981(Temp), f. & ef. 10-20-81; ME 2-1982, f. & ef. 1-28-82; ME 7-1984, f. & ef. 1-26-84; ME 2-1990, f. & cert. ef. 1-29-90; ME 7-1990, f. & cert. ef. 4-25-90; ME 7-1991, f. & cert. ef. 7-24-91; ME 5-1994, f. & cert. ef. 1-24-94; BME 6-2003, f. & cert. ef. 1-27-03

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**Adm. Order No.:** BME 7-2003

**Filed with Sec. of State:** 1-27-2003

**Certified to be Effective:** 1-27-03

**Notice Publication Date:** 12-1-02

**Rules Amended:** 847-080-0022

**Subject:** The adopted rule clarifies that the podiatrist must meet the qualifications stated in the administrative rules prior to being granted approval by the Board to perform ankle surgery.

**Rules Coordinator:** Diana M. Dolstra—(503) 229-5873, ext. 223

## 847-080-0022

### Qualifications to Perform Ankle Surgery

Ankle surgery must be conducted in a certified hospital or in an ambulatory surgical center certified by the Health Division. To be eligible to perform ankle surgery in the state of Oregon, the licensed podiatrist shall meet the qualifications from one of the following sections prior to being approved by the Board to perform ankle surgery:

(1) Completion of a CPME (Council on Podiatric Medical Education) approved surgical residency; Board Certification by the American Board of Podiatric Surgery in Foot and Ankle Surgery; documented clinical experience as approved by the Board; and current clinical privileges to perform

reconstructive/rearfoot ankle surgery in a JCAHO (The Joint Commission on the Accreditation of Health Care Organizations) approved hospital; or

(2) Completion of a CPME (Council on Podiatric Medical Education) approved surgical residency; and Board Qualified by the American Board of Podiatric Surgery in Reconstructive Rearfoot/Ankle Surgery progressing to Board Certification in Reconstructive Rearfoot/Ankle Surgery within seven years.

Stat. Auth.: ORS 677.245

Stats. Implemented: ORS 677.812

Hist.: BM 11-2000, f. & cert. ef. 7-27-00; BME 7-2003, f. & cert. ef. 1-27-03

## Board of Naturopathic Examiners

### Chapter 850

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

**Filed with Sec. of State:** 2-14-2003

**Certified to be Effective:** 2-14-03

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

**Rules Adopted:** 850-010-0195

**Subject:** Rule will clarify the requirements for renewal of license.

**Rules Coordinator:** Anne Walsh—(503) 731-4045

## 850-010-0195

### License Renewal Requirements

All Naturopathic physicians licensed under ORS Chapter 685, whether active or inactive or retired must complete an annual renewal form furnished by the Board. Specific requirements for each license status, renewal procedures and requirements are as follows:

(1) A Naturopathic physician holding an initial license:

(a) Must complete the renewal form furnished by the Board; and

(b) Pay the biennial renewal fee according to OAR 850-010-0090 and OAR 850-010-0035; and

(c) Is exempt from completing CE in the initial year of licensure.

(2) A licensee doing an accredited residency for at least six (6) months in the calendar year must:

Complete the annual renewal form furnished by the Board; and

(b) Pay the biennial renewal fee according to OAR 850-010-0090 and OAR 850-010-0035; and

(c) Provide proof of an accredited residency to meet the CE requirement for an active license.

(3) A Naturopathic physician holding a certificate to practice natural childbirth must complete at least 15 hours of CE each year in obstetrics and sign an affidavit furnished by the Board confirming these hours. Seven of the 15 hours in obstetrics may be used to satisfy the requirement of an active license in 850-010-0195(4). The licensee must provide proof of current certification in neonatal resuscitation annually with the renewal.

(4) To maintain an active license, a licensee must:

(a) Complete the annual renewal form furnished by the Board; and

(b) Pay the biennial renewal fee according to OAR 850-010-0090 and 850-010-0035; and

(c) Complete at least 25 hours of Board approved CE per OAR 850-010-0210 each year and submit a signed affidavit furnished by the Board confirming this. At least five of the required 25 CE hours must be in the pharmacology of legend drugs.

(5) A Naturopathic physician holding an inactive license must:

(a) Complete the renewal form furnished by the Board; and

(b) Pay the annual renewal fee per OAR 850-010-0035; and

(c) Complete at least 10 hours of Board approved CE each year and submit a signed affidavit furnished by the Board confirming these hours.

(6) A retired status Naturopathic license, upon completing the renewal form furnished by the Board and paying the annual renewal fee for a retired license is not required to complete CE for renewal.

(7) By November 1, the Board will send to all licensees an annual renewal form to the last mailing address on record. For a renewal to be timely, a licensee must submit to the Board a completed renewal application postmarked no later than December 15 each year. A completed renewal application consists of the completed renewal form, the biennial license fee if due, and the late fee, if appropriate, and the completed affidavit confirming completion of continuing education as required under sections (1) through (6) of this rule. Failure to meet the December 15 deadline shall result in a late fee of \$75, which must be submitted with the renewal application form. Any licensee who does not receive the renewal form by November 15 should notify the Board. It is the licensee's duty to obtain and submit the renewal form in a timely manner.

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(8) The license of any licensee who fails to submit a completed renewal application by December 31 shall lapse, effective at midnight, December 31.

(9) Licensees must maintain for a period of at least five years, full and accurate records including verification of attendance to support hours reported on the signed affidavit.

(10) Each year the Board will audit a number of license renewals. These licensees will be asked to provide their CE documents to verify the signed affidavit. Licensee must provide CE records and verifications that will document compliance with the renewal requirements.

(11) After January 1, the Board may reinstate a license that has been expired for one year or less, upon submission of the affidavit of continuing education as required for an active license, completion of the renewal form furnished by the Board and paying the appropriate fees per ORS 685.100 and OAR 850-010-0035.

(12) To apply for reinstatement of a license from inactive to active status a licensee must:

(a) Complete the reinstatement form furnished by the Board; and

(b) Pay the appropriate fees per ORS 685.100 and OAR 850-010-0035, and

(c) Submit an affidavit confirming completion of continuing education as follows:

(A) If the license is inactive for 12 months or less, the licensee must demonstrate completion of 25 hours of approved continuing education during the past 12 months, with five of these hours in pharmacology; and

(B) If the license is inactive for more than one year, licensee must provide an additional five hours of approved continuing education for each subsequent year or partial year that the license was inactive, in addition to the 10 hours of CE required by OAR 850-010-0195(5).

(d) If license is inactive for more than five years, licensee must take and pass the state jurisprudence and formulary examinations furnished by the Board.

(13) Upon written application for reinstatement to an active license from an expired status, the applicant must submit an affidavit furnished by the Board, confirming completion of the continuing education requirements for an active license for each year that the license was expired, and meet the fee requirements per ORS 685.100 and OAR 850-010-0035 for an active license; or

(a) Retake the Naturopathic Physicians Licensing Examinations (NPLEX) and State Jurisprudence and Formulary examinations, as recognized by the Board; or

(b) If holding an active naturopathic license in good standing in another licensing jurisdiction, may apply for a reciprocal license per ORS 685.085.

(14) The Board may exempt any licensee from the requirements of ORS 685.102(1) upon providing evidence satisfactory to the Board of inability to comply with the CE requirement. No licensee shall be exempted from the CE requirement more than once in any five-year period.

Stat. Auth.: ORS 685.125  
Stats. Implemented: ORS 685.100  
Hist.: BNE 1-2003, f. & cert. ef. 2-14-03

## Bureau of Labor and Industries Chapter 839

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

**Filed with Sec. of State:** 1-29-2003

**Certified to be Effective:** 2-14-03

**Notice Publication Date:**

**Rules Amended:** 839-016-0700

**Subject:** The amended rule amends the prevailing rates of wage as determined by the Commissioner of the Bureau of Labor and Industries for the period beginning February 14, 2003.

**Rules Coordinator:** Marcia Ohlemiller—(503) 731-4212

**839-016-0700**

**Prevailing Wage Rate Determination/Amendments to Determination**

(1) Pursuant to ORS 279.359, the Commissioner of the Bureau of Labor and Industries has determined that the wage rates stated in a publication of the Bureau of Labor and Industries entitled *Prevailing Wage Rates on Public Works Contracts in Oregon* dated January 1, 2003 are the prevailing rates of wage for workers upon public works in each trade or occupation in the locality where work is performed for the period beginning January 1, 2003, and the effective date of the applicable special wage determination:

(a) Marine Rates for Public Works Contracts in Oregon (effective January 18, 2002).

(b) Amendments and Corrections to Oregon Determination 2003-01 (effective February 14, 2003).

(2) Copies of *Prevailing Wage Rates on Public Works Contracts in Oregon* dated January 1, 2003, and special wage determinations are available from any office of the Wage and Hour Division of the Bureau of Labor and Industries. The offices are located in Eugene, Medford, Portland and Salem and are listed in the blue pages of the phone book. Copies are also available on the bureau's webpage at [www.boli.state.or.us](http://www.boli.state.or.us) or may be obtained from the Prevailing Wage Rate Coordinator, Prevailing Wage Rate Unit, Wage and Hour Division, Bureau of Labor and Industries, 800 NE Oregon Street #32, Portland, Oregon 97232; (503) 731-4723.

Stat. Auth.: ORS 279.359

Stats. Implemented: ORS 279.359

Hist.: BLI 7-1998(Temp), f. & cert. ef. 10-29-98 thru 4-27-99; BLI 1-1999, f. 1-8-99, cert. ef. 1-15-99; BLI 4-1999, f. 6-16-99, cert. ef. 7-1-99; BLI 6-1999, f. & cert. ef. 7-23-99; BLI 9-1999, f. 9-14-99, cert. ef. 10-1-99; BLI 16-1999, f. 12-8-99, cert. ef. 1-1-00; BLI 4-2000, f. & cert. ef. 2-1-00; BLI 9-2000, f. & cert. ef. 3-1-00; BLI 10-2000, f. 3-17-00, cert. ef. 4-1-00; BLI 22-2000, f. 9-25-00, cert. ef. 10-1-00; BLI 26-2000, f. 12-14-00 cert. ef. 1-1-01; BLI 1-2001, f. & cert. ef. 1-5-01; BLI 3-2001, f. & cert. ef. 3-15-01; BLI 4-2001, f. 3-27-01, cert. ef. 4-1-01; BLI 5-2001, f. 6-21-01, cert. ef. 7-1-01; BLI 8-2001, f. & cert. ef. 7-20-01; BLI 14-2001, f. 9-26-01, cert. ef. 10-1-01; BLI 16-2001, f. 12-28-01, cert. ef. 1-1-02; BLI 2-2002, f. 1-16-02, cert. ef. 1-18-02; BLI 8-2002, f. 3-25-02, cert. ef. 4-1-02; BLI 12-2002 f. 6-19-02 cert. ef. 7-1-02; BLI 16-2002, f. 12-24-02 cert. ef. 1-1-03; BLI 1-2003, f. 1-29-03, cert. ef. 2-14-03

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## Department of Agriculture Chapter 603

**Adm. Order No.:** DOA 10-2003(Temp)

**Filed with Sec. of State:** 1-17-2003

**Certified to be Effective:** 1-17-03 thru 7-16-03

**Notice Publication Date:**

**Rules Adopted:** 603-011-0376

**Subject:** An emergency quarantine is established against importation of birds and materials from areas under federal or state quarantine which are capable of transmitting Exotic Newcastle Disease. This rule also establishes controls on gatherings of birds within Oregon and provides for veterinary inspections of birds imported from non-quarantined areas of affected states.

**Rules Coordinator:** Sherry Kudna—(503) 986-4619

**603-011-0376**

**Exotic Newcastle Disease, Emergency Quarantine and Movement Restrictions**

This section applies to all avian species and commercial traffic involved with avian species originating from areas under state or federal quarantine for Exotic Newcastle Disease and to bird exhibits, shows, auctions, public displays and competitions held in Oregon. It also applies to importation of all birds from states in which a state or federal quarantined area due to Exotic Newcastle Disease exists.

(1) Areas under restriction. The emergency quarantine includes all areas of any state which are under state or federal quarantine for Exotic Newcastle Disease.

(2) Items under restriction. Birds, poultry, poultry products, poultry waste, or vehicles, equipment or materials of any type that could transmit Exotic Newcastle Disease. Included in the restriction are vehicles that make deliveries of live birds, feed, or equipment to poultry operations of any sort in quarantined areas and then travel into the State of Oregon.

(3) No live or dead birds, poultry, poultry products, poultry waste, or vehicles, equipment or materials of any type that could transmit Exotic Newcastle Disease may be moved into Oregon from areas under quarantine. An exemption is made for eggs that have met the requirements of 9 CFR 82.8, including washing, sanitizing and packing in new material.

(4) No equipment used for the processing of eggs or for the housing, feeding, watering, handling, or otherwise caring for birds of any type may be moved into Oregon from areas under quarantine unless accompanied by a certificate signed by an official of the USDA or a designee of the Chief Animal Health Official of the state indicating that the equipment has been cleaned and disinfected according to protocol established by the USDA and approved by the Oregon State Veterinarian.

(5) The driver of a commercial vehicle originating from an area under quarantine who is transporting feed, eggs, or equipment or other materials that could transmit Exotic Newcastle Disease must provide proof, if asked by an inspector designated by the Oregon Department of Agriculture, of the cleaning and disinfection of the vehicle, trailer, and packing material per-

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formed immediately prior to the loading of the vehicle. This proof must be provided in writing and demonstrate that the cleaning and disinfection was performed according to protocol established by the USDA and approved by the Oregon State Veterinarian.

(6) Birds of any species which originate in states with quarantined areas due to Exotic Newcastle Disease but which come from areas outside of the quarantined area must be accompanied by a Certificate of Veterinary Inspection and an Oregon Import Permit number. The person importing the birds must provide, if asked by an inspector designated by the Oregon Department of Agriculture, an original Certificate of Veterinary Inspection issued by an accredited veterinarian within twenty four (24) hours prior to entry stating the birds are healthy and free of any signs of Exotic Newcastle Disease and do not originate from a quarantined area. Photocopies of Certificates of Veterinary Inspection are not acceptable. National Poultry Improvement Plan forms for movement of poultry may be used by members of National Poultry Improvement Plan with written certification on the form that the shipment did not originate from inside a quarantined area.

(7) A promoter of any event in Oregon which involves birds, such as an exhibit, show, auction, competition, or other public display of birds of any type shall immediately inform the Oregon State Veterinarian by mail, facsimile, or electronic mail of a scheduled event. The notification shall include the contact name, mailing address, physical address of the event, and daytime telephone number.

(8) A promoter of an event in Oregon which involves birds, such as an exhibit, show, auction, competition, or other public display of birds of any type, shall inform the event exhibitors and vendors in writing of this Oregon Administrative Rule, the current areas under quarantine for Exotic Newcastle Disease, and the risk of introducing Exotic Newcastle Disease into Oregon. The promoter also shall require each event exhibitor and vendor, prior to the event, to attest in writing that they are not in violation of this Oregon Administrative Rule. The signed document shall be forwarded to the Oregon State Veterinarian within one week after conclusion of the event.

(9) This Emergency Quarantine Rule shall be effective immediately upon filing with the Secretary of State's office. Unless terminated, amended or replaced, it shall remain in effect for 180 days from date of filing.

Stat. Auth.: ORS 561 & ORS 596  
Stats. Implemented: ORS 561.510, ORS 596.020, ORS 596.341, ORS 596.351 & ORS 596.355  
Hist.: DOA 10-2003(Temp), f. & cert. ef. 1-17-03 thru 7-16-03

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

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

**Filed with Sec. of State:** 2-3-2003

**Certified to be Effective:** 2-3-03

**Notice Publication Date:** 7-1-02

**Rules Adopted:** 918-225-0900, 918-225-0910, 918-225-0920, 918-225-0930, 918-225-0940, 918-225-0950, 918-225-0960, 918-225-0970

**Rules Amended:** 918-225-0670

**Subject:** Implements 2001 House Bill 2899 providing for continuing education for licensees.

**Rules Coordinator:** Louann P. Rahmig—(503) 373-7438

### 918-225-0670

#### Fees for Inspector Examination, Certification and Renewal

- (1) Fee for each National Board examination, \$165.
- (2) Fee for Certificate of Competency Examination, \$110.
- (3) Fee for annual renewal of Certificate of Competency, \$27.50.
- (4) Fee to administer continuing education program to be added to the cost of annual renewals of certified individuals, \$10.
- (5) Fee to prepare and provide continuing education programs, \$66 per hour or part thereof.

Stat. Auth.: ORS 480.605  
Stats. Implemented: ORS 480.605  
Hist.: DC 27(Temp), f. & ef. 12-31-73; DC 33, f. 5-6-74, ef. 5-25-74; Renumbered from 814-025-0016; BCA 5-1991, f. & cert. ef. 3-15-91; BCA 36-1993, f. 12-30-93, cert. ef. 1-1-94; Renumbered from 918-225-0040; BCD 36-2000, f. 12-29-00, cert. ef. 1-1-01; BCD 2-2003, f. & cert. ef. 2-3-03

### 918-225-0900

#### Required Programs for Licensees; Exemptions

- (1) During each one-year license period, licensed pressure vessel installers, building service mechanics, boilermakers, and pressure piping

mechanics shall complete at least eight hours of division-approved continuing education. Failure to comply with this requirement will result in the expiration of the license.

(2) All continuing education training shall be approved by the division for licensed persons who work for employers that install, alter or repair boilers, pressure vessels and/or pressure piping. Programs not approved by the division are not acceptable.

(3) Notwithstanding any other provision within these rules, upon written request of licensee(s) with hardship or illness, the division may approve a continuing education program at any time during a calendar year. All requests shall be reported to the board.

Stat. Auth.: ORS 480.630  
Stats. Implemented: ORS 480.630  
Hist.: BCD 2-2003, f. & cert. ef. 2-3-03

### 918-225-0910

#### Minimum Requirements for Program Approval

Continuing education programs must:

- (1) Be at least one hour long;
- (2) Cover:
  - (a) Articles of the American Society of Mechanical Engineers Boiler and Pressure Vessel Codes; and
  - (b) The Oregon Boiler Law (ORS 480.515 through 480.990 and OAR 918-225-0220 through 918-225-0800);
  - (c) Have a division-approved instructor; and
  - (d) Be approved for continuing education credits set by the division.

Stat. Auth.: ORS 480.630  
Stats. Implemented: ORS 480.630  
Hist.: BCD 2-2003, f. & cert. ef. 2-3-03

### 918-225-0920

#### Program Approval Procedure

(1) Program approvals must be requested by August 1 for presentations during the following calendar year.

(2) Applications for program approval shall include:

- (a) The name and description of the program;
- (b) A program outline, including a process for student evaluation;
- (c) The name, address and telephone number of the contact person;
- (d) The proposed instructor and instructor qualifications;
- (e) A class schedule (date, time and location);
- (f) A list or sample of program materials;
- (g) Credit hours requested;
- (h) Any limitations on who can attend and, if open to the public, the fee; and

(i) Agreement for division monitoring and evaluation. Upon request by the division, attendees will be requested to make program and instructor evaluations.

(3) The division shall report programs approved or denied to the board.

(4) Unless otherwise stated, program and instructor approvals shall be effective for one calendar year. Subsequent applications for the same program may incorporate by reference all or part of the original application.

Stat. Auth.: ORS 480.630  
Stats. Implemented: ORS 480.630  
Hist.: BCD 2-2003, f. & cert. ef. 2-3-03

### 918-225-0930

#### Instructor Approval

An instructor may be approved by the division at any time. Instructors shall have experience and expertise in the area of instruction, satisfactory to the division.

Stat. Auth.: ORS 480.630  
Stats. Implemented: ORS 480.630  
Hist.: BCD 2-2003, f. & cert. ef. 2-3-03

### 918-225-0940

#### Boiler Continuing Education Program Credit Hours Granted

(1) Programs may receive one to eight credit hours. The actual instruction time shall be at least equal to the approved credit hours less a five-minute break per hour.

(2) Credits shall be granted only upon completion of the entire approved program. Partial credit shall not be given.

(3) Continuing education instructors shall receive credit for type of programs taught.

Stat. Auth.: ORS 480.630  
Stats. Implemented: ORS 480.630  
Hist.: BCD 2-2003, f. & cert. ef. 2-3-03

# ADMINISTRATIVE RULES

**918-225-0950**

## **Evidence of Completion**

(1) The continuing education instructor shall verify class attendance on division forms within 15 days following the completion of the program, by the program provider.

(2) Certificates shall be provided to persons completing the program. The certificate is the licensee's evidence of completion in the event division records are challenged.

Stat. Auth.: ORS 480.630  
Stats. Implemented: ORS 480.630  
Hist.: BCD 2-2003, f. & cert. ef. 2-3-03

**918-225-0960**

## **Renewal of License**

An applicant for license renewal who has not met the continuing education requirements shall not receive a renewal. A person whose license renewal is denied may request a contested case hearing.

Stat. Auth.: ORS 480.630  
Stats. Implemented: ORS 480.630  
Hist.: BCD 2-2003, f. & cert. ef. 2-3-03

**918-225-0970**

## **Withdrawal of Program or Instructor Approval**

An instructor or program approval may be withdrawn by the division if the instructor fails to follow the representations in the application or for inappropriate behavior in the classroom. The decision to withdraw a program or instructor approval may be appealed to the Director in writing within 30 days of the withdrawal.

Stat. Auth.: ORS 480.630  
Stats. Implemented: ORS 480.630  
Hist.: BCD 2-2003, f. & cert. ef. 2-3-03

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**Department of Consumer and Business Services,  
Insurance Division  
Chapter 836**

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

**Filed with Sec. of State:** 1-17-2003

**Certified to be Effective:** 1-17-03

**Notice Publication Date:** 12-1-02

**Rules Amended:** 836-043-0024, 836-043-0044

**Subject:** This rulemaking amends rules relating to the Workers' Compensation Insurance Plan (WCIP) for the purpose of controlling WCIP expenses, by ensuring that worker-leasing companies will provide the necessary information to properly determine premium and coverage and will otherwise be in lawful compliance before they obtain assigned risk coverage for workers' compensation insurance.  
**Rules Coordinator:** Sue Munson—(503) 947-7272

**836-043-0024**

## **Right to Apply**

(1) An employer may apply to the Plan Administrator for workers' compensation insurance under the Plan as provided in this rule if the employer is unable to obtain an offer of workers' compensation insurance in a regular manner from an insurer who is authorized to transact and is actively transacting workers' compensation insurance in this state, and if the employer is eligible for coverage under the Plan.

(2) An employer seeking coverage under the Plan must apply to the Plan Administrator not later than the 60th day after the date on which the employer is declined coverage as provided in section (1) of this rule. The right of an employer to apply to the Plan Administrator does not apply when the employer is declined coverage by the insurer providing workers' compensation insurance to the employer at the time of application to the Plan Administrator.

(3) For purposes of section (1) of this rule, the offer of insurance with premium determined by any rating plan approved for use in this jurisdiction is an offer of insurance in a regular manner.

(4) For purposes of section (1) of this rule, an employer is presumed to be eligible in the absence of clear and convincing evidence to the contrary. An employer is not eligible if any of the following circumstances exists at the time of application or thereafter:

(a) At the time of application, the employer is a self-insured employer and is aware of pending bankruptcy proceedings, insolvency, cessation of operations or conditions that will probably result in occupational disease or cumulative injury claims from exposures incurred while the employer was self-insured;

(b) The employer, while insurance issued under the Plan is in force, knowingly refuses to meet reasonable health, safety or loss control requirements, does not allow the servicing carrier reasonable access for audit or inspection under the policy or does not comply with any other policy obligation;

(c) The employer has an outstanding workers' compensation insurance premium obligation or other monetary policy obligation on previous workers' compensation insurance that is not subject to a bona fide dispute; or

(d) The employer or its agent knowingly makes a material misrepresentation on the application by omission or otherwise, including but not limited to estimated payroll, offers of workers' compensation insurance, nature of business, name or ownership of business, premium insurance history, or an outstanding workers' compensation insurance premium obligation or other monetary policy obligation of the employer.

(e) Except as provided in subsection (6) of this section, the employer is required to obtain a license as a worker-leasing company and has yet to be licensed as a worker-leasing company.

(5) An employer may apply to the Plan Administrator for coverage by electronic transmission or telephone, as provided by OAR 836-043-0028, or by United States mail or a private overnight mail delivery company as provided by OAR 836-043-0032. An application must be made on the forms and according to the directions prescribed in Exhibits 1, 2, and 3 to this rule.

(6) The Plan Administrator shall conditionally bind coverage of a worker-leasing company applicant for an initial worker-leasing company license under OAR 436-050-0440 pending issuance of the license by the Director.

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

Stat. Auth.: ORS 656.427, ORS 656.730 & ORS 731.244

Stats. Implemented: ORS 656.427, ORS 656.730 & ORS 737.265

Hist.: ID 10-1996, f. 6-27-96, cert. ef. 7-1-96; ID 1-2003, f. & cert. ef. 1-17-03

**836-043-0044**

## **Binding Coverage**

(1) The Plan Administrator shall bind coverage for an employer if the Plan Administrator determines that the employer is eligible for coverage, the application is complete and signed and the initial premium or deposit premium is paid.

(2) The effective date of coverage of an employer applying for coverage by electronic transmission or telephone, other than an employer that was self-insured, is the later of the following dates but in any event must not be later than the 60th day after the date of application:

(a) 12:01 a.m. on the date following receipt by the Plan Administrator of a complete application;

(b) The date of expiration of existing coverage; or

(c) A date requested by the employer.

(3) The effective date of coverage of an employer applying for coverage by nonelectronic means, other than an employer that was self-insured, is the later of the following dates but in any event must not be later than the 60th day after the date of application:

(a) 12:01 a.m. on the day following the date of the postmark or equivalent receipt date on the envelope in which the application and check for the deposit premium is mailed;

(b) The date of expiration of existing coverage; or

(c) A date requested by the employer.

(4) The effective date of coverage of an employer applying for coverage by nonelectronic means, other than an employer that was self-insured, when there is no postmark or equivalent receipt date, is the later of the following dates, but in any event must not be later than the 60th day after the date of application:

(a) 12:01 a.m. on the date following receipt by the Plan Administrator of a complete application;

(b) The date of expiration of existing coverage; or

(c) A date requested by the employer.

(5) Subject to the review by the servicing carrier, an employer that was self-insured may request and obtain an effective date that is not later than 12:01 a.m. of the 60th day after the date on which the Plan Administrator receives a complete application.

(6) If the Plan Administrator fails to issue a binder to an eligible employer by the 14th day after receiving a completed application and the total initial or deposit premium, coverage is bound at 12:01 a.m. on the later of the dates specified in section (2) of this rule.

(7) Except as provided in section (8) of this rule, the Plan Administrator shall send the binder as authorized under ORS 742.043(3), to the employer, the agent, the Compliance Section of the Workers'

# ADMINISTRATIVE RULES

Compensation Division of the Department of Consumer and Business Services and the servicing carrier to which the Plan Administrator assigned the coverage. The binder remains in effect until canceled or a policy is issued.

(8) A binder issued to a worker-leasing company applicant in compliance with requirements for an initial worker-leasing company license under OAR 436-050-0440 is extended as provided in this section until the Director either licenses or refuses to license the applicant, as follows:

(a) The binder is conditional upon the subsequent initial worker-leasing company licensing by the Director. The binder does not obligate the Plan to provide coverage to the worker-leasing company for its clients until the worker-leasing company is licensed by the Director.

(b) Upon the conditional binding of the applicant worker-leasing company, the Plan Administrator shall send the binder to those entities listed in section (7) of this rule, except for the servicing carrier.

(c) Upon the Director's initial licensing of a worker-leasing company applicant and receipt of proof of licensing, the Plan Administrator shall assign an unconditional binder to a servicing carrier and send an unconditional binder to all entities listed in section (7) of this rule.

(d) Upon the Director's refusal to license a worker-leasing company applicant and upon receipt of proof of refusal, the Plan Administrator shall send notice to all entities listed in section (7) of this rule that the conditional binder has been rescinded and the applicant was not covered.

Stat. Auth.: ORS 656.427, ORS 656.730 & ORS 731.244  
Stats. Implemented: ORS 656.427, ORS 656.730 & ORS 737.265  
Hist.: ID 10-1996, f. 6-27-96, cert. ef. 7-1-96; ID 1-2003, f. & cert. ef. 1-17-03

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

**Adm. Order No.:** OSHA 1-2003  
**Filed with Sec. of State:** 1-30-2003  
**Certified to be Effective:** 4-30-03  
**Notice Publication Date:** 11-1-02  
**Rules Adopted:** 437-003-0017, 437-003-0706  
**Rules Amended:** 437-003-0001

Subject: Oregon OSHA was petitioned by the Masonry Institute of Oregon, the Masonry Contractors Association of America, Portland Chapter, and the International Union of Bricklayers & Allied Craftworkers, Local 1 of Oregon, to adopt rules which provide clear criteria for "adequate" bracing of masonry walls during construction. Oregon OSHA proposed to adopt new rules, OAR 437-003-0017, Additional Definitions to Concrete and Masonry Construction, and 437-003-0706, Protection of Employees on or Near Braced Masonry Walls. The new rules, in conjunction with (a slightly modified) 1926.706, in Division 3/Q, Construction/Concrete and Masonry Construction, will provide greater clarity for "adequately braced," and a higher level of safety to workers constructing or working near braced masonry walls. The criteria in the proposed rules were developed under a work site redesign grant from OR-OSHA.

A public hearing was held on November 25, 2002. In response to comments received at the hearing, and written comments that were received, a small number of changes were made to the original proposal, which include:

- Rules addressing nonreinforced masonry walls were added back into the proposal;
- Language was added requiring the bracing system to be designed by a registered professional engineer, or follow the requirements of the proposed standard;
- Language was added allowing the possibility of more than one component person;
- Language was changed to require bracing of all masonry walls rather than just structural masonry walls;
- Language was changed to indicate that minimum design requirements for bracing "may be" included in blueprints; and
- "Length" was changed to "height" in two rules addressing bracing of walls with grout pours.

Overall the final adoption reflects very few changes from the original proposal.

In order to allow contractors to become familiar with the rules, and purchase needed materials, this standard will become effective three months from the date of its adoption.

**Rules Coordinator:** Sue C. Joye—(503) 947-7449

## 437-003-0001

### 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 1926, revised as of 7/1/99, and any subsequent amendments published in the Federal Register as listed below:

- (1) Subdivision A — General
  - (a) 29 CFR 1926.1 Purpose and Scope, published 2/9/79, Federal Register (FR), vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.
  - (b) 29 CFR 1926.2 Variances from safety and health standards, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.
  - (c) 29 CFR 1926.3 Inspections — right of entry, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.
  - (d) 29 CFR 1926.4 Rules of practice for administrative adjudications for enforcement of safety and health standards, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.
- (2) Subdivision B — General Interpretations
  - (a) 29 CFR 1926.10 Scope of subpart, published 2/9/79, Federal Register, vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.
  - (b) 29 CFR 1926.11 Coverage under section 103 of the act distinguished, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.
  - (c) 29 CFR 1926.12 Reorganization plan No. 14 of 1950, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.
  - (d) 29 CFR 1926.13 Interpretation of statutory terms, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.
  - (e) 29 CFR 1926.14 Federal contracts for 'mixed' types of performance, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.
  - (f) 29 CFR 1926.15 Relationship to the service contract act; Walsh-Healey Public Contracts Act, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.
  - (g) 29 CFR 1926.16 Rules of construction, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.
- (3) Subdivision C — General Safety and Health Provisions
  - (a) 29 CFR 1926.20 General safety and health provisions, published 2/9/79, Federal Register, vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.
  - (b) 29 CFR 1926.21 Safety training and education, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.
  - (c) 29 CFR 1926.22 Recording and reporting of injuries (Reserved)
  - (d) 29 CFR 1926.23 First aid and medical attention, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.
  - (e) 29 CFR 1926.24 Fire protection and prevention, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.
  - (f) 29 CFR 1926.25 Housekeeping, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.
  - (g) 29 CFR 1926.26 Illumination, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.
  - (h) 29 CFR 1926.27 Sanitation, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.
  - (i) 29 CFR 1926.28 Personal protective equipment, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.
  - (j) 29 CFR 1926.29 Acceptable certifications, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.
  - (k) 29 CFR 1926.30 Shipbuilding and ship repairing, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 3/7/96, FR vol. 61, no. 46, p. 9249.
  - (l) 29 CFR 1926.31 Incorporation by reference, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 3/7/96, FR vol. 61, no. 46, p. 9249; 6/18/98, FR vol. 63, no. 117, p. 33468.
  - (m) 29 CFR 1926.32 Definitions, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 6/30/93, FR vol. 58, no. 124, p. 35078.
  - (n) 29 CFR 1926.33 Access to employee exposure and medical records, published 6/20/96, FR vol. 61, no. 46, p. 31427.
  - (o) 29 CFR 1926.34 Means of egress, published 6/30/93, Federal Register, vol. 58, no. 124, p. 35083.

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(4) Subdivision D — Occupational Health and Environmental Controls

(a) 29 CFR 1926.50 Medical services and first aid, published 2/9/79, Federal Register, vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 6/18/98, FR vol. 63, no. 117, p. 33469.

(b) 29 CFR 1926.51 Sanitation, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 6/30/93, FR vol. 58, no. 124, p. 35084.

(c) 29 CFR 1926.52 Occupational noise exposure, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(d) 29 CFR 1926.53 Ionizing radiation, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(e) 29 CFR 1926.54 Nonionizing radiation, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(f) 29 CFR 1926.55 Gases, vapors, fumes, dusts, and mists, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 10/17/86, FR vol. 51, p. 37007; 12/4/87, FR vol. 52, p. 46312; 11/4/96, FR vol. 61, no. 214, p. 56856; 1/10/97, FR vol. 62, no. 7, p. 1619.

(g) 29 CFR 1926.56 Illumination, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(h) 29 CFR 1926.57 Ventilation, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 6/30/93, FR vol. 58, no. 124, p. 35099; 3/7/96, FR vol. 61, no. 46, p. 9250; 1/8/98, FR vol. 63, no. 5, p. 1295.

(i) 29 CFR 1926.58 Reserved, §1926.58, Asbestos, tremolite, anthophyllite and actinolite is redesignated as §1926.1101, Asbestos, and §1926.58 is reserved (8/10/94, FR vol. 59, no. 153, pp. 41131-62).

(j) 29 CFR 1926.59 Hazard Communication, published 8/24/87, FR vol. 52, p. 31852; amended 12/4/87, FR vol. 52, 46075; 4/27/88, FR vol. 53, no. 81, pp. 15033-15035; stay lifted on 2/17/89, FR vol. 54, p. 6886; 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.

(k) 29 CFR 1926.60 Methyleneedianiline (MDA), published 8/10/92, FR vol. 57, no. 154, pp. 35681-35695; 6/20/96, FR vol. 61, p. 31427; 1/8/98, FR vol. 63, no. 5, p. 1296.

(l) 29 CFR 1926.61 Retention of DOT markings, placards and labels, published 7/19/94, FR vol. 59, no. 137, pp. 36700; 6/20/96, FR vol. 61, p. 31427.

(m) 29 CFR 1926.62 Lead, published 5/4/93, FR vol. 58, no. 84, pp. 26626-26649; 1/8/98, FR vol. 63, no. 5, p. 1296.

NOTE: Cadmium has been redesignated as §1926.1127.

(n) 29 CFR 1926.65 Hazardous Waste Operations and Emergency Response

NOTE: Division 2/H, 1910.120, Hazardous Waste Operations and Emergency Response, applies to Construction.

(5) Subdivision E — Personal Protective and Life Saving Equipment

(a) 29 CFR 1926.95 Criteria for personal protective equipment, published 6/30/93, Federal Register, vol. 58, p. 35152.

(b) 29 CFR 1926.100 Head protection, published 2/9/79, Federal Register, vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(c) 29 CFR 1926.101 Hearing protection, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(d) 29 CFR 1926.102 Eye and face protection, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 6/30/93, FR vol. 58, no. 124, p. 35160.

(e) 29 CFR 1926.103 Respiratory protection, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 1/8/98, FR vol. 63, no. 5, p. 1297.

NOTE: 29 CFR 1926.104 Removed, 8/9/94, FR vol. 59, no. 152, p. 40729.

(f) 29 CFR 1926.105 Reserved, 8/9/94, FR vol. 59, no. 152, p. 40729.

(g) 29 CFR 1926.106 Working over or near water, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(h) 29 CFR 1926.107 Definitions applicable to this subpart, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 8/9/94, FR vol. 59, no. 152, p. 40729.

(6) Subdivision F — Fire Protection and Prevention

(a) 29 CFR 1926.150 Fire protection, published 2/9/79, Federal Register, vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(b) 29 CFR 1926.151 Fire protection, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 7/11/86, FR vol. 51, p. 25318.

(c) 29 CFR 1926.152 Flammable and combustible liquids, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 6/18/98, FR vol. 63, no. 117, p. 33469; 6/30/93, FR vol. 58, no. 124, p. 35162.

(d) 29 CFR 1926.153 Liquefied petroleum gas (LP-Gas), published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 6/30/93, FR vol. 58, no. 124, p. 35170.

(e) 29 CFR 1926.154 Temporary heating devices, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(f) 29 CFR 1926.155 Definitions applicable to this subpart, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(7) Subdivision G — Signs, Signals, and Barricades

(a) 29 CFR 1926.200 Accident prevention signs and tags, published 2/9/79, Federal Register, vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 6/30/93, FR vol. 58, no. 124, p. 35173.

(b) 29 CFR 1926.201 Signaling, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(c) 29 CFR 1926.202 Barricades, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(d) 29 CFR 1926.203 Definitions applicable to this subpart, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(8) Subdivision H — Materials Handling, Storage, Use and Disposal

(a) 29 CFR 1926.250 General requirements for storage, published 2/9/79, Federal Register, vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 8/9/94, FR vol. 59, no. 152, p. 40729; 6/30/93, FR vol. 58, no. 124, p. 35173.

(b) 29 CFR 1926.251 Rigging equipment for material handling, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 6/30/93, FR vol. 58, no. 124, p. 35173.

(c) 29 CFR 1926.252 Disposal of waste materials, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(9) Subdivision I — Tools — Hand and Power

(a) 29 CFR 1926.300 General requirements, published 2/9/79, Federal Register, vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 6/30/93, FR vol. 58, no. 124, p. 35076; 3/7/96, FR vol. 61, no. 46, p. 9250.

(b) 29 CFR 1926.301 Hand tools, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(c) 29 CFR 1926.302 Power operated hand tools, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 6/30/93, FR vol. 58, no. 124, p. 35175.

(d) 29 CFR 1926.303 Abrasive wheels and tools, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 6/30/93, FR vol. 58, no. 124, p. 35175.

(e) 29 CFR 1926.304 Woodworking tools, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 3/7/96, FR vol. 61, no. 46, p. 9251.

(f) 29 CFR 1926.305 Jacks - lever and ratchet, screw, and hydraulic, published Federal Register vol. 58, no. 124, p. 35176.

(10) Subdivision J — Welding and Cutting

(a) 29 CFR 1926.350 Gas welding and cutting, published 2/9/79, Federal Register, vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 6/30/93, FR vol. 58, no. 124, p. 35179.

(b) 29 CFR 1926.351 Arc welding and cutting, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 7/11/86, FR vol. 51, p. 25318.

(c) 29 CFR 1926.352 Fire prevention, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(d) 29 CFR 1926.353 Ventilation and protection in welding, cutting, and heating, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 6/30/93, FR vol. 58, no. 124, p. 35179.

(e) 29 CFR 1926.354 Welding, cutting, and heating in way of preservative coatings, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(11) Subdivision K — Electrical

(a) 29 CFR 1926.400 Introduction, published 2/9/79, Federal Register, vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 7/11/86, FR vol. 51, no. 133, pp. 25294-25335.

(b) 29 CFR 1926.401 (Reserved)

(c) 29 CFR 1926.402 Applicability, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 7/11/86, FR vol. 51, no. 133, pp. 25294-25335.

(d) 29 CFR 1926.403 General requirements, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 7/11/86, FR vol. 51, no. 133, pp. 25294-25335.

(e) 29 CFR 1926.404 Wiring design and protection, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 7/11/86, FR vol. 51, no. 133, pp. 25294-25335; amended with AO 5-2002, repeal (b)(1), f. 6/28/02, ef. 10/1/03.

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(f) 29 CFR 1926.405 Wiring methods, components, and equipment for general use, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 7/11/86, FR vol. 51, no. 133, pp. 25294-25335.

(g) 29 CFR 1926.406 Specific purpose equipment and installations, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 7/11/86, FR vol. 51, no. 133, pp. 25294-25335.

(h) 29 CFR 1926.407 Hazardous (classified) locations, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 7/11/86, FR vol. 51, no. 133, pp. 25294-25335.

(i) 29 CFR 1926.408 Special systems, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 7/11/86, FR vol. 51, no. 133, pp. 25294-25335.

(j) 29 CFR 1926.409 (Reserved)

(k) 29 CFR 1926.415 (Reserved)

(l) 29 CFR 1926.416 General requirements, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 7/11/86, FR vol. 51, no. 133, pp. 25294-25335; 6/30/93, FR vol. 58, no. 124, p. 35179; 3/7/96, FR vol. 61, no. 46, p. 9251; 8/12/96, FR vol. 61, no. 156, p. 41738.

(m) 29 CFR 1926.417 Lockout and tagging of circuits, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 7/11/86, FR vol. 51, no. 133, pp. 25294-25335; 6/30/93, FR vol. 58, no. 124, p. 35181; 3/7/96, FR vol. 61, no. 46, p. 9251; 8/12/96, FR vol. 61, no. 156, p. 41739.

(n) 29 CFR 1926.418 (Reserved)

(o) 29 CFR 1926.430 (Reserved)

(p) 29 CFR 1926.431 Maintenance of equipment, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 7/11/86, FR vol. 51, no. 133, pp. 25294-25335.

(q) 29 CFR 1926.432 Environmental deterioration of equipment, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 7/11/86, FR vol. 51, no. 133, pp. 25294-25335.

(r) 29 CFR 1926.433 - 29 CFR 1926.440 (Reserved)

(s) 29 CFR 1926.441 Battery locations and battery charging, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 7/11/86, FR vol. 51, no. 133, pp. 25294-25335.

(t) 29 CFR 1926.442 - 29 CFR 1926.448 (Reserved)

(u) 29 CFR 1926.449 Definitions applicable to this subpart, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 7/11/86, FR vol. 51, no. 133, pp. 25294-25335.

(12) Subdivision L — Scaffolding

(a) 29 CFR 1926.450 Scope, application and definitions applicable to this subpart, published 8/30/96, FR vol. 61, no. 170, p. 46104.

(b) 29 CFR 1926.451 General requirements, published 8/30/96, FR vol. 61, no. 170, p. 46107; 11/25/96, FR vol. 61, no. 228, p. 59831.

(c) 29 CFR 1926.452 Additional requirements applicable to specific types of scaffolds, published 8/30/96, FR vol. 61, no. 170, p. 46113.

(d) 29 CFR 1926.453 Aerial lifts, published 8/30/96, FR vol. 61, no. 170, p. 46116; 11/25/96, FR vol. 61, no. 228, p. 59832.

(e) 29 CFR 1926.454 Training, published 8/30/96, FR vol. 61, no. 170, p. 46117.

(f) Appendix A to Subpart L — Scaffold Specifications, published 8/30/96, FR vol. 61, no. 170, p. 46117.

(g) Appendix B to Subpart L — Criteria for determining the feasibility of providing safe access and fall protection for scaffold erectors and dismantlers (Reserved), published 8/30/96, FR vol. 61, no. 170, p. 46122.

(h) Appendix C to Subpart L — List of National Consensus Standards, published 8/30/96, FR vol. 61, no. 170, p. 46122.

(i) Appendix D to Subpart L — List of training topics for scaffold erectors and dismantlers, published 8/30/96, FR vol. 61, no. 170, p. 46122.

(j) Appendix E to Subpart L — Drawing and illustrations, published 8/30/96, FR vol. 61, no. 170, p. 46122; 11/25/96, FR vol. 61, no. 228, p. 59832.

(13) Subdivision M — Fall Protection

(a) 29 CFR 1926.500 Scope, application, and definitions applicable to this subpart. Amended 8/9/94, FR vol. 59, no. 152, p. 40730-40731; 1/18/01, FR vol. 66, no. 12, p. 5265; 7/17/01, FR vol. 66, no. 137, p. 37137; amended with AO 6-2002, f. and ef. 7/19/02.

(b) 29 CFR 1926.501 Duty to have fall protection. Amended 8/9/94, FR vol. 59, no. 152, p. 40732-40733; amended 2/5/01 (Oregon Exceptions); amended with AO 6-2002, f. and ef. 7/19/02.

(c) 29 CFR 1926.502 Fall protection systems criteria and practices. Amended 8/9/94, FR vol. 59, no. 152, p. 40733-40738; amended with AO 6-2002, f. and ef. 7/19/02.

(d) 29 CFR 1926.503 Training requirements. Amended 8/9/94, FR vol. 59, no. 152, p. 40738; REPEALED with AO 6-2002, f. and ef. 7/19/02, replaced with OI.

(e) Appendix A to Subpart M — Determining Roof Widths, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; amended 8/9/94, FR vol. 59, no. 152, p. 40738-40742.

(f) Appendix B to Subpart M — Guardrail Systems, published 8/9/94, FR vol. 59, no. 152, p. 40743.

(g) Appendix C to Subpart M — Personal Fall Arrest Systems, published 8/9/94, FR vol. 59, no. 152, p. 40743-40746.

(h) Appendix D to Subpart M — Positioning Device Systems, published 8/9/94, FR vol. 59, no. 152, p. 40746.

(14) Subdivision N — Cranes, Derricks, Hoists, Elevators, and Conveyors

(a) 29 CFR 1926.550 Cranes and derricks, published 2/9/79, Federal Register, vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 4/6/82, FR vol. 47, p. 14706; 8/2/88, FR vol. 53, p. 29139; 4/18/89, FR vol. 54, no. 73, p. 15405; 8/9/94, FR vol. 59, no. 152, p. 40730; 6/30/93, FR vol. 58, no. 124, p. 35183.

(b) 29 CFR 1926.551 Helicopters, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(c) 29 CFR 1926.552 Material hoists, personnel hoists, and elevators, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(d) 29 CFR 1926.553 Base-mounted drum hoist, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(e) 29 CFR 1926.554 Overhead hoists, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(f) 29 CFR 1926.555 Conveyors, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(15) Subdivision O — Motor Vehicles, Mechanized Equipment, and Marine Operations

(a) 29 CFR 1926.600 Equipment, published 2/9/79, Federal Register, vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 6/30/93, FR vol. 58, no. 124, p. 35183.

(b) 29 CFR 1926.601 Motor vehicles, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(c) 29 CFR 1926.602 Material handling equipment, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 6/30/93, FR vol. 58, no. 124, p. 35183; 12/1/98, FR vol. 63, no. 230, p. 66274

(d) 29 CFR 1926.603 Pile driving equipment, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(e) 29 CFR 1926.604 Site clearing, published 6/24/74, FR vol. 39, p. 22801; amended 7/22/77, FR vol. 42, p. 37674.

(f) 29 CFR 1926.605 Marine operations and equipment, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(g) 29 CFR 1926.606 Definitions applicable to this subpart, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(16) Subdivision P — Excavations

(a) 29 CFR 1926.650 Scope, application, and definitions applicable to this subdivision, published 2/9/79, Federal Register, vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 10/31/89, FR vol. 54, no. 209, pp. 45959-45961.

(b) 29 CFR 1926.651 General requirements, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 10/31/89, FR vol. 54, no. 209, pp. 45960-45961; 8/9/94, FR vol. 59, no. 152, p. 40730.

(c) 29 CFR 1926.652 Requirements for protective systems, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 10/31/89, FR vol. 54, no. 209, pp. 45961-45962.

(d) Appendices A-F to Subdivision P, Excavations, published 10/31/89, FR vol. 54, no. 209, pp. 45962-45991.

(17) Subdivision Q — Concrete and Masonry Construction

(a) 29 CFR 1926.700 Scope, application and definitions applicable to this subpart, published 2/9/79, Federal Register, vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 6/16/88, FR vol. 53, p. 22612; 10/18/90, FR vol. 55, no. 202, p. 42326.

(b) 29 CFR 1926.701 General requirements, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 6/16/88, FR vol. 53, p. 22612; 8/9/94, FR vol. 59, no. 152, p. 40730.

(c) 29 CFR 1926.702 Requirements for equipment and tools, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 6/16/88, FR vol. 53, p. 22612.

(d) 29 CFR 1926.703 Requirements for cast-in-place concrete, published 6/16/88, FR vol. 53, p. 22612.

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- (e) 29 CFR 1926.704 Requirements for precast concrete, published 6/16/88, FR vol. 53, p. 22612; amended 10/5/89, FR vol. 54, no. 192, p. 41088.
- (f) 29 CFR 1926.705 Requirements for lift-slab construction operations, published 6/16/88, FR vol. 53, p. 22612; amended 10/18/90, FR vol. 55, no. 202, p. 42326.
- (g) Appendix A to 1926.705 — Lift-slab operations, published 10/18/90, FR vol. 55, no. 202, p. 42326.
- (h) 29 CFR 1926.706 Requirements for masonry construction, published 6/16/88, FR vol. 53, p. 22612; amended with OR-OSHA Admin. Order 1-2003, f. 1/30/03, ef. 4/30/03.
- (18) Subdivision R — Steel Erection
- (a) 29 CFR 1926.750 Scope, published 1/18/01, Federal Register, vol. 66, no. 12, p. 5265; amended 7/17/01, FR vol. 66, no. 137, p. 37137.
- (b) 29 CFR 1926.751 Definitions, published 1/18/01, Federal Register, vol. 66, no. 12, p. 5265; amended 7/17/01, FR vol. 66, no. 137, p. 37137; amended with AO 6-2002, f. and ef. 7/19/02.
- (c) 29 CFR 1926.752 Site layout, site-specific erection plan and construction sequence, published 1/18/01, Federal Register, vol. 66, no. 12, p. 5265; amended 7/17/01, FR vol. 66, no. 137, p. 37137.
- (d) 29 CFR 1926.753 Hoisting and rigging, published 1/18/01, Federal Register, vol. 66, no. 12, p. 5265; amended 7/17/01, FR vol. 66, no. 137, p. 37137.
- (e) 29 CFR 1926.754 Structural steel assembly, published 1/18/01, Federal Register, vol. 66, no. 12, p. 5265; amended 7/17/01, FR vol. 66, no. 137, p. 37137; amended AO 6-2002, f. and ef. 7/19/02.
- (f) 29 CFR 1926.755 Column anchorage, published 1/18/01, Federal Register, vol. 66, no. 12, p. 5265; amended 7/17/01, FR vol. 66, no. 137, p. 37137.
- (g) 29 CFR 1926.756 Beams and columns, published 1/18/01, Federal Register, vol. 66, no. 12, p. 5265; amended 7/17/01, FR vol. 66, no. 137, p. 37137.
- (h) 29 CFR 1926.757 Open web steel joists, published 1/18/01, Federal Register, vol. 66, no. 12, p. 5265; amended 7/17/01, FR vol. 66, no. 137, p. 37137.
- (i) 29 CFR 1926.758 Systems-engineered metal buildings, published 1/18/01, Federal Register, vol. 66, no. 12, p. 5265; amended 7/17/01, FR vol. 66, no. 137, p. 37137.
- (j) 29 CFR 1926.759 Falling object protection, published 1/18/01, Federal Register, vol. 66, no. 12, p. 5265; amended 7/17/01, FR vol. 66, no. 137, p. 37137.
- (k) 29 CFR 1926.760 Fall protection, published 1/18/01, Federal Register, vol. 66, no. 12, p. 5265; amended 7/17/01, FR vol. 66, no. 137, p. 37137; amended with AO 6-2002, f. and ef. 7/19/02.
- (l) 29 CFR 1926.761 Training, published 1/18/01, Federal Register, vol. 66, no. 12, p. 5265; amended 7/17/01, FR vol. 66, no. 137, p. 37137; amended with AO 6-2002, f. and ef. 7/19/02.
- (m) Appendix A to Subpart R — Guidelines for establishing the components of a site-specific erection plan: Non-Mandatory Guidelines for Complying with §1926.752(e), published 1/18/01, Federal Register, vol. 66, no. 12, p. 5265; amended 7/17/01, FR vol. 66, no. 137, p. 37137.
- (n) Appendix B to Subpart R — Acceptable test methods for testing slip-resistance of walking/working surfaces: Non-Mandatory Guidelines for Complying with §1926.754(c)(3), published 1/18/01, Federal Register, vol. 66, no. 12, p. 5265; amended 7/17/01, FR vol. 66, no. 137, p. 37137.
- (o) Appendix C to Subpart R — Illustrations of bridging terminus points: Non-Mandatory Guidelines for Complying with §1926.757(a)(10) and §1926.757(c)(5), published 1/18/01, Federal Register, vol. 66, no. 12, p. 5265; amended 7/17/01, FR vol. 66, no. 137, p. 37137.
- (p) Appendix D to Subpart R — Illustration of the use of control lines to demarcate controlled decking zones (CDZs): Non-Mandatory Guidelines for Complying with §1926.760(c)(3), published 1/18/01, Federal Register, vol. 66, no. 12, p. 5265; amended 7/17/01, FR vol. 66, no. 137, p. 37137; REPEALED with AO 6-2002, f. and ef. 7/19/02.
- (q) Appendix E to Subpart R — Training: Non-Mandatory Guidelines for Complying with §1926.761, published 1/18/01, Federal Register, vol. 66, no. 12, p. 5265; amended 7/17/01, FR vol. 66, no. 137, p. 37137.
- (r) Appendix F to Subpart R — Perimeter columns: Non-Mandatory Guidelines for Complying with §1926.756(e) to Protect the Unprotected Side or Edge of a Walking/Working Surface, published 1/18/01, Federal Register, vol. 66, no. 12, p. 5265; amended 7/17/01, FR vol. 66, no. 137, p. 37137.
- (s) Appendix G to Subpart R — Fall protection systems criteria and practices from §1926.502: Non-Mandatory Guidelines for Complying with Complying with §1926.760(d), published 1/18/01, Federal Register, vol. 66, no. 12, p. 5265; amended 7/17/01, FR vol. 66, no. 137, p. 37137; REPEALED with AO 6-2002, f. and ef. 7/19/02.
- (t) Appendix H to Subpart R — Double connections: Illustration of a clipped end connection and a staggered connection: Non-Mandatory Guidelines for Complying with Complying with §1926.756(c)(1), published 1/18/01, Federal Register, vol. 66, no. 12, p. 5265; amended 7/17/01, FR vol. 66, no. 137, p. 37137.
- (19) Subdivision S — Underground Construction, Caissons, Cofferdams, and Compressed Air
- (a) 29 CFR 1926.800 Tunnels and shafts, published 2/9/79, Federal Register, vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940. Underground Construction, published 6/2/89, FR vol. 54, no. 105, p. 23824; 1/8/98, FR vol. 63, no. 5, p. 1297.
- (b) 29 CFR 1926.801 Caissons, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.
- (c) 29 CFR 1926.802 Cofferdams, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.
- (d) 29 CFR 1926.803 Compressed air, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 7/11/86, FR vol. 51, p. 25318.
- (e) 29 CFR 1926.804 Definitions applicable to this subpart, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.
- (f) Appendix A to Subpart S — Decompression Tables, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.
- (20) Subdivision T — Demolition
- (a) 29 CFR 1926.850 Preparatory operations, published 2/9/79, Federal Register, vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.
- (b) 29 CFR 1926.851 Stairs, passageways, and ladders, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.
- (c) 29 CFR 1926.852 Chutes, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.
- (d) 29 CFR 1926.853 Removal of materials through floor openings, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.
- (e) 29 CFR 1926.854 Removal of walls, masonry sections, and chimneys, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.
- (f) 29 CFR 1926.855 Manual removal of floors, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.
- (g) 29 CFR 1926.856 Removal of walls, floors, and materials with equipment, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.
- (h) 29 CFR 1926.857 Storage, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.
- (i) 29 CFR 1926.858 Removal of steel construction, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.
- (j) 29 CFR 1926.859 Mechanical demolition, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.
- (k) 29 CFR 1926.860 Selective demolition by explosives, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.
- (21) Subdivision U — Blasting and Use of Explosives
- (a) 29 CFR 1926.900 General provisions, published 2/9/79, Federal Register, vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.
- (b) 29 CFR 1926.901 Blaster qualifications, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.
- (c) 29 CFR 1926.902 Surface transportation of explosives, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 6/30/93, FR vol. 58, no. 124, p. 35311.
- (d) 29 CFR 1926.903 Underground transportation of explosives, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.
- (e) 29 CFR 1926.904 Storage of explosives and blasting agents, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 6/30/93, FR vol. 58, no. 124, p. 35311.
- (f) 29 CFR 1926.905 Loading of explosives or blasting agents, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 6/30/93, FR vol. 58, no. 124, p. 35184.
- (g) 29 CFR 1926.906 Initiation of explosive charges — electric blasting, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 6/18/98, FR vol. 63, no. 117, p. 33469.
- (h) 29 CFR 1926.907 Use of safety fuse, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.
- (i) 29 CFR 1926.908 Use of detonating cord, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.
- (j) 29 CFR 1926.909 Firing the blast, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.



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- (k) 29 CFR 1926.910 Inspection after blasting, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.
- (l) 29 CFR 1926.911 Misfires, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.
- (m) 29 CFR 1926.912 Underwater blasting, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.
- (n) 29 CFR 1926.913 Blasting in excavation work under compressed air, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.
- (o) 29 CFR 1926.914 Definitions applicable to this subpart, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 6/30/93, FR vol. 58, no. 124, p. 35184, 35311.
- (22) Subdivision V — Power Transmission and Distribution
- (a) 29 CFR 1926.950 General requirements, published 2/9/79, Federal Register, vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.
- (b) 29 CFR 1926.951 Tools and protective equipment, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 8/9/94, FR vol. 59, no. 152, p. 40730.
- (c) 29 CFR 1926.952 Mechanical equipment, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.
- (d) 29 CFR 1926.953 Material handling, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.
- (e) 29 CFR 1926.954 Grounding for protection of employees, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.
- (f) 29 CFR 1926.955 Overhead lines, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.
- (g) 29 CFR 1926.956 Underground lines, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.
- (h) 29 CFR 1926.957 Construction in energized substations, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.
- (i) 29 CFR 1926.958 External load helicopters, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.
- (j) 29 CFR 1926.959 Lineman's body belts, safety straps, and lanyards, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.
- (k) 29 CFR 1926.960 Definitions applicable to this subpart, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.
- (23) Subdivision W — Rollover Protective Structures: Overhead Protection
- (a) 29 CFR 1926.1000 Rollover protective structures (ROPS) for material handling equipment, published 2/9/79, Federal Register, vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.
- (b) 29 CFR 1926.1001 Minimum performance criteria for rollover protective structure for designated scrapers, loaders, dozers, graders, and crawler tractors, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.
- (c) 29 CFR 1926.1002 Protective frame (ROPS) test procedures and performance requirements for wheel-type agricultural and industrial tractors used in construction, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 3/7/96, FR vol. 61, no. 46, p. 9251.
- (d) 29 CFR 1926.1003 Overhead protection for operators of agricultural and industrial tractors, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 3/7/96, FR vol. 61, no. 46, p. 9251.
- (24) Subdivision X — Stairways and Ladders
- (a) 29 CFR 1926.1050 Scope, application and definitions applicable to this Subdivision, published 11/14/90, Federal Register, vol. 55, no. 220, p. 47687; amended 1/23/91, FR vol. 56, no. 15, p. 2585; 6/30/93, FR vol. 58, no. 124, p. 35184.
- (b) 29 CFR 1926.1051 General requirements, published 11/14/90, FR vol. 55, no. 220, p. 47688.
- (c) 29 CFR 1926.1052 Stairways, published 11/14/90, FR vol. 55, no. 220, p. 47688; amended 1/23/91, FR vol. 56, no. 15, p. 2585; 2/7/91, FR vol. 56, no. 26, p. 5061; 8/23/91, FR vol. 56, no. 164, pp. 41793-41794.
- (d) 29 CFR 1926.1053 Ladders, published 11/14/90, FR vol. 55, no. 220, p. 47689; amended 1/23/91, FR vol. 56, no. 15, p. 2585; 8/23/91, FR vol. 56, no. 164, pp. 41793-41794.
- (e) 29 CFR 1926.1054 (Reserved)
- (f) 29 CFR 1926.1055 (Reserved)
- (g) 29 CFR 1926.1056 (Reserved)
- (h) 29 CFR 1926.1057 (Reserved)
- (i) 29 CFR 1926.1058 (Reserved)
- (j) 29 CFR 1926.1059 (Reserved)
- (k) 29 CFR 1926.1060 Training requirements, published 11/14/90, FR vol. 55, no. 220, p. 47691.
- (25) Subdivision Z — Toxic and Hazardous Substances

- (a) 29 CFR 1926.1101 Asbestos, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 6/20/86, FR vol. 51, p. 22612; 10/17/86, FR vol. 52, p. 17756; 7/20/88, FR vol. 53, no. 138, p. 27346; 9/14/88, FR vol. 53, p. 35627; 9/23/88, FR vol. 53, no. 185, p. 37080; 7/21/89, FR vol. 54, no. 139, p. 30705, 12/20/89, FR vol. 54, no. 243, pp. 52027-52028; 2/5/90, FR vol. 55, no. 24, p. 3792; 12/10/90, FR vol. 55, no. 237, pp. 50685-50687; 9/4/91, FR vol. 56, no. 171, pp. 43699-43700; 3/5/92, FR vol. 57, no. 44, p. 7878; 6/8/92, FR vol. 57, no. 110, pp. 24330-1; 6/30/92, FR vol. 57, no. 126, p. 29119; 8/10/94, FR vol. 59, no. 153, pp. 41131-62; 6/29/95, FR vol. 60, no. 125, pp. 33983-34002; 7/13/95, FR vol. 60, p. 36043; 9/29/95, FR vol. 60, p. 50411; 8/23/96, FR vol. 61, no. 165, p. 43454; 1/8/98, FR vol. 63, no. 5, p. 1298; 4/23/98, FR vol. 63, no. 78, p. 20099; 6/29/98, FR vol. 63, no. 124, p. 35137.
- (b) 29 CFR 1926.1127 Cadmium, published 9/14/92, FR vol. 57, no. 178, pp. 42453-42463; amended 4/23/93, FR vol. 58, no. 77, p. 21778; 1/3/94, FR vol. 59, no. 1, p. 215; 6/20/96, FR vol. 61, p. 31427; 1/8/98, FR vol. 63, no. 5, p. 1298.
- (c) 29 CFR 1926.1152 Methylene Chloride, published 1/10/97, Federal Register, vol. 62, no. 7, p. 1619; 10/20/97, FR vol. 62, p. 54382; 12/18/97, FR vol. 62, no. 243, p. 66275.

These standards are available at 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) & 656.726(4)

Stats. Implemented: ORS 654.001 - ORS 654.295

Hist.: APD 5-1989(Temp), f. 3-31-89, ef. 5-1-89; APD 8-1989, f. & ef. 7-7-89; APD 14-1989(Temp), f. 7-20-89, ef. 8-1-89; APD 15-1989, f. & ef. 9-13-89; OSHA 3-1990(Temp), f. & cert. ef. 1-19-90; OSHA 7-1990, f. & cert. ef. 3-2-90; OSHA 8-1990, f. & cert. ef. 3-30-90; OSHA 13-1990(Temp), f. 6-28-90, ef. 8-1-90; OSHA 19-1990, f. & cert. ef. 8-31-90; OSHA 27-1990, f. 12-12-90, cert. ef. 2-1-91; OSHA 6-1991, f. 3-18-91, cert. ef. 4-15-91; OSHA 7-1991, f. & cert. ef. 4-25-91; OSHA 15-1991, f. & cert. ef. 12-13-91; OSHA 16-1991, f. 12-16-91, cert. ef. 1-1-92; OSHA 6-1992, f. & cert. ef. 5-18-92; OSHA 11-1992, f. & cert. ef. 10-9-92; OSHA 1-1993, f. & cert. ef. 1-22-93; OSHA 16-1993, f. & cert. ef. 11-1-93; OSHA 4-1994, f. & cert. ef. 8-4-94; OSHA 1-1995, f. & cert. ef. 1-19-95; OSHA 3-1995, f. & cert. ef. 2-22-95; OSHA 4-1995, f. & cert. ef. 3-29-95; OSHA 5-1995, f. & cert. ef. 4-6-95; OSHA 6-1995, f. & cert. ef. 4-18-95; 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 2-1997, f. & cert. ef. 3-12-97; OSHA 4-1997, f. & cert. ef. 4-2-97; OSHA 6-1997, f. & cert. ef. 5-2-97; OSHA 7-1997, f. & cert. ef. 9-15-97; OSHA 3-1998, f. & cert. ef. 7-7-98; OSHA 6-1998, f. & cert. ef. 10-15-98; OSHA 7-1998, f. & cert. ef. 12-18-98; OSHA 2-1999, f. & cert. ef. 4-30-99; OSHA 6-1999, f. & cert. ef. 5-26-99; OSHA 3-2000, f. & cert. ef. 2-8-00; OSHA 3-2001, f. & cert. ef. 2-5-01; OSHA 3-2002, f. 4-15-02, cert. ef. 4-18-02; OSHA 5-2002, f. 6-28-02 cert. ef. 10-1-03; OSHA 6-2002, f. & cert. ef. 7-19-02; OSHA 1-2003, f. 1-30-03 cert. ef. 4-30-03

## 437-003-0017

### Additional Definitions to Concrete and Masonry Construction

- (1) Deadman is a large weight of sufficient mass used to anchor the base of a brace to a masonry wall.
- (2) Grout lift is an increment of grout height within the total grout pour.
- (3) Grout pour is the total height of a masonry wall to be grouted prior to the erection of additional masonry. A grout pour can consist of one or more grout lifts.
- (4) High wind area is where construction activity continues when winds are expected to exceed 35 mph on a regular basis.
- (5) Protected area is a location at a jobsite that is not exposed to winds, such as basements and interior areas.
- (6) Running bond (half bond) is a bond pattern in which block are placed half way over units directly below creating a staggered look.
- (7) Safe location is an area at a jobsite that employees can take refuge in order to avoid hazardous conditions.
- (8) Stack bond is a bond pattern in which blocks are stacked directly over each other (not lapped longitudinally) creating continuous joints both vertically and horizontally.
- (9) Straight coil loop insert is a wall insert that loops around the structural rebar and is suitable for the attachment of braces in a structural masonry wall. Minimum size of a coil loop insert is 3/4 inch.
- (10) Structural rebar is rebar that extends full length or height and can be spliced per required lap.
- Stat. Auth.: ORS 654.025(2) & 656.726(4)
- Stats. Implemented: ORS 654.001 - 654.295
- Hist.: OSHA 1-2003, f. 1-30-03 cert. ef. 4-30-03

## 437-003-0706

### Protection of Employees On or Near Masonry Walls

- (1) Nonreinforced Masonry Walls. The limited access zone for a masonry wall that is not reinforced and braced in accordance with 437-003-0706(3) must run the entire length of the wall, and extend away from the wall a distance equal to the height of the wall plus four feet.
- (2) Limited Access Zone for Masonry Walls. The limited access zone shall remain in place until the wall is adequately supported to prevent over-

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turning and to prevent collapse unless the height of wall is over eight feet, in which case, the limited access zone shall remain in place until the requirements of 437-003-0706(3) of this section have been met.

(3) Bracing for Masonry Walls. All masonry walls over eight feet in height must be adequately braced to prevent overturning and collapse unless the wall is adequately supported. Bracing must remain in place until permanent supporting elements of the structure are in place. The bracing system must be designed by a registered professional engineer, or follow the requirements of 437-003-0706(4).

(4) Protection of Employees On or Near Braced Masonry Walls.

(a) A limited access zone must be established when constructing a reinforced masonry wall.

(A) A limited access zone must be established before construction of the wall begins.

(B) A limited access zone must run the entire length of the wall, and extend away from the wall a distance equal to the height of the grout pour plus four feet.

(C) A limited access zone must be located on the side of the wall not scaffolded.

(D) All activity within the limited access zone is under the direction and control of a competent person.

(E) Entry into the limited access zone is limited to employees actively engaged in construction of the wall. No other employees are allowed to enter the zone without permission from a competent person.

(F) A competent person is responsible for monitoring wind speeds. When speeds reach 25 mph all braces must be examined and the site made secure.

(G) When wind speeds reach 35 mph, all employees in the limited access zone and in proximity to the wall under construction must move to a safe location.

(H) The limited access zone must remain in place until any wall over 8 feet in height is adequately braced as per paragraph (5) of this section or supported to prevent overturning and to prevent collapse.

(b) During construction of a masonry wall, adequate bracing must be in place to prevent the wall from overturning or collapse. If any of these conditions exist, the bracing is not needed:

(A) The wall is 8 feet or less in height.

(B) A qualified person demonstrates that modifications to paragraph (5) are adequate when addressing these or other inherently more stable conditions:

(i) Shafts;

(ii) Infills in existing walls;

(iii) Construction in protected areas;

(iv) Changes in wall thickness;

(v) Masonry pilasters; or

(vi) Corner returns, intersecting walls.

(C) Permanent supporting elements of the structure are in place.

(c) Design bracing systems according to paragraphs (4) and (5) of this section and install them under the direction of a competent person.

(d) A registered professional engineer must design bracing when there is one or more of the following:

(A) The wall is more than 24 feet in height;

(B) the minimum requirements of (5)(a) or (5)(b) are not met;

(C) stack bond; or

(D) high wind areas.

(e) A structural masonry wall bracing system must be designed by a qualified person. The design and installation of the bracing system must comply with the following requirements:

(A) Minimum design requirements, including minimum requirements per chapter 26 of the Uniform Building Code, for use in Options 1 or 2:

Note: This information may be included in the blueprints.

(i) F'm 1500 psi, concrete block laid in running bond pattern.

(ii) Type S mortar.

(iii) 60 ksi rebar, with minimum placement of 2 - #4 horizontally and 1 - #5 vertically at 48 inches on center.

(iv) 2,000 psi grout required at reinforced areas.

(v) Straight coil loop insert with coil bolts (safe working load = 2250 lb.).

(vi) Metal concrete tilt braces.

(vii) Wall height not to exceed 24 feet.

(B) Minimum field requirements for use in Options 1 or 2:

(i) The horizontal spacing distance between two or more braces must not exceed 20 feet;

(ii) The horizontal bracing distance from an end of wall or control joint must not exceed 10 feet;

(iii) A qualified person must determine if walls less than 20 feet in length require two braces;

(iv) The connection of the brace to the masonry wall must consist of a minimum 3/4 inch straight coil loop insert, placed around a structural rebar located at an ungrouted bond beam;

(v) At least one structural rebar must be located between the attached bar and face shell that receives brace (see figure 1);

(vi) The base connection of brace must consist of a minimum 3/4 inch anchor attached to either a 4 inch minimum thick slab or deadman;

(vii) The brace angle must not be greater than 60 degrees from the horizontal;

(viii) The slab or deadman connection must resist a minimum 3,400 lbs. pullout force.

(C) Option 1 — Bracing structural masonry walls when grout pours are limited to 5 feet 4 inches or less in height.

(i) A maximum 8 feet of initial wall height may be laid with minimum reinforcement and then grouted.

(ii) A maximum 5 feet, 4 inches of additional wall may be laid with reinforcement located to receive straight coil loop inserts at the bond beam location.

(iii) The first brace must be connected to the wall insert and attached to slab or deadman at base of wall.

(iv) The reinforced section must be grouted.

(v) Additional wall may be constructed following steps (B) through (D).

(D) Option 2 — Bracing structural masonry walls with grout pours up to 8 feet in height.

(i) A maximum 8 feet of the initial wall height may be laid with minimum reinforcement and then grouted.

(ii) A maximum 5 feet, 4 inches of additional wall may be laid with reinforcement located to receive straight coil loop inserts at a bond beam location.

(iii) Braces must be connected to coil loop inserts in the wall and attached at the base to either a slab or deadman.

(iv) The wall may be laid and reinforced up to the grout pour.

(v) No more than 4 feet of ungrouted wall above the brace point is permitted.

(vi) Grouting may be done after each section of wall is adequately braced.

(vii) A maximum of 8 feet of additional wall height may be constructed and braced following steps (B) through (F). Figure 1: [Figure not included, see ED. NOTE.] Straight coil loop insert attached to rebar with perpendicular rebar between it and face shell to receive brace.

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

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

Stats. Implemented: ORS 654.001 - 654.295.

Hist.: OSHA 1-2003, f. 1-30-03 cert. ef. 4-30-03

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**Rules Amended:** 437-002-0223, 437-003-0001, 437-003-0420

**Subject:** In response to revisions made by federal OSHA involving traffic control in construction (published in the September 12, 2002 Federal Register), Oregon OSHA has made changes to portions of Division 3/G, Construction — Signs, Signals, and Barricades, and OAR 437-003-0420, Traffic Control. 1926.200(g) Traffic Signs, 1926.201 Signaling, and 1926.202 Barricades, were not adopted. In their place, Oregon amended OAR 437-003-0420 Traffic Control, which provides rules for signaling and the use of flaggers, and for using barricades for protection of workers. The amendment to OAR 437-003-0420 reflects the adoption of the December, 2000 edition of the Manual of Uniform Traffic Control Devices (MUTCD); and provides guidance for the use of short term traffic control procedures. These changes become effective immediately upon adoption.

Oregon OSHA also amended Division 2/N General Industry — Oregon Rules for Commercial and Industrial Vehicles, OAR 437-002-0223(23) Warning Devices, to reflect the same updated language requiring adequate and appropriate traffic controls as found in the Construction Standard. The amendment also reflects the adoption of the December, 2000 edition of the Manual of Uniform Traffic Control Devices (MUTCD), and provides guidance for the use of short

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term traffic control procedures. These changes become effective immediately upon adoption.

**Rules Coordinator:** Sue C. Joye—(503) 947-7449

### 437-002-0223

#### Oregon Rules for Commercial and Industrial Vehicles

##### (1) Scope and Application.

(a) This rule shall apply to all motor vehicles used in employment.

(b) All earth moving equipment such as scrapers, loaders, agricultural and industrial tractors, bulldozers, graders, and similar equipment not covered by this rule shall be covered by OAR 437, division 3/O, 1926.602, Material Handling Equipment.

##### (2) Definitions.

(a) "Commercial-Type Vehicles" — Motor vehicles designed, used or maintained primarily for the transportation of persons or material over private or public roads.

Commercial type vehicles used to transport workers shall be defined as:

(A) Class 'A' vehicle — A vehicle of the bus type designed to carry 12 or more workers; or of the "work crew" type especially built or accommodated for carrying passengers.

(B) Class 'B' vehicle — A vehicle especially built or accommodated for transporting work crews in compartments separate from space used to transport supplies, tools and equipment such as vehicles commonly used by public utilities.

(C) Class 'C' vehicle — A vehicle of the flatbed, pickup body or dump truck body type, or of similar open body construction.

(D) Class 'D' vehicle — A vehicle of the passenger car or station wagon type.

(b) "Industrial-Type Vehicles" — Vehicles designed for non-highway usage, primarily for pulling trailers or other mobile loads, straddle trucks such as lumber carriers, powered industrial trucks, and other types of vehicles especially designed for handling materials.

**NOTE:** When the term "vehicle" is used in this rule by itself, it is meant to include all definitions found in OAR 437-002-0223(2).

##### (3) Operation of Vehicles.

(a) No employee under 18 years of age shall be permitted to operate a commercial or industrial type vehicle, tractor, power industrial truck or other vehicles of like character.

(b) No operator shall operate any vehicle which is not in safe condition. Any unsafe condition found on any vehicle shall be corrected before the vehicle is placed in service.

(c) Only trained and authorized operators shall be permitted to operate a vehicle. Methods shall be devised to train operators in the safe operation of industrial-type vehicles.

(d) No one but the operator shall be permitted to ride on vehicles unless safe riding facilities are provided for each additional person authorized to ride.

(e) Vehicles shall not be driven up to anyone standing in front of a stationary object.

(f) Vehicles shall not be routed across principal plant thoroughfares and plant exits while work shifts are changing unless pedestrian lanes are provided and suitably guarded.

(g) The right-of-way shall be yielded to all emergency vehicles.

(h) Drivers of vehicles shall be required to stop at blind crossings and corners where necessary for safe operation.

(i) Drivers of vehicles shall not overtake and pass other vehicles at intersections, blind spots, curves, and other dangerous locations.

(j) The operator shall be required to look in the direction of travel, and to have a clear view of the path of travel, unless guided by a signal person who has a clear view of the route.

(k) Vehicles shall be controlled manually while being pushed or towed except when a tow bar is used. Special precautions shall be taken when pushing vehicles where view is obstructed.

(l) No person shall be allowed to stand or pass under the elevated portion of a vehicle whether loaded or empty.

(m) Workers shall not remain under or work under loads or units of materials being moved.

(n) Workers riding in motor vehicles having adequate seating facilities or in vehicles not equipped with sides and end gates at least 48 inches high shall not stand while the vehicle is in motion, except as permitted in OAR 437-002-0223(11)(e). Passengers must wait for the vehicle to come to a complete stop before boarding or leaving.

(o) No vehicle shall be loaded beyond its safe operating capacity, and all loads shall be stable and well-balanced.

(p) Employees shall not occupy cargo space in a loaded or partially loaded vehicle while vehicle is in motion unless the load is adequately shored, braced, or otherwise secured.

(q) No vehicle shall be driven if so loaded as to be unstable or insecure.

(r) Wheels of vehicles being loaded shall be properly blocked, in addition to having brakes set, where this additional precaution is necessary to prevent movement of vehicles.

(s) When vehicles are parked, the parking brake shall be set. The wheels of vehicles parked on an incline shall be blocked or chocked.

(t) All equipment left unattended at night, adjacent to a highway in normal use, or adjacent to construction areas where work is in progress, shall have appropriate lights or reflectors, or barricades equipped with appropriate lights or reflectors, to identify the location of the equipment.

(4) Hauling of Explosives Prohibited. No explosives shall be hauled on any vehicle while it is engaged in transporting workers. This rule shall not prohibit the driver and one qualified person from riding in a vehicle in which explosives are being hauled.

##### (5) Railroad Cars.

(a) Spotted railroad cars shall have their brakes set, or wheels blocked, to prevent cars from moving while being loaded.

(b) Derail or bumper blocks shall be provided on spur railroad tracks where a rolling car could contact cars being worked, or could enter a building or a work area or traffic area.

(c) Workers shall not crawl under or pass between railroad cars to cross tracks.

(6) Overhead Wires — Operating Near Power Lines. For requirements when working and/or operating vehicles around high voltage power lines, see OAR 437, division 2/S, Electrical, Rules 437-002-0322, 437-002-0323, 437-002-0324, 437-002-0325 and 1910.333(b).

##### (7) Vehicle Components.

(a) A positive engine shut-off shall be provided within reach of the operator when in normal operating position.

(b) Necessary steps, ladders, handholds, or grab bars shall be provided on vehicles in order to furnish safe access to all accessible areas. Steps shall be constructed or treated to be as slip-proof as possible.

(c) All vehicles whose pay load is loaded by means of cranes, power shovels, loaders or similar equipment shall have a cab shield or canopy adequate to protect the operator from shifting or falling materials.

(d) The backs of vehicle cabs which are exposed to shifting loads shall be provided with a substantial bulkhead or similar device.

(e) Conventional steel vehicle cabs and passenger areas must be capable of withstanding potential impact to which they are exposed.

(f) Vehicles equipped with cabs shall be provided with a door or doors. Doors provided shall open easily.

(g) All vehicles which are equipped with roll-over protective structures, and all commercial vehicles built after 1971 shall be equipped with safety belts for the driver and for any passengers for whom space is provided.

(h) Materials being transported shall not be carried in a manner which would prevent doors of vehicle cabs from being opened. When the load blocks the cab door on the one side of the vehicle, means for easy escape shall be provided, such as a "knock-out windshield" or an opening in rear of driver's compartment leading to rear of vehicle which is open or equipped with a door which can be opened from the inside, or similar means of emergency escape.

(i) When materials, equipment and tools of any type are transported at the same time with workers, the workers and driver shall be protected from the hazards of such materials, equipment or tools by substantial partitions or the securing of the load.

(8) Flashing Warning Lights. Buses having a seating capacity of 12 passengers or more which are used to pick up and discharge worker passengers on the roadway shall be equipped with either a red flashing four-light system or an amber and red flashing eight-light system.

##### (9) Construction of Vehicles.

(a) Class "A" and "B" vehicles shall be constructed or accommodated for transporting passengers, and shall be equipped with adequate seats and back rests firmly secured in place, and with such sides and ends as necessary to prevent persons from falling off the vehicle.

(b) Bus type vehicles having an enclosed seating compartment capacity of 12 or more workers, unless loaded from the rear, shall be provided with an emergency exit not less than 24 inches wide by not less than 48 inches high situated at the left side or rear of the vehicle. Doors shall be provided on bus type vehicles and shall be kept closed during transit and

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must operate freely at all times. They must be constructed as to be easily opened from either inside or outside the vehicle.

(10) Overhead Protection Required. Class "A" and "B" vehicles shall be provided with bodies and tops of sufficient strength to support the entire weight of the fully loaded vehicle on its top or side if overturned. Adequate means of escape and proper ventilation shall be provided.

(11) Class "C" Vehicles. Flatbed trucks, dump trucks and pickups shall not be used to transport workers, except when the following conditions are complied with:

(a) Truck beds shall be adequately secured to the truck frame.

(b) Vehicles with tilting, sliding or otherwise movable decks or bodies shall have decks or bodies secured in a manner to prevent accidental movement. Dump truck bodies shall be secured or the hoist lever locked.

(c) Flatbed vehicles, when provided with seats for the workers, shall be equipped with substantial sides not less than 42 inches high, secured to an end gate or the vehicle cab at the front end, and either with a 42 inch high end gate across the rear, secured to the vehicle sides, or with not less than three chains or ropes securely fastened across the back of the vehicle deck at the following approximate heights: the top rope or chain 42 inches high, the intermediate 28 inches high, and the bottom 14 inches high. Seats shall be firmly secured and no openings larger than 6 inches vertical shall be permitted in sides or in end gates.

(d) Flatbed vehicles not provided with seats shall be equipped with substantial sides and end gates not less than 24 inches high and workers shall be required to sit on the floor.

(e) If sides and end gates are not provided on flatbed vehicles, not more than 4 persons shall be permitted to ride behind the truck cab, and then only if substantial handholds are provided for their safety and they are required to use the handholds. Handholds may consist of:

(A) A 3/4 inch or larger pipe secured to cab or cab guard;

(B) The top of the cab guard;

(C) Slotted holes in cab guard; and

(D) A wooden 2 inch x 4 inch bar secured to cab or cab guard.

All handholds shall be of a convenient height. Workers under 16 years of age shall not be permitted to ride in this manner.

(f) Flatbed trucks on which more than four workers are required to stand shall have substantial sides and end gates not less than 48 inches high with no openings larger than 6 inches vertical. Sides and ends shall be secured as required in paragraph (11)(c) above.

(g) Pickup and dump truck tailgates shall be closed and secured and workers shall sit on the floor unless seats firmly secured in place and substantial sides not less than 42 inches high are provided. A chain or rope shall be secured across the rear of such vehicles equipped with seats.

(h) When workers are permitted to sit on low boxes or similar equipment, side rails which will increase height of pickup and dump truck bodies to not less than 36 inches shall be added with no openings larger than 6 inches. When heavy canvas is used as a top and sides and secured to the vehicle sides, the addition of side rails will not be required.

(12) Number of Passengers — Standees — Passenger Compartment. All Class "A" and "B" type vehicles equipped with seats of any kind shall be provided with an aisle (or passageway between seats) at least 12 inches in width leading to the emergency exit. Workers shall not sit on the floor in such aisles or passageways while the vehicle is in motion. Not more than one worker per row of seats shall be permitted to stand. No workers shall be permitted to stand or sit in the driver's compartment ahead of the front row of seats. Under no circumstances shall boards be placed across an aisle to provide additional seating space. Neither shall seats of any type be placed in an aisle. Substantial handholds shall be provided for standees.

(13) Maximum Time or Distance Permissible for Standees. When workers being transported, in any class of vehicle, are required to stand during transit those persons not provided with seats shall not be permitted to stand for more than one hour, or for a greater distance than 45 miles of vehicle travel, whichever is the lesser. A rest period of not less than 15 minutes shall be required before continuing trip unless those standing are given seats.

(14) Passenger Compartments.

(a) Floors and decks shall be suitable for safe footing.

(b) All openings between enclosed passenger compartments and engine or exhaust at which fumes or gases may enter shall be effectively sealed.

(c) Construction of enclosed passenger compartments shall provide a reasonably dust-proof and watertight unit.

(d) Floors and interior of sides and ends and tops of compartments used for transporting workers shall be free of inwardly protruding nails, screws, splinters or other protruding objects which might cause injury.

(e) Whenever necessary to protect workers from inclement weather conditions, a top and facilities for closing the sides and ends shall be provided. Tarpaulins or other such removable protective devices shall be secured in place during transit.

(15) Windshields — Windows.

(a) All vehicles with windshields shall be equipped with powered wipers. Vehicles operating in areas or under conditions that cause fogging or frosting, shall be equipped with operable windshield defogging or defrosting device.

(b) Windshield and windows installed on vehicles shall be of a safety glass which will meet the requirements for safety glazing material for use anywhere in a motor vehicle as defined in the American National Standards Institute, Safety Glazing Materials for Glazing Motor Vehicles Operating on Land Highways, No. Z26.1-1950 with addenda No. Z26.1a-1964, or a material which will furnish equivalent safety.

(c) Defective or broken glass in a vehicle which impairs the vision of the operator shall be replaced. Broken or shattered glass which could cause injury to occupants of the vehicle shall be removed and replaced.

(d) Deposits on glass which impair the vision of the operator shall be removed.

(16) Brakes.

(a) All vehicles shall be provided with brakes which are capable of controlling the vehicle while fully loaded on any grade over which they are to be operated.

(b) Parking brakes shall be able to hold the loaded vehicle on any grade on which it is operated, on any surface free of ice or snow.

(c) Brakes on all vehicles must be in safe working condition at all times and shall be tested as often as operating conditions warrant during the time said vehicle is in use.

(17) Steering. Steering or spinner knobs shall not be attached to the steering wheel unless the steering mechanism is of a type that prevents road reactions from causing the steering handwheel to spin. The steering knob shall be mounted within the periphery of the wheel.

(18) Lights.

(a) Controlled lighting of adequate intensity shall be provided in load-in areas.

(b) Where general lighting in vehicle operating areas is less than two foot candles per square foot, vehicles shall be provided with lights which are adequate to safely illuminate the path of travel.

(c) Vehicles which are operated at night shall have sufficient light at the operator's station to enable the operator to perform his work safely.

(d) Whenever visibility conditions warrant additional light, all vehicles in use shall be equipped with at least two headlights and two taillights in operable condition.

(e) All vehicles, except track and site-clearing machines, shall be equipped with brake lights in operable condition regardless of light conditions.

(19) Inspection, Testing, Maintenance, and Repair.

(a) All vehicles shall be checked at the beginning of each shift to assure that they are in safe operating condition and free of apparent damage that could cause failure while in use.

(b) Any defects which are found during inspection, which materially affect the safe operation of the vehicle will be corrected before the vehicle is placed in service.

(c) Any vehicle which develops defects in parts vital to safe operation during a work shift shall be removed from service until necessary repairs are made.

(d) A safety tire rack, cage, or equivalent protection shall be provided and used when inflating or mounting tires on split rims, or rims equipped with locking rings or similar devices.

(e) Heavy machinery, equipment, or parts which are supported by slings, hoists, jacks, or other devices, shall be blocked or cribbed to prevent falling or shifting before employees are permitted to work under or between them.

(A) Bulldozer and scraper blades, end-loader, end-loader buckets, dump bodies, and similar equipment, shall be either fully lowered or blocked when being repaired or when not in use.

(B) All controls shall be in neutral with motors stopped and brakes set, unless work being performed requires otherwise.

(f) Vehicles with dump bodies shall be equipped with positive means of support, permanently attached, and capable of being locked in position to prevent accidental lowering of the body. This device shall be used to support the body when it is raised and left unattended, or while maintenance or inspection work is being done.

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(g) The battery shall be disconnected prior to making repairs to a vehicle electrical system where accidental closing of the circuit could cause injury to workers.

(h) All vehicle replacement parts shall meet current safety standards.

(i) Any vehicle that emits hazardous sparks or flames from the exhaust system shall immediately be removed from service and not returned to service until the hazardous emission has been eliminated.

(j) Compartments for workers shall be kept in a clean and sanitary condition, and workers shall assist in maintaining such conditions.

(20) Guards.

(a) Wherever front or rear wheels on all types of vehicles except pneumatic-tired earth-moving equipment, are not guarded by the vehicle body and present a hazard to workers, they shall be guarded with wheel fenders, bumpers, or skirt guards. These guards shall be designed to prevent the operator, or other workers from being struck by the wheels.

(b) Vehicles with maximum speed exceeding 20 mph shall be equipped so that the operator is not exposed to material thrown from the wheels.

(21) Fueling.

(a) Smoking within 35 feet of vehicles being fueled is prohibited.

(b) Vehicle engines, except diesel engines, shall be stopped while being fueled.

(c) Refueling of Class "A" and "B" vehicles shall be done when vehicles are not occupied.

(d) Fueling of vehicles within 35 feet of any open fires, flame, lights, or other sources of ignition is prohibited.

(e) Refilling vehicle tanks using liquefied petroleum gases shall be done only out-of-doors. Maximum quantity of fuel placed in tanks shall not exceed that recommended by the manufacturer.

(f) Any spillage of oil or fuel shall be carefully washed away or completely evaporated and the fuel tank filler cap replaced before restarting engine.

(22) Hauling of Gasoline, etc.

(a) Gasoline and other low flash point liquids shall not be hauled on Class "A", "B" and "D" vehicles transporting workers except when in U.L. approved, closed safety containers of not more than 5 gallons capacity and provided such containers are carried in a safe, suitable location outside the passenger compartment. Such containers shall be carried as far away from the passenger compartment as possible and where they will not block exit from the vehicle and shall be firmly secured to prevent shifting or placed in well-ventilated compartments or racks.

(b) Gasoline in containers larger than 5 gallons may be transported in Class "C" vehicles provided all workers ride in the cab of the vehicle or in a separate compartment.

(23) Warning Devices.

(a) All vehicles shall be equipped with an audible warning device which can be clearly heard above the surrounding noise in the vicinity of the vehicle.

(b) Vehicles with an obstructed view to the rear must have a back-up alarm that can be heard over the surrounding noise. If surrounding noise prevents this or if there are so many vehicles using back-up alarms that they cannot be distinguished from each other, flashing or strobe lights are acceptable. The above does not apply when:

(A) the vehicle backs up only when an observer signals the driver that it is safe to do so; or

(B) the operator verifies that there is nobody behind the vehicle or that nobody may enter the danger area without the operator's knowledge.

(c) Adequate and appropriate traffic controls must be provided for all operations on or adjacent to a highway, street, or roadway. The controls must conform to the Millennium Edition of the (FHWA) Manual of Uniform Traffic Control Devices (MUTCD), December 2000. You may obtain a copy of the Millennium Edition from the following organizations: American Traffic Safety Services Association, 15 Riverside Parkway, Suite 100, Fredericksburg, VA 22406-1022; Telephone: 1-800-231-3475; Fax: (540) 368-1722; [www.atssa.com](http://www.atssa.com); Institute of Transportation Engineers, 1099 14th Street, NW., Suite 300 West, Washington, DC 20005-3438; Fax: (202) 289-7722; [www.ite.org](http://www.ite.org); and American Association of State Highway and Transportation Officials; [www.aashto.org](http://www.aashto.org); Telephone: 1-800-525-5562.

NOTE: Electronic copies of the MUTCD 2000 are available for downloading at <http://mutcd.fhwa.dot.gov/kno-millennium>.

NOTE: A copy of the MUTCD 2000 is available for inspection at the Oregon OSHA Resource Center, 350 Winter Street NE, Basement - Room 26, Salem, Oregon 97301-3882; Telephone: (503) 378-3272, or toll free in Oregon 1-800-922-2689.

NOTE: Employers who are following the most current edition of the Oregon Department of Transportation's Short Term Traffic Control Handbook will be considered to be in compliance with this requirement.

(d) When traffic control devices are required to be used by 437-002-0223(23)(c), they shall be installed at the inception of the project or operations, and shall be properly maintained and operated during the time such special conditions exist.

(24) Control of Exhaust Gases.

(a) Vehicles shall be equipped with a muffler, in good working order, of the type recommended by the vehicle manufacturer.

(b) Exhaust pipes shall be so located as to direct the exhaust gases away from the operator and any passengers.

(c) Any exhaust pipe which is exposed to contact shall be insulated or isolated to protect workers from contact burns.

(25) Sun Shields. All class vehicles shall be equipped with an adjustable sun visor.

(26) Heating of Vehicles. Heating units shall be guarded or covered to prevent workers from being burned by accidental contact.

(27) First Aid Kits. Class A and B Commercial type vehicles used for the transportation of workers shall carry a first aid kit suitable for the number of passengers customarily transported. First aid kits shall be located where they are readily available to the driver or crew and shall be maintained in good order.

(28) Fire Extinguishers. Class A and B Commercial type vehicles used to transport workers shall be equipped with a minimum two-pound type B/C fire extinguisher.

(29) Rear-View Mirrors. All commercial vehicles shall be equipped with outside-mounted rear-view mirrors on each side when the load or passengers obstruct the use of the rear-view mirror located in the cab.

(30) Safety Chains on Commercial Vehicles.

(a) Safety chains or cables shall be so connected to the towed and towing vehicles and to the tow bar as to prevent the tow bar from dropping to the ground in the event the tow bar or coupling device fails.

(b) Safety chains or cables shall have a tensile strength equivalent to the gross weight of the towed vehicle and their means of attachment to the towed and towing vehicles shall be of sufficient strength to control the towed vehicle in event the tow bar or coupling device fails.

(c) No more slack shall be left in safety chains or cables than shall be necessary to permit proper turning.

(d) Towed vehicles having a gross weight of 5,000 pounds or less shall be equipped with one or more safety chains or cables. Towed vehicles having a gross weight in excess of 5,000 pounds shall be equipped with two or more safety chains or cables.

(e) Any coupling device on any towing vehicle used as a connection for the tow bar on any towed vehicle having a gross weight in excess of 5,000 pounds shall be firmly attached to the frame or to a solid connection to the frame. This section on safety chains does not apply to a temporarily disabled vehicle being towed by another vehicle, to saddle-mount towing, or to a semi-trailer coupled to a towing vehicle with a fifth wheel and king-pin assembly so designed that the upper and lower halves may not be separated without being manually released onto a dolly without a tow bar.

(31) Coupling Device on Commercial Vehicles. Drawbar, coupling device, and other connections provided for towing of trailers shall be of sufficient strength to hold the weight of the towed vehicle upon any grade over which it may be operated. Such connections shall be properly mounted without excessive slack but with sufficient play to allow for universal action of the connections, and shall be provided with a suitable locking means to prevent accidental separation of the towed and towing vehicles.

(32) Signals.

(a) Where the vehicle operator's hand signal cannot be clearly seen, turn signal lights or other means to signal shall be provided.

(b) A red flag shall be placed on the extreme end of materials that project 4 feet or more beyond the vehicle body when transported during daylight hours. A red light shall be displayed at night.

(33) Controls.

(a) Operating levers controlling hoisting or dumping devices on haulage bodies shall be equipped with a latch or other device which will prevent accidental starting or tripping of the mechanism.

(b) Trip handles for tailgates of dump trucks shall be so arranged that, in dumping, the operator will be in the clear.

(34) Reserved.

(35) Reserved.

(36) Reserved.

(37) Application. Roll-over protective structures (ROPS) shall be provided, installed and maintained on industrial vehicles which were manufactured after July 1, 1969. ROPS requirements apply to the following types of industrial vehicles and equipment: Rubber-tired self-propelled scrapers; front-end loaders and dozers; skid-steer equipment; wheel-type

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industrial tractors; crawler tractors; crawler-type loaders; and motor graders, with or without attachments, that are used in industrial work. This requirement does not apply to sideboom pipe laying tractors, or other vehicles whose structure prevents overturn, or to tractors used only in farming operations.

## (38) ROPS — General Requirements.

(a) Roll-over protective structures and their supporting attachments to industrial vehicles shall be capable of supporting twice the weight of the vehicle, applied at the point of impact.

(b) The design objective for roll-over protective structures on industrial vehicles shall be to minimize the likelihood of a complete vehicle overturn, and to minimize the possibility of the operator being crushed.

(c) A vertical clearance of at least 52 inches between the work deck and the ROPS canopy is required for ingress and egress.

(d) ROPS which have been removed for any reason, shall be remounted with equal quality, or better, bolts or welding as required for the original mounting.

## (39) Defects.

(a) Defects in ROPS shall be repaired by equal quality or better materials and welding as required for the original structure.

(b) Minimum performance criteria for roll-over protective structures for designated vehicles are contained in the following Society of Automotive Engineers (SAE) standards:

(A) Prime movers, for scrapers, water wagons, bottom dump wagons, side dump wagons, rear dump wagons, towed fifth wheel attachments. (SAE J320, September 1972)

(B) Wheeled front-end loaders and wheeled dozers. (SAE J394a, September 1972)

(C) Track-type tractors and front-end loaders. (SAE J395a, September 1972)

(D) Motor graders. (SAE J396a, September 1972)

(E) Wheel-type agricultural and industrial tractors. (SAE J167, 1971)

(F) Falling object protective structures (FOPS). (SAE J231, May 1971)

(40) Identification of ROPS. Each ROPS shall have the following information permanently affixed to the structure:

(a) Manufacturer or fabricator's name and address;

(b) ROPS model number, if any; and

(c) Machine make, model, or series number that the structure is designed to fit.

(41) Approved Structures. Any machine in use, equipped with roll-over protective structures, shall be deemed in compliance with OAR 437-002-0223(37) through (41) if it meets the roll-over protective structure requirements of the U. S. Army Corps of Engineers, or the Bureau of Reclamation of the U. S. Department of the Interior, in effect on April 5, 1972. The requirements in effect are:

(a) U. S. Army Corps of Engineers: General Safety Requirements, EM-385-1-1 (March 1967).

(b) Bureau of Reclamation, U. S. Department of the Interior: Safety and Health Regulations for Construction, Part II (September 1971).

## (42) Roadways.

(a) Roadways shall be of sufficient width and evenness to ensure the safe operation of equipment.

(b) Sufficient turnouts shall be provided and a safe side clearance shall be maintained along roads and runways.

(c) Low clearance areas under conveyors which could present a hazard to mobile equipment operations shall be identified by a suitable means, such as signs, contrasting colors, or flags.

(d) Broken planking, deep holes, large rocks, logs or other dangerous surface defects shall be corrected before any equipment is used thereon.

(e) Obstructions to clear view at intersections or on sharp curves shall be removed or all reasonable precautions taken to relieve the hazards of these conditions.

(f) An ample supply of non-skid materials, such as coarse sand or finely crushed rock, shall be available and used on slippery surfaces.

(g) Road grades shall not be too steep for safe operation of vehicles which operate over them and shall not exceed 20 percent in any case unless an auxiliary means of lowering vehicles is provided or unless vehicles are specifically designed and approved for operation on grades in excess of 20 percent.

## (43) Access Roadways, Grades.

(a) No employer shall move, or cause to be moved, vehicles upon any access roadway or grade unless the access roadway or grade is constructed and maintained to accommodate safely the movement of the equipment and vehicles involved.

(b) Every emergency access ramp and berm used by an employer shall be constructed to restrain and control runaway vehicles.

(c) Elevated bridges, runways or ramps and loading docks shall be constructed to safely support at least four times the weight of any load to which it may be subjected. Ramps shall be covered with a material which will minimize the danger of skidding.

(d) The maximum inclination of a ramp used for wheeled equipment shall not exceed 20 percent from horizontal.

(e) Elevated bridges, ramps or runways used for the travel of wheeled equipment shall have exposed sides guarded with a substantial bull rail or sheer rail of sufficient height to prevent wheeled equipment from going over the rail.

[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.: WCB 30-1974, f. 7-5-74, ef. 9-1-74; WCB 23-1976, f. 9-8-76, ef. 11-15-76; WCB 3-1977, f. 3-18-77, ef. 6-1-77; WCD 7-1980, f. 6-20-80, ef. 7-1-80; WCD 15-1984, f. 10-25-84, ef. 11-1-84; WCD 3-1985, f. 2-22-85, ef. 3-1-85; APD 4-1988, f. & ef. 3-14-88; APD 2-1989, f. 3-1-89, ef. 3-1-89; OSHA 4-1990, f. & cert. ef. 1-23-90; OSHA 13-1993, f. 8-29-93, cert. ef. 11-1-93; OSHA 1-1996, f. & cert. ef. 2-16-96; OSHA 6-2000, f. & cert. ef. 6-26-00; OSHA 12-2001, f. & cert. ef. 10-26-01; OSHA 2-2003, f. & cert. ef. 1-30-03

## 437-003-0001

### 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 1926, revised as of 7/1/99, and any subsequent amendments published in the Federal Register as listed below:

#### (1) Subdivision A — General

(a) 29 CFR 1926.1 Purpose and Scope, published 2/9/79, Federal Register (FR), vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(b) 29 CFR 1926.2 Variances from safety and health standards, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(c) 29 CFR 1926.3 Inspections — right of entry, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(d) 29 CFR 1926.4 Rules of practice for administrative adjudications for enforcement of safety and health standards, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

#### (2) Subdivision B — General Interpretations

(a) 29 CFR 1926.10 Scope of subpart, published 2/9/79, Federal Register, vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(b) 29 CFR 1926.11 Coverage under section 103 of the act distinguished, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(c) 29 CFR 1926.12 Reorganization plan No. 14 of 1950, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(d) 29 CFR 1926.13 Interpretation of statutory terms, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(e) 29 CFR 1926.14 Federal contracts for 'mixed' types of performance, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(f) 29 CFR 1926.15 Relationship to the service contract act; Walsh-Healey Public Contracts Act, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(g) 29 CFR 1926.16 Rules of construction, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

#### (3) Subdivision C — General Safety and Health Provisions

(a) 29 CFR 1926.20 General safety and health provisions, published 2/9/79, Federal Register, vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(b) 29 CFR 1926.21 Safety training and education, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(c) 29 CFR 1926.22 Recording and reporting of injuries (Reserved)

(d) 29 CFR 1926.23 First aid and medical attention, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(e) 29 CFR 1926.24 Fire protection and prevention, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(f) 29 CFR 1926.25 Housekeeping, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(g) 29 CFR 1926.26 Illumination, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(h) 29 CFR 1926.27 Sanitation, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(i) 29 CFR 1926.28 Personal protective equipment, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(j) 29 CFR 1926.29 Acceptable certifications, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

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(k) 29 CFR 1926.30 Shipbuilding and ship repairing, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 3/7/96, FR vol. 61, no. 46, p. 9249.

(l) 29 CFR 1926.31 Incorporation by reference, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 3/7/96, FR vol. 61, no. 46, p. 9249; 6/18/98, FR vol. 63, no. 117, p. 33468.

(m) 29 CFR 1926.32 Definitions, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 6/30/93, FR vol. 58, no. 124, p. 35078.

(n) 29 CFR 1926.33 Access to employee exposure and medical records, published 6/20/96, FR vol. 61, no. 46, p. 31427.

(o) 29 CFR 1926.34 Means of egress, published 6/30/93, Federal Register, vol. 58, no. 124, p. 35083.

(4) Subdivision D — Occupational Health and Environmental Controls

(a) 29 CFR 1926.50 Medical services and first aid, published 2/9/79, Federal Register, vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 6/18/98, FR vol. 63, no. 117, p. 33469.

(b) 29 CFR 1926.51 Sanitation, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 6/30/93, FR vol. 58, no. 124, p. 35084.

(c) 29 CFR 1926.52 Occupational noise exposure, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(d) 29 CFR 1926.53 Ionizing radiation, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(e) 29 CFR 1926.54 Nonionizing radiation, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(f) 29 CFR 1926.55 Gases, vapors, fumes, dusts, and mists, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 10/17/86, FR vol. 51, p. 37007; 12/4/87, FR vol. 52, p. 46312; 11/4/96, FR vol. 61, no. 214, p. 56856; 1/10/97, FR vol. 62, no. 7, p. 1619.

(g) 29 CFR 1926.56 Illumination, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(h) 29 CFR 1926.57 Ventilation, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 6/30/93, FR vol. 58, no. 124, p. 35099; 3/7/96, FR vol. 61, no. 46, p. 9250; 1/8/98, FR vol. 63, no. 5, p. 1295.

(i) 29 CFR 1926.58 Reserved, §1926.58, Asbestos, tremolite, anthophyllite and actinolite is redesignated as §1926.1101, Asbestos, and §1926.58 is reserved (8/10/94, FR vol. 59, no. 153, pp. 41131-62).

(j) 29 CFR 1926.59 Hazard Communication, published 8/24/87, FR vol. 52, p. 31852; amended 12/4/87, FR vol. 52, 46075; 4/27/88, FR vol. 53, no. 81, pp. 15033-15035; stay lifted on 2/17/89, FR vol. 54, p. 6886; 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.

(k) 29 CFR 1926.60 Methylenedianiline (MDA), published 8/10/92, FR vol. 57, no. 154, pp. 35681-35695; 6/20/96, FR vol. 61, p. 31427; 1/8/98, FR vol. 63, no. 5, p. 1296.

(l) 29 CFR 1926.61 Retention of DOT markings, placards and labels, published 7/19/94, FR vol. 59, no. 137, pp. 36700; 6/20/96, FR vol. 61, p. 31427.

(m) 29 CFR 1926.62 Lead, published 5/4/93, FR vol. 58, no. 84, pp. 26626-26649; 1/8/98, FR vol. 63, no. 5, p. 1296.

NOTE: Cadmium has been redesignated as §1926.1127.

(n) 29 CFR 1926.65 Hazardous Waste Operations and Emergency Response

NOTE: Division 2/H, 1910.120, Hazardous Waste Operations and Emergency Response, applies to Construction.

(5) Subdivision E — Personal Protective and Life Saving Equipment

(a) 29 CFR 1926.95 Criteria for personal protective equipment, published 6/30/93, Federal Register, vol. 58, p. 35152.

(b) 29 CFR 1926.100 Head protection, published 2/9/79, Federal Register, vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(c) 29 CFR 1926.101 Hearing protection, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(d) 29 CFR 1926.102 Eye and face protection, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 6/30/93, FR vol. 58, no. 124, p. 35160.

(e) 29 CFR 1926.103 Respiratory protection, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 1/8/98, FR vol. 63, no. 5, p. 1297.

NOTE: 29 CFR 1926.104 Removed, 8/9/94, FR vol. 59, no. 152, p. 40729.

(f) 29 CFR 1926.105 Reserved, 8/9/94, FR vol. 59, no. 152, p. 40729.

(g) 29 CFR 1926.106 Working over or near water, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(h) 29 CFR 1926.107 Definitions applicable to this subpart, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 8/9/94, FR vol. 59, no. 152, p. 40729.

(6) Subdivision F — Fire Protection and Prevention

(a) 29 CFR 1926.150 Fire protection, published 2/9/79, Federal Register, vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(b) 29 CFR 1926.151 Fire protection, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 7/11/86, FR vol. 51, p. 25318.

(c) 29 CFR 1926.152 Flammable and combustible liquids, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 6/18/98, FR vol. 63, no. 117, p. 33469; 6/30/93, FR vol. 58, no. 124, p. 35162.

(d) 29 CFR 1926.153 Liquefied petroleum gas (LP-Gas), published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 6/30/93, FR vol. 58, no. 124, p. 35170.

(e) 29 CFR 1926.154 Temporary heating devices, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(f) 29 CFR 1926.155 Definitions applicable to this subpart, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(7) Subdivision G — Signs, Signals, and Barricades

(a) 29 CFR 1926.200 Accident prevention signs and tags, published 2/9/79, Federal Register, vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 6/30/93, FR vol. 58, no. 124, p. 35173; amended with OR-OSHA Admin. Order 2-2003, f. 1/30/03, ef. 1/30/03.

(b) 29 CFR 1926.201 Signaling, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; amended with OR-OSHA Admin. Order 2-2003, f. 1/30/03, ef. 1/30/03.

(c) 29 CFR 1926.202 Barricades, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; amended with OR-OSHA Admin. Order 2-2003, f. 1/30/03, ef. 1/30/03.

(d) 29 CFR 1926.203 Definitions applicable to this subpart, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; amended 9/12/02, FR vol. 67, p. 57722.

(8) Subdivision H — Materials Handling, Storage, Use and Disposal

(a) 29 CFR 1926.250 General requirements for storage, published 2/9/79, Federal Register, vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 8/9/94, FR vol. 59, no. 152, p. 40729; 6/30/93, FR vol. 58, no. 124, p. 35173.

(b) 29 CFR 1926.251 Rigging equipment for material handling, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 6/30/93, FR vol. 58, no. 124, p. 35173.

(c) 29 CFR 1926.252 Disposal of waste materials, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(9) Subdivision I — Tools — Hand and Power

(a) 29 CFR 1926.300 General requirements, published 2/9/79, Federal Register, vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 6/30/93, FR vol. 58, no. 124, p. 35076; 3/7/96, FR vol. 61, no. 46, p. 9250.

(b) 29 CFR 1926.301 Hand tools, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(c) 29 CFR 1926.302 Power operated hand tools, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 6/30/93, FR vol. 58, no. 124, p. 35175.

(d) 29 CFR 1926.303 Abrasive wheels and tools, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 6/30/93, FR vol. 58, no. 124, p. 35175.

(e) 29 CFR 1926.304 Woodworking tools, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 3/7/96, FR vol. 61, no. 46, p. 9251.

(f) 29 CFR 1926.305 Jacks - lever and ratchet, screw, and hydraulic, published Federal Register vol. 58, no. 124, p. 35176.

(10) Subdivision J — Welding and Cutting

(a) 29 CFR 1926.350 Gas welding and cutting, published 2/9/79, Federal Register, vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 6/30/93, FR vol. 58, no. 124, p. 35179.

(b) 29 CFR 1926.351 Arc welding and cutting, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 7/11/86, FR vol. 51, p. 25318.

(c) 29 CFR 1926.352 Fire prevention, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(d) 29 CFR 1926.353 Ventilation and protection in welding, cutting, and heating, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 6/30/93, FR vol. 58, no. 124, p. 35179.

(e) 29 CFR 1926.354 Welding, cutting, and heating in way of preservative coatings, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(11) Subdivision K — Electrical

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- (a) 29 CFR 1926.400 Introduction, published 2/9/79, Federal Register, vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 7/11/86, FR vol. 51, no. 133, pp. 25294-25335.
- (b) 29 CFR 1926.401 (Reserved)
- (c) 29 CFR 1926.402 Applicability, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 7/11/86, FR vol. 51, no. 133, pp. 25294-25335.
- (d) 29 CFR 1926.403 General requirements, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 7/11/86, FR vol. 51, no. 133, pp. 25294-25335.
- (e) 29 CFR 1926.404 Wiring design and protection, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 7/11/86, FR vol. 51, no. 133, pp. 25294-25335; amended with AO 5-2002, repeal (b)(1), f. 6/28/02, ef. 10/1/03.
- (f) 29 CFR 1926.405 Wiring methods, components, and equipment for general use, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 7/11/86, FR vol. 51, no. 133, pp. 25294-25335.
- (g) 29 CFR 1926.406 Specific purpose equipment and installations, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 7/11/86, FR vol. 51, no. 133, pp. 25294-25335.
- (h) 29 CFR 1926.407 Hazardous (classified) locations, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 7/11/86, FR vol. 51, no. 133, pp. 25294-25335.
- (i) 29 CFR 1926.408 Special systems, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 7/11/86, FR vol. 51, no. 133, pp. 25294-25335.
- (j) 29 CFR 1926.409 (Reserved)
- (k) 29 CFR 1926.415 (Reserved)
- (l) 29 CFR 1926.416 General requirements, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 7/11/86, FR vol. 51, no. 133, pp. 25294-25335; 6/30/93, FR vol. 58, no. 124, p. 35179; 3/7/96, FR vol. 61, no. 46, p. 9251; 8/12/96, FR vol. 61, no. 156, p. 41738.
- (m) 29 CFR 1926.417 Lockout and tagging of circuits, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 7/11/86, FR vol. 51, no. 133, pp. 25294-25335; 6/30/93, FR vol. 58, no. 124, p. 35181; 3/7/96, FR vol. 61, no. 46, p. 9251; 8/12/96, FR vol. 61, no. 156, p. 41739.
- (n) 29 CFR 1926.418 (Reserved)
- (o) 29 CFR 1926.430 (Reserved)
- (p) 29 CFR 1926.431 Maintenance of equipment, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 7/11/86, FR vol. 51, no. 133, pp. 25294-25335.
- (q) 29 CFR 1926.432 Environmental deterioration of equipment, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 7/11/86, FR vol. 51, no. 133, pp. 25294-25335.
- (r) 29 CFR 1926.433 - 29 CFR 1926.440 (Reserved)
- (s) 29 CFR 1926.441 Battery locations and battery charging, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 7/11/86, FR vol. 51, no. 133, pp. 25294-25335.
- (t) 29 CFR 1926.442 - 29 CFR 1926.448 (Reserved)
- (u) 29 CFR 1926.449 Definitions applicable to this subpart, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 7/11/86, FR vol. 51, no. 133, pp. 25294-25335.
- (12) Subdivision L — Scaffolding
- (a) 29 CFR 1926.450 Scope, application and definitions applicable to this subpart, published 8/30/96, FR vol. 61, no. 170, p. 46104.
- (b) 29 CFR 1926.451 General requirements, published 8/30/96, FR vol. 61, no. 170, p. 46107; 11/25/96, FR vol. 61, no. 228, p. 59831.
- (c) 29 CFR 1926.452 Additional requirements applicable to specific types of scaffolds, published 8/30/96, FR vol. 61, no. 170, p. 46113.
- (d) 29 CFR 1926.453 Aerial lifts, published 8/30/96, FR vol. 61, no. 170, p. 46116; 11/25/96, FR vol. 61, no. 228, p. 59832.
- (e) 29 CFR 1926.454 Training, published 8/30/96, FR vol. 61, no. 170, p. 46117.
- (f) Appendix A to Subpart L — Scaffold Specifications, published 8/30/96, FR vol. 61, no. 170, p. 46117.
- (g) Appendix B to Subpart L — Criteria for determining the feasibility of providing safe access and fall protection for scaffold erectors and dismantlers (Reserved), published 8/30/96, FR vol. 61, no. 170, p. 46122.
- (h) Appendix C to Subpart L — List of National Consensus Standards, published 8/30/96, FR vol. 61, no. 170, p. 46122.
- (i) Appendix D to Subpart L — List of training topics for scaffold erectors and dismantlers, published 8/30/96, FR vol. 61, no. 170, p. 46122.
- (j) Appendix E to Subpart L — Drawing and illustrations, published 8/30/96, FR vol. 61, no. 170, p. 46122; 11/25/96, FR vol. 61, no. 228, p. 59832.
- (13) Subdivision M — Fall Protection
- (a) 29 CFR 1926.500 Scope, application, and definitions applicable to this subpart. Amended 8/9/94, FR vol. 59, no. 152, p. 40730-40731; 1/18/01, FR vol. 66, no. 12, p. 5265; 7/17/01, FR vol. 66, no. 137, p. 37137; amended with AO 6-2002, f. and ef. 7/19/02.
- (b) 29 CFR 1926.501 Duty to have fall protection. Amended 8/9/94, FR vol. 59, no. 152, p. 40732-40733; amended 2/5/01 (Oregon Exceptions); amended with AO 6-2002, f. and ef. 7/19/02.
- (c) 29 CFR 1926.502 Fall protection systems criteria and practices. Amended 8/9/94, FR vol. 59, no. 152, p. 40733-40738; amended with AO 6-2002, f. and ef. 7/19/02.
- (d) 29 CFR 1926.503 Training requirements. Amended 8/9/94, FR vol. 59, no. 152, p. 40738; REPEALED with AO 6-2002, f. and ef. 7/19/02, replaced with OI.
- (e) Appendix A to Subpart M — Determining Roof Widths, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; amended 8/9/94, FR vol. 59, no. 152, p. 40738-40742.
- (f) Appendix B to Subpart M — Guardrail Systems, published 8/9/94, FR vol. 59, no. 152, p. 40743.
- (g) Appendix C to Subpart M — Personal Fall Arrest Systems, published 8/9/94, FR vol. 59, no. 152, p. 40743-40746.
- (h) Appendix D to Subpart M — Positioning Device Systems, published 8/9/94, FR vol. 59, no. 152, p. 40746.
- (14) Subdivision N — Cranes, Derricks, Hoists, Elevators, and Conveyors
- (a) 29 CFR 1926.550 Cranes and derricks, published 2/9/79, Federal Register, vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 4/6/82, FR vol. 47, p. 14706; 8/2/88, FR vol. 53, p. 29139; 4/18/89, FR vol. 54, no. 73, p. 15405; 8/9/94, FR vol. 59, no. 152, p. 40730; 6/30/93, FR vol. 58, no. 124, p. 35183.
- (b) 29 CFR 1926.551 Helicopters, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.
- (c) 29 CFR 1926.552 Material hoists, personnel hoists, and elevators, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.
- (d) 29 CFR 1926.553 Base-mounted drum hoist, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.
- (e) 29 CFR 1926.554 Overhead hoists, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.
- (f) 29 CFR 1926.555 Conveyors, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.
- (15) Subdivision O — Motor Vehicles, Mechanized Equipment, and Marine Operations
- (a) 29 CFR 1926.600 Equipment, published 2/9/79, Federal Register, vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 6/30/93, FR vol. 58, no. 124, p. 35183.
- (b) 29 CFR 1926.601 Motor vehicles, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.
- (c) 29 CFR 1926.602 Material handling equipment, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 6/30/93, FR vol. 58, no. 124, p. 35183; 12/1/98, FR vol. 63, no. 230, p. 66274
- (d) 29 CFR 1926.603 Pile driving equipment, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.
- (e) 29 CFR 1926.604 Site clearing, published 6/24/74, FR vol. 39, p. 22801; amended 7/22/77, FR vol. 42, p. 37674.
- (f) 29 CFR 1926.605 Marine operations and equipment, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.
- (g) 29 CFR 1926.606 Definitions applicable to this subpart, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.
- (16) Subdivision P — Excavations
- (a) 29 CFR 1926.650 Scope, application, and definitions applicable to this subdivision, published 2/9/79, Federal Register, vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 10/31/89, FR vol. 54, no. 209, pp. 45959-45961.
- (b) 29 CFR 1926.651 General requirements, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 10/31/89, FR vol. 54, no. 209, pp. 45960-45961; 8/9/94, FR vol. 59, no. 152, p. 40730.
- (c) 29 CFR 1926.652 Requirements for protective systems, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 10/31/89, FR vol. 54, no. 209, pp. 45961-45962.
- (d) Appendices A-F to Subdivision P, Excavations, published 10/31/89, FR vol. 54, no. 209, pp. 45962-45991.



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- (17) Subdivision Q — Concrete and Masonry Construction
- (a) 29 CFR 1926.700 Scope, application and definitions applicable to this subpart, published 2/9/79, Federal Register, vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 6/16/88, FR vol. 53, p. 22612; 10/18/90, FR vol. 55, no. 202, p. 42326.
- (b) 29 CFR 1926.701 General requirements, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 6/16/88, FR vol. 53, p. 22612; 8/9/94, FR vol. 59, no. 152, p. 40730.
- (c) 29 CFR 1926.702 Requirements for equipment and tools, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 6/16/88, FR vol. 53, p. 22612.
- (d) 29 CFR 1926.703 Requirements for cast-in-place concrete, published 6/16/88, FR vol. 53, p. 22612.
- (e) 29 CFR 1926.704 Requirements for precast concrete, published 6/16/88, FR vol. 53, p. 22612; amended 10/5/89, FR vol. 54, no. 192, p. 41088.
- (f) 29 CFR 1926.705 Requirements for lift-slab construction operations, published 6/16/88, FR vol. 53, p. 22612; amended 10/18/90, FR vol. 55, no. 202, p. 42326.
- (g) Appendix A to 1926.705 — Lift-slab operations, published 10/18/90, FR vol. 55, no. 202, p. 42326.
- (h) 29 CFR 1926.706 Requirements for masonry construction, published 6/16/88, FR vol. 53, p. 22612; amended with OR-OSHA Admin. Order 1-2003, f. 1/30/03, ef. 4/30/03.
- (18) Subdivision R — Steel Erection
- (a) 29 CFR 1926.750 Scope, published 1/18/01, Federal Register, vol. 66, no. 12, p. 5265; amended 7/17/01, FR vol. 66, no. 137, p. 37137.
- (b) 29 CFR 1926.751 Definitions, published 1/18/01, Federal Register, vol. 66, no. 12, p. 5265; amended 7/17/01, FR vol. 66, no. 137, p. 37137; amended with AO 6-2002, f. and ef. 7/19/02.
- (c) 29 CFR 1926.752 Site layout, site-specific erection plan and construction sequence, published 1/18/01, Federal Register, vol. 66, no. 12, p. 5265; amended 7/17/01, FR vol. 66, no. 137, p. 37137.
- (d) 29 CFR 1926.753 Hoisting and rigging, published 1/18/01, Federal Register, vol. 66, no. 12, p. 5265; amended 7/17/01, FR vol. 66, no. 137, p. 37137.
- (e) 29 CFR 1926.754 Structural steel assembly, published 1/18/01, Federal Register, vol. 66, no. 12, p. 5265; amended 7/17/01, FR vol. 66, no. 137, p. 37137; amended AO 6-2002, f. and ef. 7/19/02.
- (f) 29 CFR 1926.755 Column anchorage, published 1/18/01, Federal Register, vol. 66, no. 12, p. 5265; amended 7/17/01, FR vol. 66, no. 137, p. 37137.
- (g) 29 CFR 1926.756 Beams and columns, published 1/18/01, Federal Register, vol. 66, no. 12, p. 5265; amended 7/17/01, FR vol. 66, no. 137, p. 37137.
- (h) 29 CFR 1926.757 Open web steel joists, published 1/18/01, Federal Register, vol. 66, no. 12, p. 5265; amended 7/17/01, FR vol. 66, no. 137, p. 37137.
- (i) 29 CFR 1926.758 Systems-engineered metal buildings, published 1/18/01, Federal Register, vol. 66, no. 12, p. 5265; amended 7/17/01, FR vol. 66, no. 137, p. 37137.
- (j) 29 CFR 1926.759 Falling object protection, published 1/18/01, Federal Register, vol. 66, no. 12, p. 5265; amended 7/17/01, FR vol. 66, no. 137, p. 37137.
- (k) 29 CFR 1926.760 Fall protection, published 1/18/01, Federal Register, vol. 66, no. 12, p. 5265; amended 7/17/01, FR vol. 66, no. 137, p. 37137; amended with AO 6-2002, f. and ef. 7/19/02.
- (l) 29 CFR 1926.761 Training, published 1/18/01, Federal Register, vol. 66, no. 12, p. 5265; amended 7/17/01, FR vol. 66, no. 137, p. 37137; amended with AO 6-2002, f. and ef. 7/19/02.
- (m) Appendix A to Subpart R — Guidelines for establishing the components of a site-specific erection plan: Non-Mandatory Guidelines for Complying with §1926.752(e), published 1/18/01, Federal Register, vol. 66, no. 12, p. 5265; amended 7/17/01, FR vol. 66, no. 137, p. 37137.
- (n) Appendix B to Subpart R — Acceptable test methods for testing slip-resistance of walking/working surfaces: Non-Mandatory Guidelines for Complying with §1926.754(c)(3), published 1/18/01, Federal Register, vol. 66, no. 12, p. 5265; amended 7/17/01, FR vol. 66, no. 137, p. 37137.
- (o) Appendix C to Subpart R — Illustrations of bridging terminus points: Non-Mandatory Guidelines for Complying with §1926.757(a)(10) and §1926.757(c)(5), published 1/18/01, Federal Register, vol. 66, no. 12, p. 5265; amended 7/17/01, FR vol. 66, no. 137, p. 37137.
- (p) Appendix D to Subpart R — Illustration of the use of control lines to demarcate controlled decking zones (CDZs): Non-Mandatory Guidelines for Complying with §1926.760(c)(3), published 1/18/01, Federal Register, vol. 66, no. 12, p. 5265; amended 7/17/01, FR vol. 66, no. 137, p. 37137; REPEALED with AO 6-2002, f. and ef. 7/19/02.
- (q) Appendix E to Subpart R — Training: Non-Mandatory Guidelines for Complying with §1926.761, published 1/18/01, Federal Register, vol. 66, no. 12, p. 5265; amended 7/17/01, FR vol. 66, no. 137, p. 37137.
- (r) Appendix F to Subpart R — Perimeter columns: Non-Mandatory Guidelines for Complying with §1926.756(e) to Protect the Unprotected Side or Edge of a Walking/Working Surface, published 1/18/01, Federal Register, vol. 66, no. 12, p. 5265; amended 7/17/01, FR vol. 66, no. 137, p. 37137.
- (s) Appendix G to Subpart R — Fall protection systems criteria and practices from §1926.502: Non-Mandatory Guidelines for Complying with Complying with §1926.760(d), published 1/18/01, Federal Register, vol. 66, no. 12, p. 5265; amended 7/17/01, FR vol. 66, no. 137, p. 37137; REPEALED with AO 6-2002, f. and ef. 7/19/02.
- (t) Appendix H to Subpart R — Double connections: Illustration of a clipped end connection and a staggered connection: Non-Mandatory Guidelines for Complying with Complying with §1926.756(c)(1), published 1/18/01, Federal Register, vol. 66, no. 12, p. 5265; amended 7/17/01, FR vol. 66, no. 137, p. 37137.
- (19) Subdivision S — Underground Construction, Caissons, Cofferdams, and Compressed Air
- (a) 29 CFR 1926.800 Tunnels and shafts, published 2/9/79, Federal Register, vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940. Underground Construction, published 6/2/89, FR vol. 54, no. 105, p. 23824; 1/8/98, FR vol. 63, no. 5, p. 1297.
- (b) 29 CFR 1926.801 Caissons, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.
- (c) 29 CFR 1926.802 Cofferdams, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.
- (d) 29 CFR 1926.803 Compressed air, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 7/11/86, FR vol. 51, p. 25318.
- (e) 29 CFR 1926.804 Definitions applicable to this subpart, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.
- (f) Appendix A to Subpart S — Decompression Tables, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.
- (20) Subdivision T — Demolition
- (a) 29 CFR 1926.850 Preparatory operations, published 2/9/79, Federal Register, vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.
- (b) 29 CFR 1926.851 Stairs, passageways, and ladders, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.
- (c) 29 CFR 1926.852 Chutes, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.
- (d) 29 CFR 1926.853 Removal of materials through floor openings, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.
- (e) 29 CFR 1926.854 Removal of walls, masonry sections, and chimneys, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.
- (f) 29 CFR 1926.855 Manual removal of floors, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.
- (g) 29 CFR 1926.856 Removal of walls, floors, and materials with equipment, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.
- (h) 29 CFR 1926.857 Storage, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.
- (i) 29 CFR 1926.858 Removal of steel construction, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.
- (j) 29 CFR 1926.859 Mechanical demolition, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.
- (k) 29 CFR 1926.860 Selective demolition by explosives, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.
- (21) Subdivision U — Blasting and Use of Explosives
- (a) 29 CFR 1926.900 General provisions, published 2/9/79, Federal Register, vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.
- (b) 29 CFR 1926.901 Blaster qualifications, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.
- (c) 29 CFR 1926.902 Surface transportation of explosives, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 6/30/93, FR vol. 58, no. 124, p. 35311.
- (d) 29 CFR 1926.903 Underground transportation of explosives, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

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(e) 29 CFR 1926.904 Storage of explosives and blasting agents, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 6/30/93, FR vol. 58, no. 124, p. 35311.

(f) 29 CFR 1926.905 Loading of explosives or blasting agents, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 6/30/93, FR vol. 58, no. 124, p. 35184.

(g) 29 CFR 1926.906 Initiation of explosive charges — electric blasting, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 6/18/98, FR vol. 63, no. 117, p. 33469.

(h) 29 CFR 1926.907 Use of safety fuse, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(i) 29 CFR 1926.908 Use of detonating cord, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(j) 29 CFR 1926.909 Firing the blast, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(k) 29 CFR 1926.910 Inspection after blasting, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(l) 29 CFR 1926.911 Misfires, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(m) 29 CFR 1926.912 Underwater blasting, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(n) 29 CFR 1926.913 Blasting in excavation work under compressed air, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(o) 29 CFR 1926.914 Definitions applicable to this subpart, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 6/30/93, FR vol. 58, no. 124, p. 35184, 35311.

## (22) Subdivision V — Power Transmission and Distribution

(a) 29 CFR 1926.950 General requirements, published 2/9/79, Federal Register, vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(b) 29 CFR 1926.951 Tools and protective equipment, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 8/9/94, FR vol. 59, no. 152, p. 40730.

(c) 29 CFR 1926.952 Mechanical equipment, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(d) 29 CFR 1926.953 Material handling, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(e) 29 CFR 1926.954 Grounding for protection of employees, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(f) 29 CFR 1926.955 Overhead lines, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(g) 29 CFR 1926.956 Underground lines, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(h) 29 CFR 1926.957 Construction in energized substations, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(i) 29 CFR 1926.958 External load helicopters, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(j) 29 CFR 1926.959 Lineman's body belts, safety straps, and lanyards, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(k) 29 CFR 1926.960 Definitions applicable to this subpart, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

## (23) Subdivision W — Rollover Protective Structures: Overhead Protection

(a) 29 CFR 1926.1000 Rollover protective structures (ROPS) for material handling equipment, published 2/9/79, Federal Register, vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(b) 29 CFR 1926.1001 Minimum performance criteria for rollover protective structure for designated scrapers, loaders, dozers, graders, and crawler tractors, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(c) 29 CFR 1926.1002 Protective frame (ROPS) test procedures and performance requirements for wheel-type agricultural and industrial tractors used in construction, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 3/7/96, FR vol. 61, no. 46, p. 9251.

(d) 29 CFR 1926.1003 Overhead protection for operators of agricultural and industrial tractors, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 3/7/96, FR vol. 61, no. 46, p. 9251.

## (24) Subdivision X — Stairways and Ladders

(a) 29 CFR 1926.1050 Scope, application and definitions applicable to this Subdivision, published 11/14/90, Federal Register, vol. 55, no. 220, p. 47687; amended 1/23/91, FR vol. 56, no. 15, p. 2585; 6/30/93, FR vol. 58, no. 124, p. 35184.

(b) 29 CFR 1926.1051 General requirements, published 11/14/90, FR vol. 55, no. 220, p. 47688.

(c) 29 CFR 1926.1052 Stairways, published 11/14/90, FR vol. 55, no. 220, p. 47688; amended 1/23/91, FR vol. 56, no. 15, p. 2585; 2/7/91, FR vol. 56, no. 26, p. 5061; 8/23/91, FR vol. 56, no. 164, pp. 41793-41794.

(d) 29 CFR 1926.1053 Ladders, published 11/14/90, FR vol. 55, no. 220, p. 47689; amended 1/23/91, FR vol. 56, no. 15, p. 2585; 8/23/91, FR vol. 56, no. 164, pp. 41793-41794.

(e) 29 CFR 1926.1054 (Reserved)

(f) 29 CFR 1926.1055 (Reserved)

(g) 29 CFR 1926.1056 (Reserved)

(h) 29 CFR 1926.1057 (Reserved)

(i) 29 CFR 1926.1058 (Reserved)

(j) 29 CFR 1926.1059 (Reserved)

(k) 29 CFR 1926.1060 Training requirements, published 11/14/90, FR vol. 55, no. 220, p. 47691.

## (25) Subdivision Z — Toxic and Hazardous Substances

(a) 29 CFR 1926.1101 Asbestos, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 6/20/86, FR vol. 51, p. 22612; 10/17/86, FR vol. 52, p. 17756; 7/20/88, FR vol. 53, no. 138, p. 21346; 9/14/88, FR vol. 53, p. 35627; 9/23/88, FR vol. 53, no. 185, p. 37080; 7/21/89, FR vol. 54, no. 139, p. 30705, 12/20/89, FR vol. 54, no. 243, pp. 52027-52028; 2/5/90, FR vol. 55, no. 24, p. 3792; 12/10/90, FR vol. 55, no. 237, pp. 50685-50687; 9/4/91, FR vol. 56, no. 171, pp. 43699-43700; 3/5/92, FR vol. 57, no. 44, p. 7878; 6/8/92, FR vol. 57, no. 110, pp. 24330-1; 6/30/92, FR vol. 57, no. 126, p. 29119; 8/10/94, FR vol. 59, no. 153, pp. 41131-62; 6/29/95, FR vol. 60, no. 125, pp. 33983-34002; 7/13/95, FR vol. 60, p. 36043; 9/29/95, FR vol. 60, p. 50411; 8/23/96, FR vol. 61, no. 165, p. 43454; 1/8/98, FR vol. 63, no. 5, p. 1298; 4/23/98, FR vol. 63, no. 78, p. 20099; 6/29/98, FR vol. 63, no. 124, p. 35137.

(b) 29 CFR 1926.1127 Cadmium, published 9/14/92, FR vol. 57, no. 178, pp. 42453-42463; amended 4/23/93, FR vol. 58, no. 77, p. 21778; 1/3/94, FR vol. 59, no. 1, p. 215; 6/20/96, FR vol. 61, p. 31427; 1/8/98, FR vol. 63, no. 5, p. 1298.

(c) 29 CFR 1926.1152 Methylene Chloride, published 1/10/97, Federal Register, vol. 62, no. 7, p. 1619; 10/20/97, FR vol. 62, p. 54382; 12/18/97, FR vol. 62, no. 243, p. 66275.

These standards are available at 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) & 656.726(4)

Stats. Implemented: ORS 654.001 - ORS 654.295

Hist.: APD 5-1989(Temp), f. 3-31-89, ef. 5-1-89; APD 8-1989, f. & ef. 7-7-89; APD 14-1989(Temp), f. 7-20-89, ef. 8-1-89; APD 15-1989, f. & ef. 9-13-89; OSHA 3-1990(Temp), f. & cert. ef. 1-19-90; OSHA 7-1990, f. & cert. ef. 3-2-90; OSHA 8-1990, f. & cert. ef. 3-30-90; OSHA 13-1990(Temp), f. 6-28-90, ef. 8-1-90; OSHA 19-1990, f. & cert. ef. 8-31-90; OSHA 27-1990, f. 12-12-90, cert. ef. 2-1-91; OSHA 6-1991, f. 3-18-91, cert. ef. 4-15-91; OSHA 7-1991, f. & cert. ef. 4-25-91; OSHA 15-1991, f. & cert. ef. 12-13-91; OSHA 16-1991, f. 12-16-91, cert. ef. 1-1-92; OSHA 6-1992, f. & cert. ef. 5-18-92; OSHA 11-1992, f. & cert. ef. 10-9-92; OSHA 1-1993, f. & cert. ef. 1-22-93; OSHA 16-1993, f. & cert. ef. 11-1-93; OSHA 4-1994, f. & cert. ef. 8-4-94; OSHA 1-1995, f. & cert. ef. 1-19-95; OSHA 3-1995, f. & cert. ef. 2-22-95; OSHA 4-1995, f. & cert. ef. 3-29-95; OSHA 5-1995, f. & cert. ef. 4-6-95; OSHA 6-1995, f. & cert. ef. 4-18-95; 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 2-1997, f. & cert. ef. 3-12-97; OSHA 4-1997, f. & cert. ef. 4-2-97; OSHA 6-1997, f. & cert. ef. 5-2-97; OSHA 7-1997, f. & cert. ef. 9-15-97; OSHA 3-1998, f. & cert. ef. 7-7-98; OSHA 6-1998, f. & cert. ef. 10-15-98; OSHA 7-1998, f. & cert. ef. 12-18-98; OSHA 2-1999, f. & cert. ef. 4-30-99; OSHA 6-1999, f. & cert. ef. 5-26-99; OSHA 3-2000, f. & cert. ef. 2-8-00; OSHA 3-2001, f. & cert. ef. 2-5-01; OSHA 3-2002, f. 4-15-02, f. & cert. ef. 4-18-02; OSHA 5-2002, f. 6-28-02 cert. ef. 10-1-03; OSHA 6-2002, f. & cert. ef. 7-19-02; OSHA 1-2003, f. 1-30-03 cert. ef. 4-30-03; OSHA 2-2003, f. & cert. ef. 1-30-03

## 437-003-0420

### Traffic Control

(1) Adequate and appropriate traffic controls must be provided for all operations on or adjacent to a highway, street, or roadway. The traffic controls must conform to the Millennium Edition of the (FHWA) Manual of Uniform Traffic Control Devices (MUTCD), December 2000.

(2) Signaling by flaggers and the use of flaggers, including warning garments worn by flaggers must conform to the Millennium Edition of the (FHWA) Manual of Uniform Traffic Control Devices (MUTCD), December 2000.

(3) Barricades for protection of employees must conform to the Millennium Edition of the (FHWA) Manual of Uniform Traffic Control Devices (MUTCD), December 2000.

NOTE: You may obtain a copy of the Millennium Edition from the following organizations: American Traffic Safety Services Association, 15 Riverside Parkway, Suite 100, Fredericksburg, VA 22406-1022; Telephone: 1-800-231-3475; Fax: (540) 368-1722; www.atsssa.com; Institute of Transportation Engineers, 1099 14th Street, NW, Suite 300 West, Washington, DC 20005-3438; Fax: (202) 289-7722; www.ite.org; and American Association of State Highway and Transportation Officials; www.aashto; Telephone: 1-800-525-5562.

NOTE: Electronic copies of the MUTCD 2000 are available for downloading at <http://mutcd.fhwa.dot.gov/kno-millennium>.

NOTE: A copy of the MUTCD 2000 is available for inspection at the Oregon OSHA

# ADMINISTRATIVE RULES

Resource Center, 350 Winter Street NE, Basement - Room 26, Salem, Oregon 97301-3882; Telephone: (503) 378-3272, or toll free in Oregon 1-800-922-2689.

NOTE: Employers who are following the most current edition of the Oregon Department of Transportation's Short Term Traffic Control Handbook will be considered to be in compliance with this requirement.

[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.: APD 5-1989(Temp), f. & ef. 3-31-89, ef. 5-1-89; APD 8-1989, f. & ef. 7-7-89; APD 16-1989(Temp), f. & ef. 9-13-89; OSHA 2-1989, f. & ef. 10-17-89; OSHA 2-2003, f. & cert. ef. 1-30-03

## Department of Corrections Chapter 291

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

**Filed with Sec. of State:** 2-5-2003

**Certified to be Effective:** 2-5-03

**Notice Publication Date:** 5-1-02

**Rules Amended:** 291-024-0005, 291-024-0010, 291-024-0015, 291-024-0016, 291-024-0020, 291-024-0025, 291-024-0055, 291-024-0060, 291-024-0080

**Rules Repealed:** 291-024-0017

**Rules Ren. & Amended:** 291-025-0065 to 291-024-0071, 291-024-0070 to 291-024-0066

**Subject:** These rule amendments are necessary to update the procedures for administration of capital punishment within Oregon and make adjustments for the provisions of 2001 Or Laws, Chapter 213. More specifically, these modifications are needed to require the superintendent of the institution where the execution will take place to invite media representatives; and to establish a process whereby the superintendent may require witnesses to view pre-injections execution steps by means of a simultaneous closed circuit television transmission.

**Rules Coordinator:** David R. Schumacher — (503) 945-0933

### 291-024-0005

#### 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 137.463, 137.473, 179.040, 423.020, 423.030, and 423.075.

(2) Purpose: The purpose of this rule is to establish specific procedures for administration of capital punishment in accordance with Oregon statutes. In addition, the rule establishes specific procedures for the care, custody and treatment of condemned inmates from the time an inmate is received through execution, and identifies responsibilities for preparation and carrying out of death sentences imposed under Oregon law.

#### (3) Policy:

(a) It is the policy of the Department of Corrections to discharge its statutory responsibility to carry out death sentences imposed under Oregon law in a manner that is consistent with Oregon statutes, and with the safe, secure and orderly management and operation of the Department of Corrections institution in which the execution takes place, the safety and security of Department staff and other persons directly involved in the execution process, and their families, with due regard for the dignity of the condemned inmate, and within the limitations of space and resources. Consistent with these policies, executions will be conducted in a manner designed to protect as completely as possible the anonymity of Department staff and other persons involved. All executions shall take place within the enclosure of a Department of Corrections institution designated by the Director of the Department of Corrections.

(b) Conscience Clause: Except as provided by statute, no employee of the Department of Corrections shall be required to participate in the execution of an inmate sentenced to death.

Stat. Auth.: ORS 137.463, ORS 137.473, ORS 179.040, ORS 423.020, ORS 423.030 & ORS 423.075

Stats. Implemented: ORS 137.463, ORS 137.473, ORS 179.040, ORS 423.020, ORS 423.030 & ORS 423.075

Hist.: CD 3-1988, f. & cert. ef. 3-21-88; CD 20-1993, f. 7-20-93, cert. ef. 8-1-93; CD 10-1996, f. & cert. ef. 8-23-96; CD 2-1997, f. & cert. ef. 2-7-97; DOC 1-2003, f. & cert. ef. 2-5-03

### 291-024-0010

#### Definitions

(1) Basic Visiting: The opportunity for an inmate and approved visitor to see and talk with each other, on a scheduled basis for a reasonable period of time, with no physical contact.

(2) Execution Camera Monitoring System: Non-recording camera installed over execution gurney with monitors for witness viewing of condemned inmate's placement in restraints on the gurney and insertion of IV's.

(3) Execution Room: The location where executions will take place.

(4) Immediate Family of the Victim: The victim's parents, spouse or domestic partner, siblings, children, grandparents, including step relationships.

(5) Inmate: Any person under the supervision of the Department of Corrections who is not on parole, post-prison supervision, or probation status.

(6) Superintendent: Any person within the Department of Corrections who reports to the Assistant Director(s) - Institutions and has the responsibility for the delivery and coordination of programs operations in a specific facility/institution.

(7) Victim: The person or persons for whose murder the inmate was sentenced to death.

Stat. Auth.: ORS 137.463, ORS 137.473, ORS 179.040, ORS 423.020, ORS 423.030 & ORS 423.075

Stats. Implemented: ORS 137.463, ORS 137.473, ORS 179.040, ORS 423.020, ORS 423.030 & ORS 423.075

Hist.: CD 3-1988, f. & cert. ef. 3-21-88; CSD 20-1993, f. 7-20-93, cert. ef. 8-1-93; CD 10-1996, f. & cert. ef. 8-23-96; CD 2-1997, f. & cert. ef. 2-7-97; DOC 1-2003, f. & cert. ef. 2-5-03

### 291-024-0015

#### Reception, Orientation, and Housing

When an inmate is received at an Oregon Department of Corrections institution with a sentence of death, the inmate will be immediately classified as maximum custody. The inmate will be housed in a maximum custody cell or unit at a Department of Corrections institution designated for the housing of inmates sentenced to death.

Stat. Auth.: ORS 137.463, ORS 137.473, ORS 179.040, ORS 423.020, ORS 423.030 & ORS 423.075

Stats. Implemented: ORS 137.463, ORS 137.473, ORS 179.040, ORS 423.020, ORS 423.030 & ORS 423.075

Hist.: CD 3-1988, f. & cert. ef. 3-21-88; CD 20-1993, f. 7-20-93, cert. ef. 8-1-93; CD 10-1996, f. & cert. ef. 8-23-96; DOC 1-2003, f. & cert. ef. 2-5-03

### 291-024-0016

#### Receipt of Death Warrant

##### (1) Notifications:

(a) The Superintendent will personally notify the Director that the execution will commence at 12:01 a.m. or as soon thereafter as possible on the date specified in the warrant ordering execution. Such notification will be followed by a letter from the Superintendent to the Director confirming this information. The Director will subsequently notify the Governor of the date and time of the pending execution.

(b) The Superintendent, with the Assistant Superintendent of Security, will interview the inmate to be executed, provide the inmate with a copy of the death warrant, and document the interview.

(c) The Superintendent will send a letter to the medical examiner indicating the date and time of the scheduled execution, requesting that the medical examiner or his/her representative be present at the execution and be prepared to issue the certificate of death. The letter to the medical examiner will be sent by certified mail with a return receipt requested.

(d) The Superintendent or his/her designee will notify the Oregon State Police Superintendent's Office of the scheduled date and time of the execution, followed by a letter confirming the information.

##### (2) Assembly of Supplies and Equipment:

(a) The Director shall prepare a written order to purchase the lethal substances as described in ORS 137.473 and attach a certified copy of the judgment of the court imposing the punishment. The written order and copy of the judgment shall be submitted to any wholesale drug outlet as defined in ORS 689.005, registered with the State Board of Pharmacy under ORS 689.305 at the time the lethal substances are purchased.

(b) The Superintendent or his/her designee will assemble the supplies and prepare the equipment necessary to effect the execution consistent with ORS 137.473.

(c) The Superintendent or his/her designee will ensure the execution camera monitoring system is in place and operational.

(3) Selection of Executioner(s): The selection of the executioner(s) will be the responsibility of the Superintendent. The identity of the executioner(s) will remain confidential.

(4) Arrangement will be made to ensure that the telephone company has installed two dedicated telephone lines, hereafter referred to as the emergency telephone lines, which will ring directly into the execution room. The Director will advise the Governor and the Attorney General of the telephone process.

# ADMINISTRATIVE RULES

## (5) Special Security Team Preparations:

(a) The Assistant Superintendent of Security, or his/her designee subject to the Superintendent's approval, will select no less than six primary security staff and no less than six alternate security staff from a previously identified pool of security staff to assist in conducting the execution procedure. These selected security staff will be referred to as the special security team.

(b) The Assistant Superintendent of Security or his/her designee will conduct training with the special security team to ensure that all members are fully aware of their roles during the procedure, and that the team is prepared to deal with any disruptive behavior which might be demonstrated by the inmate.

Stat. Auth.: ORS 137.463, ORS 137.473, ORS 179.040, ORS 423.020, ORS 423.030 & ORS 423.075

Stats. Implemented: ORS 137.463, ORS 137.473, ORS 179.040, ORS 423.020, ORS 423.030 & ORS 423.075

Hist.: CD 10-1996, f. & cert. ef. 8-23-96; DOC 1-2003, f. & cert. ef. 2-5-03

## 291-024-0020

### Programming: From Date of Receipt of Death Warrant Until Four Days Prior to the Scheduled Execution Date

(1) Media Contact: Interviews by media representatives with the condemned inmate will be permitted only with the consent of the inmate, and with the prior approval of the Superintendent or his/her designee. Media contacts will be coordinated between the Superintendent (or his/her designee) and the Department of Corrections Communications Manager. If approved, media representatives will be admitted to the appropriate Department of Corrections institution to conduct the interview(s), provided they are properly credentialed and attired. Any interview by a media representative, if permitted, shall be conducted as basic visiting. A camera (i.e., still photography or video) may be used during the interview if its use is approved in advance by the Superintendent or his/her designee.

(2) Visiting: All visits will be basic visiting and arranged by appointment through the institution visiting desk staff. Visitor(s) must be on the approved visiting list.

#### (3) Invitation to Witness the Execution:

(a) Prior to the scheduled execution date, the Superintendent shall invite the following persons to attend and witness the execution:

- (A) One or more physicians;
- (B) The Attorney General;
- (C) The sheriff of the county in which the judgment was rendered;
- (D) The district attorney of the county in which the judgment was rendered;

(E) If requested by the condemned inmate, no more than two religious representatives designated by the inmate;

(F) If requested by a member of the immediate family of the victim, one or more members of the victim's immediate family as determined by the Superintendent; and

#### (G) Designated media representatives:

(i) The media representatives will consist of two persons selected by the Oregon Association of Broadcasters, two persons selected by the Oregon Newspaper Publisher's Association (one of the two persons will represent a newspaper from the county in which the judgment was rendered), and one person selected by the Associated Press (AP).

(ii) Only designated media representatives who are properly credentialed, and who agree to act as pool reporters for other media present following the execution, will be admitted inside the secure perimeter of the institution to attend and witness the execution.

(b) In addition to those persons listed above, the Superintendent may, in his/her discretion, invite the following persons to attend and witness the execution:

(A) No more than a total of five of the inmate's friends and relatives designated by the inmate, and

(B) Such other persons as the Superintendent thinks expedient, including but not limited to peace officers.

(c) The total number of persons invited to attend and witness the execution shall be determined by the Superintendent, taking into account the limitations of space and resources.

(d) In order to enter the secure perimeter of the institution, all persons witnessing the execution shall:

- (A) Be 18 years of age or older;
- (B) Undergo and pass a criminal history and security check;
- (C) Be properly attired in accordance with the Superintendent's instructions.

Stat. Auth.: ORS 137.463, ORS 137.473, ORS 179.040, ORS 423.020, ORS 423.030 & ORS 423.075

Stats. Implemented: ORS 137.463, ORS 137.473, ORS 179.040, ORS 423.020, ORS 423.030 & ORS 423.075

Hist.: CD 3-1988, f. & cert. ef. 3-21-88; CD 20-1993, f. 7-20-93, cert. ef. 8-1-93; CD 10-1996, f. & cert. ef. 8-23-96; CD 2-1997, f. & cert. ef. 2-7-97; DOC 1-2003, f. & cert. ef. 2-5-03

## 291-024-0025

### Four Days Prior to Scheduled Execution Date

#### (1) Housing Assignment:

(a) No less than four days prior to the scheduled execution date, the condemned inmate will be moved to the.

#### (b) Security:

(A) Security staff will be assigned by the Assistant Superintendent of Security or his/her designee to provide a 24-hour watch on the condemned inmate. The assigned security staff will maintain a log of all activities. The log entries must be written in ink, and cross-outs shall be legible and initialed. Copies of the logs will be hand-delivered to the Superintendent daily.

(B) Any unusual incident shall be documented in accordance with the Department of Corrections procedure on Unusual Incident Reports.

#### (2) Institutional Privileges:

(a) Mail: All incoming mail will be photocopied the last four days to ensure the inmate does not receive drug-infiltrated paper. The original letters will be maintained in the condemned inmate's property and a photocopy sent to the inmate.

(b) Visiting: At the discretion of the Superintendent, there may be daily visits with members of the inmate's family, approved religious representative(s), and such other persons as approved by the Superintendent or his/her designee, if they are on the approved visiting list and requested by the inmate. Visits must be arranged by appointment (i.e., dates, times and durations) through the Superintendent's Office. All visits will be restricted to basic visiting unless otherwise designated by the Superintendent.

(c) Telephone: Telephone privileges will be provided as approved by the Superintendent or his/her designee.

(d) Exercise: The condemned inmate will be permitted to exercise only in his/her cell.

(e) Clothing: New institutional clothing will be issued to the inmate and will be exchanged as needed. Clothing will be maintained in the secure confines of the facility.

(3) Personal Property Disposition: The Assistant Superintendent of Security or his/her designee will assure that a Personal Property Records form (CD 353P) is signed by the inmate for disposition of personal property.

(4) Food Preparations: The inmate will be served the same food as other inmates assigned to the facility. At the discretion of the Superintendent, the inmate may be permitted a last meal of the inmate's choosing.

(5) The Assistant Superintendent of Security or his/her designee will ensure the final preparations are made for the special security team.

(6) The Assistant Director for Institutions or his/her designee and the Assistant Director for Programs or his/her designee will jointly work to ensure that the equipment and supplies for the lethal injection are collected and deposited in secure storage located within the execution room.

(7) The Oregon State Police will be notified by the Assistant Superintendent of Security so that adequate perimeter security will be established around the institution on the evening preceding the execution.

(8) The execution camera monitoring system shall be tested by the physical plant manager or designee.

Stat. Auth.: ORS 137.463, ORS 137.473, ORS 179.040, ORS 423.020, ORS 423.030 & ORS 423.075

Stats. Implemented: ORS 137.463, ORS 137.473, ORS 179.040, ORS 423.020, ORS 423.030 & ORS 423.075

Hist.: CD 3-1988, f. & cert. ef. 3-21-88; CD 20-1993, f. 7-20-93, cert. ef. 8-1-93; Renumbered from 291-024-0030; CD 10-1996, f. & cert. ef. 8-23-96; DOC 1-2003, f. & cert. ef. 2-5-03

## 291-024-0055

### Forty-Eight Hours Prior to Execution

(1) The Superintendent or his/her designee will ensure that all arrangements as required by these rules have been accomplished.

(2) The Assistant Superintendent of Security or his/her designee will conduct training with the special security team to ensure that all team members are familiar with their duties and responsibilities.

(3) The Assistant Superintendent of Security or his/her designee will have a process of identifying all witnesses and visitors who will be entering the institution on the evening of the execution.

(4) The Superintendent or his/her designee will ensure that a sufficient number of staff have been scheduled to work the evening preceding the execution.

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(5) The Superintendent or his/her designee will ensure the necessary execution documents have been prepared/obtained to include:

(a) An appropriate certificate of death that reflects the cause of death as execution by lethal injection in the manner prescribed in ORS 137.473; and

(b) A form authorizing release of the body to be signed by the mortician (CD 728P).

Stat. Auth.: ORS 137.463, ORS 137.473, ORS 179.040, ORS 423.020, ORS 423.030 & ORS 423.075

Stats. Implemented: ORS 137.463, ORS 137.473, ORS 179.040, ORS 423.020, ORS 423.030 & ORS 423.075

Hist.: CD 3-1988, f. & cert. ef. 3-21-88; CD 20-1993, f. 7-20-93, cert. ef. 8-1-93; CD 10-1996, f. & cert. ef. 8-23-96; CD 2-1997, f. & cert. ef. 2-7-97; DOC 1-2003, f. & cert. ef. 2-5-03

## 291-024-0060

### Final Twenty-Four Hours to Execution

(1) An up-to-date log will be maintained on all execution related events which occur during the final 24 hours.

(2) The Assistant Director for Programs or his/her designee will work with the Assistant Superintendent, Program Services to ensure that a medically trained individual will prepare and secure the necessary syringes with the lethal solutions. The necessary back-up syringes with the lethal solutions will be prepared and secured separately. This equipment and solutions will be provided to the Assistant Superintendent of Security or his/her designee for secure storage.

(3) The Assistant Director for Programs or his/her designee will work with the Assistant Superintendent, Program Services to ensure that a medically trained individual will be available to insert an intravenous catheter(s) into an appropriate vein(s) of the condemned inmate.

(4) The Superintendent will distribute written orders that all employees selected for special assignment duty will report to the institution at the designated time.

(5) The execution camera monitoring system shall be tested by the Physical Plant Manager or designee.

(6) The Assistant Superintendent of Security will ensure that:

(a) All living units will be checked regularly;

(b) All towers will be posted;

(c) The reception desk staff will be provided with a list of the approved visitors and witnesses; and

(d) Escort officers will be identified for moving witnesses and visitors to the execution area.

(7) The emergency telephone lines to the execution room will be checked at 6:00 p.m. and again at 9:00 p.m. Beginning at 9:30 p.m., they will be tested every half-hour until 11:30 p.m.

(7) Approved Witnesses and Designated Media Representatives:

(a) Upon entering institution grounds, approved witnesses will remain in a designated staging area under staff supervision. Designated media representatives will remain in the Media Center until directed by staff to move to their designated staging area.

(b) At the appropriate time, witnesses and media representatives will be properly identified, pass through the metal detector, be frisk searched and have the back of their right hand stamped.

(c) Note pads, and pens or pencils issued by the institution to approved witnesses and media representatives will be the only items/equipment permitted inside the secure perimeter of the institution.

(d) The Department of Corrections Communications Manager will be stationed at the Media Center and will be the Department's contact person with the media.

(8) The Assistant Superintendent of Programs or his/her designee will be assigned to the Administration Building and will be responsible for screening calls to the institution and ensuring that no unauthorized persons enter the institution.

(9) The Assistant Superintendent of Programs or his/her designee will establish radio contact with the officer-in-charge of the unit housing the execution room to ensure that messages can be conveyed in the event that the institutional telephone line or the emergency telephone lines become inoperable.

(10) At 11:30 p.m., the Assistant Superintendent of Security or his/her designee will confirm the accurate time for the clock used to conduct the execution.

Stat. Auth.: ORS 137.463, ORS 137.473, ORS 179.040, ORS 423.020, ORS 423.030 & ORS 423.075

Stats. Implemented: ORS 137.463, ORS 137.473, ORS 179.040, ORS 423.020, ORS 423.030 & ORS 423.075

Hist.: CD 3-1988, f. & cert. ef. 3-21-88; CD 20-1993, f. 7-20-93, cert. ef. 8-1-93; CD 10-1996, f. & cert. ef. 8-23-96; DOC 1-2003, f. & cert. ef. 2-5-03

## 291-024-0066

### Forty Minutes Prior to Execution

The Assistant Superintendent of General Services and/or other assigned personnel will escort the witnesses and all other approved visitors from the designated staging area to the processing station where they will enter the witness area. Two correctional captains will also be stationed in the witness area.

Stat. Auth.: ORS 137.463, ORS 137.473, ORS 179.040, ORS 423.020, ORS 423.030 & ORS 423.075

Stats. Implemented: ORS 137.463, ORS 137.473, ORS 179.040, ORS 423.020, ORS 423.030 & ORS 423.075

Hist.: CD 3-1988, f. & cert. ef. 3-21-88; CD 20-1993, f. 7-20-93, cert. ef. 8-1-93; CD 10-1996, f. & cert. ef. 8-23-96; DOC 1-2003, f. & cert. ef. 2-5-03; Renumbered from 291-024-0070

## 291-024-0071

### Thirty Minutes Prior to Execution

(1) There will be no visits after the inmate has been moved to the execution room.

(2) Witnesses will be taken to the execution witness viewing room at a time coordinated with the Assistant Superintendent Security or his/her designee.

(3) Execution camera monitoring system will be activated.

(4) Movement of Condemned Inmate to Execution Room:

(a) The death watch is suspended. All duties are assumed by the Special Security Team.

(b) The Special Security Team Leader will supervise the activities of the special security team members. The six special security team members will escort the inmate in security restraints from the cell and position and properly restrain the inmate on the gurney in the execution room.

(b) A trained person(s) will connect the heart monitor machine to the inmate.

(c) A medically trained person(s) will insert/connect intravenous catheters for lethal injection.

(3) At the appropriate time, the Superintendent will accompany the executioner(s) to the execution room, and ensure that the confidentiality of the executioner(s) has not been compromised.

Stat. Auth.: ORS 137.463, ORS 137.473, ORS 179.040, ORS 423.020, ORS 423.030 & ORS 423.075

Stats. Implemented: ORS 137.463, ORS 137.473, ORS 179.040, ORS 423.020, ORS 423.030 & ORS 423.075

Hist.: CD 3-1988, f. & cert. ef. 3-21-88; CD 20-1993, f. 7-20-93, cert. ef. 8-1-93; CD 10-1996, f. & cert. ef. 8-23-96; DOC 1-2003, f. & cert. ef. 2-5-03; Renumbered from 291-024-0065

## 291-024-0080

### Execution Procedure

(1) The Assistant Superintendent of Security or his/her designee shall make a final inspection of all straps, and with the assistance of medically trained staff, make final inspection of the intravenous catheters, and the injection equipment. When it is determined all is in order, he/she shall so advise the Superintendent.

(2) Upon receiving a signal from the Superintendent, the Assistant Superintendent of Security or his/her designee shall open the window coverings so that the witnesses can see the inmate in position on the gurney.

(3) At 12:01 a.m. or as soon thereafter as possible, the Superintendent shall signal the executioner(s) to begin injection of lethal solutions by syringe(s) into the injection port of the intravenous catheters. As prescribed by ORS 137.473, the lethal solutions will include an ultra-short acting barbiturate in combination with a chemical paralytic agent and potassium chloride or other equally effective substances sufficient to cause death.

(4) The executioner(s) shall signal the Superintendent when infusion of the lethal injection has been completed. Upon determining death of the inmate and time, the Superintendent will summon a medical professional to certify the inmate's death.

(5) Once the inmate has been pronounced dead, the witnesses will be escorted from the witness area.

(6) The camera monitoring system will be turned off.

(7) The Communications Manager will be notified of the time of the death and will inform the media assembled in the Media Center. Media witnesses will be escorted to the Media Center where they will share information as prearranged.

(8) The Assistant Superintendent, Security, or his/her designee will remain with the body in the execution room and supervise the removal of the body.

Stat. Auth.: ORS 137.463, ORS 137.473, ORS 179.040, ORS 423.020, ORS 423.030 & ORS 423.075

Stats. Implemented: ORS 137.463, ORS 137.473, ORS 179.040, ORS 423.020, ORS 423.030 & ORS 423.075

# ADMINISTRATIVE RULES

Hist.: CD 3-1988, f. & cert. ef. 3-21-88; CD 20-1993, f. 7-20-93, cert. ef. 8-1-93; CD 10-1996, f. & cert. ef. 8-23-96; DOC 1-2003, f. & cert. ef. 2-5-03

Stat Auth: ORS 179.040, ORS 179.640, ORS 179.770, ORS 423.020, ORS 423.030, ORS 423.075

Stat Impl: ORS 179.040, ORS 179.610 - ORS 179.770, ORS 423.020, ORA 423.030, ORS 423.075

Hist.: DOC 2-2003(Temp), f. & cert. ef. 2-7-03 thru 8-6-03

**Adm. Order No.:** DOC 2-2003(Temp)

**Filed with Sec. of State:** 2-7-2003

**Certified to be Effective:** 2-7-03 thru 8-6-03

**Notice Publication Date:**

**Rules Adopted:** 291-203-0010, 291-203-0020, 291-203-0030

**Subject:** Adoption of these rules is necessary in order that the department may establish guidelines for determining an inmate's ability to pay for the cost of care while under custody of the department.

**Rules Coordinator:** David R. Schumacher—(503) 945-0933

## 291-203-0010

### 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, 179.640, 179.770, 423.020, 423.030 and 423.075.

(2) Purpose: Inmates under the custody of the Department of Corrections are liable for the cost of their care. The purpose of these rules is to establish:

(a) Guidelines for determining an inmate's ability to pay for his/her cost of care while under the custody of the Department of Corrections; and

(b) A process for the notification to the inmate of his/her ability to pay for the cost of care.

(3) Policy: It is the policy of the Department of Corrections to pursue reimbursement for cost of care from inmates who meet the criteria established in these rules. Inmates who receive an ability to pay order are expected to reimburse the department for their cost of care.

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

Stat Auth: ORS 179.040, ORS 179.640, ORS 179.770, ORS 423.020, ORS 423.030, ORS 423.075

Stat Impl: ORS 179.040, ORS 179.610 - ORS 179.770, ORS 423.020, ORA 423.030, ORS 423.075

Hist.: DOC 2-2003(Temp), f. & cert. ef. 2-7-03 thru 8-6-03

## 291-203-0020

### Definitions

(1) Ability to Pay: The amount the department has determined that the inmate is required to pay toward his/her cost of care.

(2) Assets: The total value of an inmate's equity in real and personal property.

(3) Authorized Representative: An individual or entity who has the ability to control the inmate's finances, and any other individual or entity holding funds or receiving benefits or income on behalf of the inmate.

(4) Cost of Care: All services including medical care, room, board, administrative costs and other costs not otherwise excluded by law.

(5) Dependents: The individuals whom an inmate has a legal duty to support.

(6) Income: All funds received by an inmate, or for an inmate by an authorized representative from any source after making applicable deductions for state and federal income taxes.

(7) Inmate: Any person under the supervision of the Department of Corrections who is not on parole, probation, or post-prison supervision status.

(8) Liquid Assets: Cash and cash equivalents, accounts receivable, temporary investments such as CDs or Treasury bills, money market accounts, and bonds that can be cashed at any time.

(9) Personal Estate: All assets including cash, liquid reserves, stocks, bonds, accounts receivable, monies due, or any other interests, whether they are self-managed, or held by the individual's authorized representative. Personal estate also includes benefits from income protection insurance, governmental retirement or disability insurance, such as Social Security, Veterans, state, federal, and railroad retirement benefits and benefits from life insurance or any other form of award except as prohibited in ORS 179.620 (5a) and (5b).

(10) Personal Support Allowance: The cash allowed for reasonable miscellaneous expenses while in the custody of the department, including but not limited to, expenses for personal grooming and hygiene items, books, newspapers, or other publications, or snacks or refreshments not provided by the department.

(11) Support for Dependents: The cash necessary to meet the reasonable needs of the dependents, less the amount the dependent receives from any other source. Support for dependents excludes administratively or judicially ordered child and/or spousal support.

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

## 291-203-0030

### Determination of the Inmate's Ability to Pay

(1) Authority — An inmate, the inmate's personal estate, or the decedent's estate of an inmate that has died, is liable for the full cost of care as established in accordance with ORS 179.701. The department may collect charges in advance for inmates with determinate sentences.

(2) Ability to Pay — The ability to pay an inmate's cost of care may be assessed at intake or any time during the inmate's sentence, based on notification by sources the department considers reliable. These sources include, but are not limited to, the District Attorney's Office, Social Security and Veterans Administration, Oregon Department of Revenue, State of Oregon agencies, or any other sources the department deems credible.

(3) Ability to Pay Amount — Charges will be assessed when the total amount of the liquid assets available to the inmate or the inmate's representative exceed \$55,000. The department may consider other assets from the inmate's personal estate. The department shall consider the following information in determining the ability to pay amount:

(a) The inmate's need for funds to pay for support of dependent children;

(b) The inmate's need for funds for personal support after release;

(c) The availability of third party benefits; and

(c) The inmate's monetary obligations imposed as a result of the inmate's conviction.

(4) Excluded Assets — The department may not consider:

(a) Any assets received by or owing to the inmate and the personal estate of the inmate, or the decedent's estate, as compensation from the state for injury, death, or the false imprisonment of the person that occurred when the inmate was in a state institution listed in ORS 179.321 and for which the state admits liability or is found liable through adjudication; and

(b) Any real or personal property that the inmate or an authorized representative of the inmate can demonstrate was purchased solely with assets referred to in paragraph (a) of this subsection or partially with such assets, to the extent such assets were used in the purchase.

(5) Change in financial circumstances — A modification to charges may be made to reflect a change in the inmate's financial circumstances or a change in the cost of care due to a reduction in the original release date. The determination of an inmate's ability to pay may be reassessed at any time during the inmate's incarceration if the department receives new financial information.

(6) Limit on Ability to Pay Amount — Charges shall not exceed the full cost of care less payments and/or credits from any other sources the department has received, or reasonably anticipates receiving. A personal support allowance while the inmate is in the custody of the department shall reflect a reasonable monthly spending limit consistent with the department's rule on Trust Accounts (Inmate)(OAR 291-158).

(7) Notice/Ability-to-Pay Orders — The department shall provide actual notice to the inmate and any authorized representative, where known, of the department's determination of an inmate's ability to pay by issuing an ability-to-pay order. The order shall state the inmate's full liability and determined ability to pay. Actual notice means receipt by the person and the authorized representative of notice. Written notice to the inmate and any authorized representative shall include a copy of the ability-to-pay order, a description of the person's appeal rights and the date those rights terminate, and state the address where a request for hearing may be mailed or delivered. At any time, the department may reissue an ability-to-pay order to notify an authorized representative as provided in ORS 179.653(4).

(8) Resolving Appeals — If the inmate or the inmate's authorized representative appeals the ability to pay determination, the department will attempt to resolve the appeal by taking into consideration the information on which the appeal is based. If the appeal cannot be resolved by issuing a new ability to pay order, it may be addressed through the contested case hearing process in accordance with ORS 179.640.

(9) Enforcement of Lien — If an inmate refuses to pay for the cost of care, the unpaid amount plus interest shall be a lien in favor of the State of Oregon. The department shall enforce its recoupment lien created by ORS 179.653 by issuance of a warrant in the manner stated in ORS 179.655.

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

Stat Auth: ORS 179.040, ORS 179.640, ORS 179.770, ORS 423.020, ORS 423.030, ORS 423.075

Stat Impl: ORS 179.040, ORS 179.610 - ORS 179.770, ORS 423.020, ORA 423.030, ORS 423.075

Hist.: DOC 2-2003(Temp), f. & cert. ef. 2-7-03 thru 8-6-03

# ADMINISTRATIVE RULES

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

**Filed with Sec. of State:** 2-13-2003

**Certified to be Effective:** 3-1-03

**Notice Publication Date:** 12-1-02

**Rules Adopted:** 291-109-0100, 291-109-0120, 291-109-0130, 291-109-0140

**Rules Repealed:** 291-109-0005, 291-109-0015, 291-109-0020, 291-109-0030, 291-109-0040, 291-109-0050, 291-109-0060

**Rules Ren. & Amended:** 291-019-0010 to 291-109-0110

**Subject:** The proposed modifications to these rules are necessary to revise the department's grievance review system. The revision includes a communication continuum that emphasizes proper and effective communication between department employees and inmates for resolution of issues before utilizing the grievance review system. The revision also extends the time in which an inmate may file a grievance from 5 days to 30 days.

**Rules Coordinator:** David R. Schumacher—(503) 945-0933

## 291-109-0100

### Authority, Purpose, and Policy

(1) Authority: The authority for these rules is granted to the Director of the Department of Corrections in accordance with ORS 179.040, 423.020, 423.030, and 423.075.

(2) Purpose: The purpose of these rules is to establish department policy and procedures for proper and effective communication between staff and inmates, and for the administration of the department's internal grievance review and appeal system for inmates confined in Department of Corrections facilities.

### (3) Policy:

(a) Proper and effective communication between staff and inmates is an integral component of sound correctional facility management and inmate habilitation. Experience has demonstrated that issues/disputes between inmates and staff can be resolved more effectively when inmates first speak directly to the appropriate staff person about a perceived problem/issue. The interaction from face-to-face communication between inmates and staff often leads to faster and more satisfactory resolution of issues/disputes, while reducing staff time and paperwork. To these ends, it is the policy of the Department of Corrections to promote and encourage proper and effective communication between staff and inmates by requiring that inmates use the communication continuum established in these rules. Integral to the policy is the directive that inmates seek to resolve issues/disputes with staff at the lowest possible level, beginning with verbal face-to-face communication, and that staff respond to inmate communications in a professional and timely manner.

(b) Recognizing that due to the complex nature of the correctional setting some issues/disputes between staff and inmates may not be readily resolved, it is the policy of the Department of Corrections to permit and encourage inmates to seek resolution of issues/disputes that cannot be resolved through a dialog with staff using the department's internal inmate grievance review and appeal system established in these rules.

(c) Within the inherent limitations of resources and the need for facility security, safety, health and good order, it is the policy of the Department of Corrections that all inmates be treated fairly and equitably, and that staff actions and decisions be consistent with the rules, policies and procedures of the department.

Stat. Auth.: ORS 179.040, ORS 423.020, ORS 423.030 & ORS 423.075  
Stats. Implemented: ORS 179.040, ORS 423.020, ORS 423.030 & ORS 423.075  
Hist.: DOC 3-2003, f. 2-13-03, cert. ef. 3-1-03

## 291-109-0110

### Definitions

(1) Administrative Directive: A term used to describe in general a Department of Corrections rule or policy signed by the Director.

(2) Communication: A process by which information is exchanged between individuals, usually through verbal or written message.

(3) Department of Corrections (DOC) Employee: Any person employed full-time, part-time, or under temporary appointment by the Department of Corrections; any person under contractual arrangement to provide services to the department; any person employed by private or public sector agencies who is serving under department-sanctioned special assignment to provide services or support to department programs.

(4) Emergency: Any condition or situation where life, health, or safety may be threatened or where time frame considerations necessitate an immediate response or remedial action.

(5) Functional Unit Manager: Any person within the Department of Corrections who reports either to the Director, an assistant director, or an administrator and has responsibility for the delivery of program services or the coordination of program operations.

(6) Inmate: Any person under the supervision of the Department of Corrections who is not on parole, probation, or post-prison supervision status.

(7) Inmate Communication Form: An official Department of Corrections form commonly referred to as a "kyte or kite." The form is designed for inmate use in communicating with employees and in which employees can respond to the inmate.

(8) Oregon Corrections Enterprises: A semi-independent state agency that is a non-Department of Corrections agency or division, which is under the authority of the Director of the Department of Corrections. For purposes of this rule only, Oregon Corrections Enterprises shall not be considered an external organization.

(9) Oregon Corrections Enterprises (OCE) Employee: Any person employed full-time, part-time, or under temporary appointment by the Oregon Corrections Enterprises. For the purposes of this rule only, employee shall also include any person under contractual arrangement to provide services to the agency; any person employed by private or public sector agencies who is serving under agency-sanctioned special assignment to provide services or support to agency programs.

Stat. Auth: ORS 179.040, ORS 423.020, ORS 423.030 & ORS 423.075

Stats. Implemented: ORS 179.040, ORS 423.020, ORS 423.030 & ORS 423.075

Hist.: CD 3-1979, f. 1-18-79, ef. 1-25-79; CD 34-1981(Temp), f. & ef. 8-7-81; CD 5-1982, f. & ef. 1-29-82; CD 39-1983(Temp), f. & ef. 10-14-83; CD 6-1984, f. & ef. 4-9-84; CD 53-1985, f. & ef. 8-16-85; CD 56-1986, f. & ef. 12-5-86; CD 13-1992, f. 6-15-92, cert. ef. 6-26-92; DOC 29-1999(Temp), f. & cert. ef. 12-22-99 thru 6-19-00; DOC 17-2000, f. & cert. ef. 6-19-00; DOC 3-2003, f. 2-13-03, cert. ef. 3-1-03, Renumbered from 291-109-0010

## 291-109-0120

### Inmate-Staff Communications

#### (1) General Principles:

(a) Proper and effective communication between inmates and staff is essential in Department of Corrections facilities. Inmates and staff communicate with each other not only with their choice of words (oral or written), but also non-verbally through their manner, tone, and approach (commonly referred to as "body language"). Inmates and staff are jointly responsible for ensuring their choice of words, manner, tone and approach are appropriate to properly and effectively convey their intended information and ideas to one another.

(b) Inmates shall communicate with staff in a civil and respectful tone and manner.

(c) Staff shall communicate with inmates in a professional manner that fosters respect and confidence. Staff orders directed to inmates should be clear and concise.

#### (2) Communication Continuum:

(a) Inmates requiring information from or seeking to resolve issues/disputes with staff shall communicate with DOC and OCE employees using the department's approved communication methods, in the following order:

(A) Face-to-face, verbal communication;

(B) Written inmate communication form;

(C) Written grievance; and

(D) Written grievance appeal. Inmates shall work through the department's approved communication continuum with the staff person to whom the inmate's question or complaint is directed.

(b) Inmates will be specifically informed of the department's approved communication continuum at the time of intake/orientation.

Stat. Auth.: ORS 179.040, ORS 423.020, ORS 423.030 & ORS 423.075

Stats. Implemented: ORS 179.040, ORS 423.020, ORS 423.030 & ORS 423.075

Hist.: DOC 3-2003, f. 2-13-03, cert. ef. 3-1-03

## 291-109-0130

### Inmate Communication Forms

(1) An inmate shall use an inmate communication form to communicate with DOC and OCE employees when the inmate is unable to obtain the information he/she seeks or to resolve his/her issue(s)/dispute(s) by first speaking with appropriate staff.

(2) An employee shall make every effort to respond to an inmate communication within five working days of receipt. If the inmate does not receive a response from the employee within a reasonable time period, based on the time guidelines within this rule, the inmate shall send a second inmate communication to the employee to seek resolution of the issue.

(3) Inmate communications containing profanity, threats, or other inappropriate language or comments will be returned to the inmate without further processing by staff, and with instruction that the inmate resubmit the

## ADMINISTRATIVE RULES

communication using appropriate language that is civil and respectful in tone and manner. Inmate communications containing profanity, threats, or other inappropriate language or comments may subject the inmate author to disciplinary action in accordance with the rule on Prohibited Inmate Conduct and Processing Disciplinary Actions (OAR 291-105).

(4) Inmate communications that are sent to employees other than to staff at the lowest level of responsibility for resolving or responding to the question/issue will be returned to the inmate, with instruction that the inmate resubmit the communication to the appropriate employee identified by staff in the response.

Stat. Auth.: ORS 179.040, ORS 423.020, ORS 423.030 & ORS 423.075  
Stats. Implemented: ORS 179.040, ORS 423.020, ORS 423.030 & ORS 423.075  
Hist.: DOC 3-2003, f. 2-13-03, cert. ef. 3-1-03

### 291-109-0140

#### Grievance Review System

##### (1) General Requirements:

(a) If an inmate is unable to resolve an issue through the department's approved communications continuum by first speaking with appropriate staff, and second by use of an inmate communication form, an inmate may seek resolution of the issue by submitting a written grievance using the department's approved inmate grievance form (CD 117) in accordance with these rules.

(b) An inmate grievance must include the date and time the inmate attempted to speak with the employee(s) to resolve the issue. Inmates must also submit with their grievance, the original or copy of the inmate communication sent to the employee regarding the issue, and the employee's response.

(c) An inmate who attempts to grieve an issue by use of an inmate communication form or any written communication other than the department's approved inmate grievance form shall have his/her communication returned to him/her with instruction that the inmate resubmit the grievance on the department's approved inmate grievance form.

(d) An inmate grievance may request review of just one matter/action/incident per inmate grievance form. Only one grievance per incident per inmate will be allowed.

(e) An inmate may only submit his/her signature on a single grievance form (for example, an inmate may not submit a group grievance that represents other inmates, or act as a spokesperson for other inmate(s).)

(f) An inmate may only obtain grievance review of one DOC or OCE employee's actions/decisions on a single grievance form.

(g) The department will not process grievances on claims or issues that the inmate is pursuing in pending litigation in the courts.

##### (2) What an Inmate Can and Cannot Grieve:

###### (a) An inmate may grieve the following:

(A) The application of any administrative directive or operational procedure;

(B) The lack of an administrative directive or operational procedure;

(C) Any unprofessional behavior or action which may be directed toward an inmate by an employee or volunteer of the Department of Corrections;

(D) Any unprofessional behavior or action which may be directed toward an inmate by an employee or volunteer of the Oregon Corrections Enterprises; or

(E) Any oversight or error affecting an inmate.

###### (b) An inmate may not grieve the following:

(A) Grievances relating to actions or decisions not within the jurisdiction of the department (e.g., actions by the Board of Parole and Post-Prison Supervision);

(B) Incident(s) or action(s) for which there exists a separate appeal or review process; for example, misconduct reports, rejection/confiscation of mail, visiting, property claims, discrimination complaints, etc.

(C) Incident(s) or problem(s) to which an inmate was not a party; or

(D) Failure of a DOC or OCE employee to respond to or to process inmate concerns or complaints within the timelines established by rule.

##### (3) How and When a Grievance is Filed:

(a) Inmate grievances must be submitted to the functional unit grievance coordinator on the department's approved inmate grievance form (CD117). Instructions for filing a grievance are found on form CD117a (Inmate Grievance Instructions).

(b) To obtain grievance review, the functional unit grievance coordinator must receive an inmate's grievance within 30 days of the date of the incident giving rise to the grievance. The grievance coordinator shall date stamp and log the grievance form upon receipt.

(c) An inmate who seeks grievance review of an emergency situation as defined in OAR 291-109-0110(4) should submit his/her grievance to the

grievance coordinator as soon as possible after the incident/occurrence so that it may be processed in a timely manner.

(d) In the event an inmate cannot complete the grievance form due to language barriers, physical barriers (in compliance with Section 504 of the Federal Rehabilitation Act), and/or competency and capacity barriers, another person may complete the form for the inmate. However, the inmate submitting the grievance must sign the grievance form. Translation services for submission of inmate grievance forms for non-English speaking/illiterate inmates will be made available upon request.

(e) Functional unit managers and/or designees shall ensure the approved inmate grievance forms are readily available to inmates in DOC correctional facilities.

##### (4) Processing of Inmate Grievances and Grievance Appeals:

(a) Upon receiving an inmate grievance, the grievance coordinator will assign the grievance a number and record its receipt in an inmate grievance log. After the inmate grievance has been logged, the grievance coordinator will send a grievance receipt to the inmate, and send the grievance and a grievance response form (CD 117b) to the staff respondent for response. The respondent will complete the form and submit it to his/her supervisor for review and signature. Every effort shall be made to return the response to the grievance coordinator for processing within 15 working days.

(b) After recording, the grievance coordinator will send the inmate grievance and employee's response to the inmate and retain copies for the file.

(c) Grievance responses may be consolidated.

##### (5) Grievance Appeals:

###### (a) Appeals from Employee Response:

(A) An inmate may appeal the employee's response using the grievance appeal form (CD 117c). The appeal must be submitted to the grievance coordinator together with the original grievance, attachments and staff response(s). No additional information may be submitted. After the appeal has been date stamped and logged, the inmate will be issued a return receipt, and the grievance appeal will be forwarded to the functional unit manager having authority to review/resolve the issue.

(B) Appeal Timelines: An appeal must be received by the grievance coordinator within 14 days of the date that the employee response was sent to the inmate. The functional unit manager shall respond to the inmate's grievance appeal within 30 calendar days of receipt of the appeal.

###### (b) Appeals from Functional Unit Manager Decisions:

(A) An inmate may appeal the functional unit manager's decision using the grievance appeal form (CD 117c). The appeal must be submitted to the grievance coordinator together with the original grievance, attachments, and staff responses. No additional information may be submitted. After the appeal has been date stamped and logged, the inmate will be issued a return receipt. The grievance appeal will be forwarded to the assistant director having authority to review/resolve the issue.

(B) The assistant director shall review the grievance appeal. If the assistant director determines additional facts should have been gathered or additional witnesses interviewed, the grievance appeal will be referred back to the functional unit grievance coordinator. Upon completion of the investigation, the assistant director shall complete the review.

(C) Appeal Timelines: An appeal must be received by the grievance coordinator within 14 days of the coordinator's return date to the inmate. The assistant director shall respond to the inmate's grievance appeal within 30 days of receipt of the appeal.

(D) The assistant director's decision on an inmate's grievance appeal is FINAL, and is not subject to further review.

###### (6) Abuse of Grievance Review System:

(a) An inmate shall submit no more than three inmate grievances in any one week or eight in any calendar month, unless a valid justification exists. Grievances submitted in excess of three grievances in any one-week or eight in any calendar month will be returned to the inmate without further processing, noting that he/she has abused the grievance review system.

(b) If a situation arises whereby there is a valid justification for submission of a grievance in excess of three in any one week or eight in one calendar month, it is the responsibility of the inmate submitting the grievance to clearly and concisely state in writing the reasons for the grievance. If the grievance coordinator determines that these reasons are not clear, concise, or valid for the submission of an additional grievance, the grievance will be returned to the inmate without processing in accordance with subsection (a) above.

(c) Actions taken against an inmate who has abused the grievance review system under these rules are not grievable.

###### (7) Retention/Filing of Inmate Grievances:



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(a) The grievance coordinator will retain a file copy of grievances with pertinent documents, including appeals, in accordance with the State Archivist schedule.

(b) Inmate grievances will not be filed in the inmate's working file.

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

Stat. Auth.: ORS 179.040, ORS 423.020, ORS 423.030 & ORS 423.075

Stats. Implemented: ORS 179.040, ORS 423.020, ORS 423.030 & ORS 423.075

Hist.: DOC 3-2003, f. 2-13-03, cert. ef. 3-1-03

## Department of Environmental Quality Chapter 340

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

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**Rules Adopted:** 340-012-0081, 340-012-0082, 340-012-0083

**Rules Amended:** 340-012-0045, 340-012-0049, 340-012-0090

**Rules Repealed:** 340-012-0069

**Subject:** Updates the Enforcement Procedure and Civil Penalty rule to include violations of new rules covering Emergency Response Requirements, Oil Spill Contingency Planning and Ballast Water Management.

**Rules Coordinator:** Rachel Sakata—(503) 229-5659

### 340-012-0045

#### Civil Penalty Determination Procedure

(1) When determining the amount of civil penalty to be assessed for any violation, other than violations of ORS 468.996, which are determined according to the procedure set forth below in OAR 340-012-0049(8), the Director 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 340-012-0050 to 340-012-0083;

(B) The magnitude of the violation is determined by first consulting the selected magnitude categories in OAR 340-012-0090. In the absence of a selected magnitude, the magnitude 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 the Commission's and Department's statutes, rules, standards, permits or orders, concentration, volume, percentage, duration, toxicity, 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 Commission's and Department's statutes, rules, standards, permits or orders, concentration, volume, percentage, duration, toxicity, 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 340-012-0042 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:  $BP + [(1 \times BP) \times (P + H + O + R + C)] + EB$ , 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. A violation is deemed to have become a Prior Significant Action on the date of the issuance of the first Formal Enforcement Action in which it is cited. For the purposes of this determination, violations that were the subject of any prior significant actions that were issued before the effective date of the Division 12 rules as adopted by the Commission in March 1989, shall be classified in accordance with the classifications set forth in the March 1989 rules to ensure equitable consideration of all prior significant actions. 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 violations significant actions are eight Class Ones or equivalents;

(xi) 10 if the prior significant actions are nine Class Ones or equivalents, or if any of the prior significant actions were issued for any violation of ORS 468.996;

(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; or

(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;

(xiv) A permittee, who would have received a Notice of Permit Violation, but instead received a civil penalty or Department Order because of the application of OAR 340-012-0040(2)(d), (e), (f), or (g) shall not have the violation(s) cited in the former action counted as a prior significant action, if the permittee fully complied with the provisions of any compliance order contained in the former action.

(B) "H" is Respondent's history in correcting prior significant actions or taking reasonable efforts to minimize the effects of the violation. 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 the majority of all prior significant actions;

(ii) 0 if there is no prior history or if there is insufficient information on which to base a finding.

(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, or if there is insufficient information on which to base a finding;

(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 a violation, took reasonable affirmative efforts to minimize the effects of the violation, or took extraordinary efforts to ensure the violation would not be repeated;

(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 or Commission may assess "EB" whether or not it applies the civil penalty formula above to determine the gravity and magnitude-based portion of the

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civil penalty, provided that the sum penalty does not exceed the maximum allowed for the violation by rule or statute. "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;

(iii) In determining the economic benefit component of a civil penalty, the Department may use the U.S. Environmental Protection Agency's BEN computer model, as adjusted annually to reflect changes in marginal tax rates, inflation rate and discount rate. With respect to significant or substantial change in the model, the Department shall use the version of the model that the Department finds will most accurately calculate the economic benefit gained by Respondent's noncompliance. Upon request of the Respondent, the Department will provide Respondent the name of the version of the model used and respond to any reasonable request for information about the content or operation of the model. The model's standard values for income tax rates, inflation rate and discount rate shall be presumed to apply to all Respondents unless a specific Respondent can demonstrate that the standard value does not reflect that Respondent's actual circumstance. Upon request of the Respondent, the Department will use the model in determining the economic benefit component of a civil penalty;

(iv) As stated above, under no circumstances shall the imposition of the economic benefit component of the penalty result in a penalty exceeding the statutory maximum allowed for the violation by rule or statute. When a violation has extended over more than one day, however, for determining the maximum penalty allowed, the Director may treat the violation as extending over at least as many days as necessary to recover the economic benefit of noncompliance. When the purpose of treating a violation as extending over more than one day is to recover the economic benefit, the Department has the discretion not to impose the gravity and magnitude-based portion of the penalty for more than one day.

(2) In addition to the factors listed in section (1) of this rule, the Director may consider any other relevant rule of the Commission and shall state the effect the consideration had on the penalty. On review, the Commission shall consider the factors contained in section (1) of this rule and any other relevant rule of the Commission.

(3) In determining a civil penalty, the Director may reduce any penalty by any amount the Director deems appropriate when the person has voluntarily disclosed the violation to the Department. In deciding whether a violation has been voluntarily disclosed, the Director may take into account any conditions the Director deems appropriate, including whether the violation was:

- (a) Discovered through an environmental auditing program or a systematic compliance program;
- (b) Voluntarily discovered;
- (c) Promptly disclosed;
- (d) Discovered and disclosed independently of the government or a third party;
- (e) Corrected and remedied;
- (f) Prevented from recurrence;
- (g) Not repeated;
- (h) Not the cause of significant harm to human health or the environment; and
- (i) Disclosed and corrected in a cooperative manner.

(4) The Department or Commission 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 or Commission 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 or Commission may reduce the penalty only after determining that the Respondent is unable to meet a long-term payment schedule;

(b) In determining the Respondent's ability to pay a civil penalty, the Department may use the U.S. Environmental Protection Agency's ABEL computer model to determine a Respondent's ability to pay the full civil penalty amount. With respect to significant or substantial change in the model, the Department shall use the version of the model that the Department finds will most accurately calculate the Respondent's ability to pay a civil penalty. Upon request of the Respondent, the Department will provide Respondent the name of the version of the model used and respond

to any reasonable request for information about the content or operation of the model;

(c) In appropriate circumstances, the Department or Commission 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 flagrant or situations where the Respondent's financial condition poses a serious concern regarding the ability or incentive to remain in compliance.

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 454.635, ORS 454.645, ORS 459.376, ORS 459.995, ORS 465.900, ORS 466.210, ORS 466.880 - ORS 466.895, ORS 468.090 - ORS 468.140, ORS 468.992, ORS 468A.990, ORS 468B.025, ORS 468B.220 & ORS 468B.450

Hist.: DEQ 78, f. 9-6-74, ef. 9-25-74; DEQ 22-1984, f. & ef. 11-8-84; DEQ 22-1988, f. & cert. ef. 9-14-88; DEQ 4-1989, f. & cert. ef. 3-14-89; DEQ 15-1990, f. & cert. ef. 3-30-90; DEQ 21-1992, f. & cert. ef. 8-11-92; DEQ 4-1994, f. & cert. ef. 3-14-94; DEQ 19-1998, f. & cert. ef. 10-12-98; DEQ 1-2003, f. & cert. ef. 1-31-03

## 340-012-0049

### Additional Civil Penalties

In addition to any other penalty provided by law, the following violations are subject to the civil penalties specified below:

(1) Any person who willfully or negligently causes an oil spill shall incur a civil penalty commensurate with the amount of damage incurred. The amount of the penalty shall be determined by the Director with the advice of the Director of the Department of Fish and Wildlife. In determining the amount of the penalty, the Director may consider the gravity of the violation, the previous record of the violator and such other considerations the Director deems appropriate.

(2) Any person planting contrary to the restriction of subsection (1) of ORS 468.465 pertaining to the open field burning of cereal grain acreage shall be assessed by the Department a civil penalty of \$25 for each acre planted contrary to the restrictions.

(3) Whenever an underground storage tank fee is due and owing under ORS 466.785 or 466.795, the Director may issue a civil penalty not less than \$25 nor more than \$100 for each day the fee is due and owing.

(4) Any owner or operator of a confined animal feeding operation who has not applied for or does not have a permit required by ORS 468B.050 shall be assessed a civil penalty of \$500.

(5) Any person who fails to pay an automobile emission fee when required by law or rule shall be assessed a civil penalty of \$50.

(6) Any person who has care, custody or control of a hazardous waste or a substance which would be a hazardous waste except for the fact that it is not discarded, useless or unwanted shall incur a civil penalty according to the schedule set forth in this section for the destruction, due to contamination of food or water supply by such waste or substance, of any of the wildlife referred to in this section that are property of the state:

- (a) Each game mammal other than mountain sheep, mountain goat, elk or silver gray squirrel, \$400;
- (b) Each mountain sheep or mountain goat, \$3,500;
- (c) Each elk, \$750;
- (d) Each silver gray squirrel, \$10;
- (e) Each game bird other than wild turkey, \$10;
- (f) Each wild turkey, \$50;
- (g) Each game fish other than salmon or steelhead trout, \$5;
- (h) Each salmon or steelhead trout, \$125;
- (i) Each fur-bearing mammal other than bobcat or fisher, \$50;
- (j) Each bobcat or fisher, \$350;
- (k) Each specimen of any wildlife species whose survival is specified by the wildlife laws or the laws of the United States as threatened or endangered, \$500;

(l) Each specimen of any wildlife species otherwise protected by the wildlife laws or the laws of the United States, but not otherwise referred to in this section, \$25.

(7) Any person who intentionally or recklessly violates any provisions of ORS 164.785, 459.205 - 459.426, 459.705 - 459.790, Chapters 465, 466, 467, or 468 or any rule or standard or order of the commission adopted or issued pursuant to ORS 459.205 - 459.426, 459.705 - 459.790, Chapters 465, 466, 467, 468, 468A, or 468B, which results in or creates the imminent likelihood for an extreme hazard to the public health or which causes extensive damage to the environment shall incur a penalty up to \$100,000. When determining the civil penalty sum to be assessed under this section, the Director shall apply the following procedures:

(a) Select one of the following base penalties after determining the cause of the violation:

- (A) \$50,000 if the violation was caused recklessly;
- (B) \$75,000 if the violation was caused intentionally;
- (C) \$100,000 if the violation was caused flagrantly.

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(b) Then determine the civil penalty through application of the formula:  $BP + [(1 \times BP) (P + H + O + C)] + EB$ , in accordance with OAR340-012-0045(1)(c).

Stat. Auth.: ORS 459.995, ORS 466, ORS 467, ORS 468.020 & ORS 468.996

Stats. Implemented: ORS 466.210, ORS 466.880 - ORS 466.895, ORS 468.996, ORS 468A.990, ORS 468A.992, ORS 468B.220 & ORS 468B.450

Hist.: DEQ 15-1990, f. & cert. ef. 3-30-90; DEQ 21-1992, f. & cert. ef. 8-11-92; DEQ 9-2000, f. & cert. ef. 7-21-00; DEQ 1-2003, f. & cert. ef. 1-31-03

## 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 by any person having ownership or control over oil or hazardous materials to immediately report all spills or releases or threatened spills or releases in amounts equal to or greater than the reportable quantity;

(e) Any violation related to the spill or release of oil or hazardous materials which causes a major harm or poses a major risk of harm to public health or the environment;

(g) Failure to have a spill response or contingency plan; or failure to follow emergency procedures contained in a spill response or contingency plan when the plan is required by permit, rule, or order; or failure to follow emergency requirements at OAR 340-108-0020(2); when failure could result in serious harm;

(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

## 340-012-0082

### Contingency Planning Classification of Violations

Violations pertaining to contingency planning shall be classified as follows:

#### (1) Class One:

(a) Violation of a requirement or condition of a Commission or Department Order;

(b) Failure to immediately implement the required oil spill prevention and emergency response contingency plan;

(c) Failure to immediately implement the site's applicable contingency plan;

(d) Operation of an onshore or offshore facility without an approved or conditionally approved oil spill prevention and emergency response contingency plan;

(e) Entry into the waters of the state by a covered vessel without an approved or conditionally approved oil spill prevention and emergency response contingency plan or purchased coverage under an umbrella oil spill prevention and emergency response contingency plan;

(f) Entry into the waters of the state by any covered vessel after the Department has denied such entry;

(g) Failure to maintain equipment, personnel and training at levels described in an approved or conditionally approved oil spill prevention and emergency response contingency plan;

(h) Knowingly submitting false information to the Department;

(i) Failure to establish and maintain financial assurance as required by statute, rule or order; or

(j) Failure by the owner or operator of an oil terminal facility, or covered vessel, to take all appropriate measures to prevent spills or overfilling during transfer of petroleum or hazardous material products.

#### (2) Class Two:

(a) Failure to pay the annual fee for all offshore and onshore facilities required to develop oil spill prevention and emergency response plans;

(b) Failure to pay the per trip fee for all regulated vessels or barges within thirty (30) days of conclusion of each trip;

(c) Failure by any onshore or offshore facility or covered vessel to submit an oil spill prevention and emergency response contingency plan to the Department at least 90 calendar days before beginning operations in Oregon;

(d) Failure, in the event of a spill, to have prepared and have available on-site a simplified field document summarizing key notification and action elements of a required vessel or facility contingency plan;

(e) Failure by a plan holder to submit and implement required changes to a required vessel or facility contingency plan that has received conditional approval status from the Department within thirty (30) calendar days of conditional approval;

(f) Failure of a covered vessel or facility contingency plan holder to submit the required vessel or facility contingency plan for re-approval at least ninety (90) days before the expiration date of the required vessel or facility contingency plan;

(g) Failure to obtain Department approval of the management or disposal of spilled oil or hazardous materials, or materials contaminated with oil or hazardous material, that are generated during spill response; or

(h) Any violation related to required contingency plans that 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;

(b) Failure of a vessel owner or operator to make maintenance and inspection records and oil transfer procedures available to the Department upon request;

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(c) Failure to have at least one copy of the required vessel or facility contingency plan in a central location accessible at any time by the incident commander or spill response manager;

(d) Failure to have the covered vessel field document available to all appropriate personnel in a conspicuous and accessible location;

(e) Failure to notify the Department within 24 hours of any significant changes that could affect implementation of a required vessel or facility contingency plan; or

(f) Failure to distribute amended page(s) of the plan changes to the Department within thirty (30) calendar days of the amendment.

Stat. Auth.: ORS 468B.350

Stats. Implemented: ORS 468B.345

Hist.: DEQ 1-2003, f. & cert. ef. 1-31-03

## 340-012-0083

### Ballast Water Management Classification of Violations

Violations pertaining to ballast water management shall be classified as follows.

(1) Class One:

(a) Violation of a Commission or Department Order;

(b) Failure to provide access to premises or records when required by law, rule, permit or order;

(c) Unauthorized discharging of ballast water; or

(d) Knowingly submitting false information.

(2) Class Two:

(a) Failure to report ballast water management information to the Department at least 24 hours before entering the waters of this State;

(b) Failure to file an amended ballast water management report after a change in the vessel's ballast water management plan; or

(c) Any violation of these rules related to ballast water management, or ballast water reports and reporting, that is not otherwise classified in these rules is a Class Two violation.

Stat. Auth.: ORS 783.600 to ORS 783.992

Stats. Implemented: ORS 783.620

Hist.: DEQ 1-2003, f. & cert. ef. 1-31-03

## 340-012-0090

### Selected Magnitude Categories

(1) Magnitudes for select violations pertaining to Air Quality may be determined as follows:

(a) Opacity limitation violations:

(A) Major — Opacity measurements or readings of more than 40 percent opacity over the applicable limitation;

(B) Moderate — Opacity measurements or readings between greater than 10 percent and 40 percent or less opacity over the applicable limitation;

(C) Minor — Opacity measurements or readings of ten percent or less opacity over the applicable limitation.

(b) Steaming rates, performance standards, and fuel usage limitations:

(A) Major — Greater than 1.3 times any applicable limitation;

(B) Moderate — From 1.1 up to and including 1.3 times any applicable limitation;

(C) Minor — Less than 1.1 times any applicable limitation.

(c) Air contaminant emission limitation violations for selected air pollutants:

(A) Magnitude determination shall be made based upon the following table: [Table not included. See ED. NOTE.]

(B) Major:

(i) Exceeding the annual amount as established by permit, rule or order by more than the above amount;

(ii) Exceeding the monthly amount as established by permit, rule or order by more than ten percent of the above amount;

(iii) Exceeding the daily amount as established by permit, rule or order by more than 0.5 percent of the above amount;

(iv) Exceeding the hourly amount as established by permit, rule or order by more than 0.1 percent of the above amount.

(C) Moderate:

(i) Exceeding the annual amount as established by permit, rule or order by an amount from 50 up to and including 100 percent of the above amount;

(ii) Exceeding the monthly amount as established by permit, rule or order by an amount from five up to and including ten percent of the above amount;

(iii) Exceeding the daily amount as established by permit, rule or order by an amount from 0.25 up to and including 0.50 percent of the above amount;

(iv) Exceeding the hourly amount as established by permit, rule or order by an amount from 0.05 up to and including 0.10 percent of the above amount.

(D) Minor:

(i) Exceeding the annual amount as established by permit, rule or order by an amount less than 50 percent of the above amount;

(ii) Exceeding the monthly amount as established by permit, rule or order by an amount less than five percent of the above amount;

(iii) Exceeding the daily amount as established by permit, rule or order by an amount less than 0.25 percent of the above amount;

(iv) Exceeding the hourly amount as established by permit, rule or order by an amount less than 0.05 percent of the above amount.

(d) Asbestos violations:

(A) Major — More than 260 lineal feet or more than 160 square feet or more than 35 cubic feet of asbestos-containing material;

(B) Moderate — From 40 lineal feet up to and including 260 lineal feet or from 80 square feet up to and including 160 square feet or from 17 cubic feet up to and including 35 cubic feet of asbestos-containing material;

(C) Minor — Less than 40 lineal feet or 80 square feet or less than 17 cubic feet of asbestos-containing material;

(D) The magnitude of the asbestos violation may be increased by one level if the material was comprised of more than five percent asbestos.

(e) Open burning violations:

(A) Major — Initiating or allowing the initiation of open burning of material constituting more than five cubic yards in volume;

(B) Moderate — Initiating or allowing the initiation of open burning of material constituting from one up to and including five cubic yards in volume, or if the Department lacks sufficient information on which to base a determination;

(C) Minor — Initiating or allowing the initiation of open burning of material constituting less than one cubic yard in volume;

(D) For the purposes of determining the magnitude of a violation only, five tires shall be deemed the equivalent in volume to one cubic yard.

(2) Magnitudes for select violations pertaining to Water Quality may be determined as follows:

(a) Violating wastewater discharge limitations:

(A) Major:

(i) Discharging more than 30% outside any applicable range for flow rate, concentration limitation, or mass limitation, except for toxics, pH, and bacteria; or

(ii) Discharging more than 10% over any applicable concentration limitation or mass load limitations for toxics; or

(iii) Discharging wastewater having a pH of more than 1.5 above or below any applicable pH range; or

(iv) Discharging more than 1,000 bacteria per 100 milliliters (bact./100 mls) over the effluent limitation; or

(v) Discharging wastes having more than 10% below any applicable removal rate.

(B) Moderate:

(i) Discharging from 10% to 30% outside any applicable range for flow rate, concentration limitation, or mass limitation, except for toxics, pH, and bacteria; or

(ii) Discharging from 5% to 10% over any applicable concentration limitation or mass load limitations for toxics; or

(iii) Discharging wastewater having a pH from 0.5 to 1.5 above or below any applicable pH range; or

(iv) Discharging from 500 to 1,000 bact./100 mls over the effluent limitation; or

(v) Discharging wastewater having from 5% to 10% below any applicable removal rate.

(C) Minor:

(i) Discharging less than 10% outside any applicable range for flow rate, concentration limitation or mass limitation, except for toxics, pH, and bacteria; or

(ii) Discharging less than 5% over any applicable concentration limitation or mass load limitations for toxics; or

(iii) Discharging wastewater having a pH of less than 0.5 above or below any applicable pH range; or

(iv) Discharging less than 500 bact./100 mls over the effluent limitation; or

(v) Discharging wastewater having less than 5% below any applicable removal rate.

(b) Causing violation of numeric water-quality standards:

(A) Major:

(i) Reducing or increasing any criteria by 25% or more of the standard except for toxics, pH, and turbidity;

(ii) Increasing toxics by any amount over the acute standard or by 100% or more of the chronic standard;

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(iii) Reducing or increasing pH by 1.0 pH unit or more from the standard;

(iv) Increasing turbidity by 50 nephelometric turbidity units (NTU) or more of the standard.

(B) Moderate:

(i) Reducing or increasing any criteria by more than 10% but less than 25% of the standard, except for toxics, pH, and turbidity;

(ii) Increasing toxics by more than 10% but less than 100% of the chronic standard;

(iii) Reducing or increasing pH by more than 0.5 pH unit but less than 1.0 pH unit from the standard;

(iv) Increasing turbidity by more than 20 but less than 50 NTU over the standard.

(C) Minor:

(i) Reducing or increasing any criteria by 10% or less of the standard, except for toxics, pH, and turbidity;

(ii) Increasing toxics by 10% or less of the chronic standard;

(iii) Reducing or increasing pH by 0.5 pH unit or less from the standard;

(iv) Increasing a turbidity standard by 20 NTU or less over the standard.

(D) The magnitude of the violation may be increased one level if the reduction or increase:

(i) Occurred in a stream which is water-quality limited for that criterion; or

(ii) For oxygen or turbidity in a stream where salmonids are rearing or spawning; or

(iii) For bacteria in shell-fish growing waters or during period June 1 through September 30.

(3) Magnitudes for select violations pertaining to Hazardous Waste may be determined as follows:

(a) Failure to make a hazardous waste determination:

(A) Major — Failure to make the determination on five or more waste streams;

(B) Moderate — Failure to make the determination on three or four waste streams;

(C) Minor — Failure to make the determination on one or two waste streams;

(D) The magnitude of the violation may be increased by one level, if more than 1,000 gallons of hazardous waste is involved in the violation;

(E) The magnitude of the violation may be decreased by one level, if less than 250 gallons of hazardous waste is involved in the violation.

(b) Hazardous Waste disposal violations:

(A) Major — Disposal of more than 150 gallons of hazardous waste, or the disposal of more than three gallons of acutely hazardous waste, or the disposal of any amount of hazardous waste or acutely hazardous waste that has a substantial impact on the local environment into which it was placed;

(B) Moderate — Disposal of 50 to 150 gallons of hazardous waste, or the disposal of one to three gallons of acutely hazardous waste;

(C) Minor — Disposal of less than 50 gallons of hazardous waste, or the disposal of less than one gallon of acutely hazardous waste when the violation had no potential for or had no more than de minimis actual adverse impact on the environment, nor posed any threat to public health, or other environmental receptors.

(c) Hazardous waste management violations:

(A) Major — Failure to comply with hazardous waste management requirements when more than 1,000 gallons of hazardous waste, or more than 20 gallons of acutely hazardous waste, are involved in the violation;

(B) Moderate — Failure to comply with hazardous waste management requirements when 250 to 1,000 gallons of hazardous waste, or when 5 to 20 gallons of acutely hazardous waste, are involved in the violation;

(C) Minor — Failure to comply with hazardous waste management requirements when less than 250 gallons of hazardous waste, or 10 gallons of acutely hazardous waste are involved in the violation.

(4) Magnitudes for select violations pertaining to Solid Waste may be determined as follows:

(a) Operating a solid waste disposal facility without a permit:

(A) Major — If the volume of material disposed of exceeds 400 cubic yards;

(B) Moderate — If the volume of material disposed of is between 40 and 400 cubic yards;

(C) Minor — If the volume of materials disposed of is less than 40 cubic yards;

(D) The magnitude of the violation may be raised by one magnitude if the material disposed of was either in the floodplain of waters of the state or within 100 feet of waters of the state.

(b) Failing to accurately report the amount of solid waste received.

(A) Major — If the amount of solid waste is underreported by more than 15% of the amount received;

(B) Moderate — If the amount of solid waste is underreported by from 5% to 15% of the amount received;

(C) Minor — If the amount of solid waste is underreported by less than 5% of the amount received.

(5) Magnitudes for select violations pertaining to spills of oil or hazardous materials may be adjusted when a violation listed in subsection (a) or (b) has been determined. Further, any overdue notification violation under subsection (b) is raised in significance as indicated in subsection (c) if the amount of the material involved equals or exceeds the reportable quantity (RQ) set by OAR 340-142:

(a) Failure to clean up spills involving the following quantities spilled to land and not threatening waters of the State:

(A) Major — Greater than 10 times the RQ.

(B) Moderate — From the RQ to 10 times the RQ.

(C) Minor — Less than the RQ.

(b) Overdue notification violations.

(A) Major — Notifying more than one week after the spill or release.

(B) Moderate — Notifying from 48 hours to one week after the spill or release.

(C) Minor — Notifying between 24 and 48 hours after the spill or release.

(c) Overdue notification violations are raised in relation to RQ:

(A) A spill or release of greater than 10 times the RQ increases minor or moderate magnitude violations in section (5)(b) to major magnitude violations.

(B) A spill or release equal to twice the RQ, or to 10 times the RQ, increases a minor magnitude violation in section (5)(b) to a moderate magnitude violation.

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

Stat. Auth.: ORS 468.065 & ORS 468A.045

Stats. Implemented: ORS 468.090 - ORS 468.140 & ORS 468A.060

Hist.: DEQ 21-1992, f. & cert. ef. 8-11-92; DEQ 4-1994, f. & cert. ef. 3-14-94; DEQ 19-1998, f. & cert. ef. 10-12-98; DEQ 1-2003, f. & cert. ef. 1-31-03

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**Rules Repealed:** 340-047-0005, 340-047-0010, 340-047-0015, 340-047-0020, 340-047-0025, 340-047-0035, 340-047-0040, 340-047-0100, 340-047-0110, 340-047-0120, 340-047-0130, 340-047-0140, 340-047-0150, 340-047-0160, 340-047-0170, 340-047-0180, 340-047-0190, 340-047-0200, 340-047-0210, 340-047-0220, 340-047-0230, 340-047-0240

**Subject:** Sets the planning requirements and fees for vessels and facilities required to have approved plans to operate.

**Rules Coordinator:** Rachel Sakata—(503) 229-5659

**340-141-0001**

**Purpose and Applicability**

(1) The purpose of these rules is to establish:

(a) Fees for covered vessels and facilities;

(b) Contingency preparedness and planning standards for covered vessels and facilities needing approved plans before operating in Oregon; and

(c) Standards for preparation, management and maintenance of contingency plans.

(2) Applicability:

(a) The owner or operator of an onshore facility, offshore facility and covered vessel must prepare, submit and use oil spill prevention and emergency response plans in accordance with the requirements of this Division. Federal plans required under **33 CFR 154**, **40 CFR 109**, **40 CFR 110**, or the Federal Oil Pollution Act of 1990 or plans required by other states may be submitted to satisfy plan requirements under this Division, if the Department

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deems that such federal or state requirements equal or exceed those of the Department.

[Publications: Publications referenced are available from the agency.]  
Stat. Auth.: ORS 468.020, ORS 468B.345 - ORS 468B.405  
Stats. Implemented: ORS 468B.300 - ORS 468B.500  
Hist.: DEQ 2-2003, f. & cert. ef. 1-31-03

## 340-141-0005

### Definitions as used in this Division

- (1) "Average Most Probable" spill, release or discharge means the probable volume of oil that may spill as defined in a plan considering the history of spills from similar facilities or vessels of the same class operating on the west coast of the United States. It may also be defined as the lesser of one percent of the worst case spill, release or discharge, or 50 barrels, when used as a planning volume.
- (2) "Best Achievable Protection" means the highest level of protection that can be achieved through the use of the best achievable technology and those staffing levels, training procedures and operational methods that provide the greatest degree of protection available considering:
  - (a) The additional protection provided by the measures;
  - (b) The technological feasibility of the measures; and
  - (c) The cost of the measures.
- (3) "Best Achievable Technology" means the technology that provides the greatest degree of protection, taking into consideration processes that are currently in use, processes that have been developed or processes that could feasibly be developed with reasonable expenditures on research and development. In determining what is best achievable technology, the Director will consider the effectiveness, engineering feasibility and commercial availability of the technology.
- (4) "Bulk" means material that is stored or transported in a loose, unpackaged liquid, powder or granular form capable of being conveyed by a pipe, bucket, chute or belt system.
- (5) "Cargo vessel" means a self-propelled ship in commerce, other than a tank vessel of 300 or more gross tons. "Cargo vessel" does not include a vessel used solely for commercial fish harvesting.
- (6) "Columbia River" means the length of the Columbia River from where it enters the State of Oregon from the State of Washington to the point where it leaves the state at river mile zero at the Pacific Ocean.
- (7) "Commercial Fish Harvesting" means taking food fish with any gear unlawful for angling under ORS 506.006, taking food fish in excess of the limits permitted for personal use, or taking food fish with the intent of disposing of such food fish or parts thereof for profit, or by sale, barter or trade, in commercial channels.
- (8) "Commission" means the Environmental Quality Commission.
- (9) "Contingency Plan" or "Plan" means an oil spill prevention and emergency response plan required under ORS 468B.345.
- (10) "Contract or other approved means" in a response or a plan means:
  - (a) A written contract between a covered vessel or facility owner or operator and an oil spill removal organization that identifies and ensures the availability of specified personnel and equipment within stipulated response times in specified oil spill response Zones;
  - (b) Certification by the vessel or facility owner or operator that specified personnel and equipment are owned, operated or under the direct control of the vessel or facility owner or operator and are available within stipulated response times in specified oil spill response Zones;
  - (c) Active membership in a local or regional oil spill removal organization that has identified specified personnel and equipment that are available to respond to an oil spill within stipulated response times in specified oil spill response Zones; or
  - (d) A written document that:
    - (A) Identifies personnel, equipment and services capable of being provided by the oil spill removal organization within stipulated response times in specified oil spill response Zones;
    - (B) Acknowledges that the oil spill removal organization intends to commit the identified resources in the event of an oil spill;
    - (C) Permits the commission to verify the availability of the identified oil spill removal resources through tests, inspections and exercises; and
    - (D) Is referenced in an oil spill contingency plan for the vessel or facility.
- (11) "Covered vessel" means a tank vessel, self-propelled tank vessel, cargo vessel or passenger vessel.
- (12) "Dedicated response vessel" means a vessel that limits service exclusively to recovering and transporting spilled oil, tanker escorting, deploying oil spill response equipment, supplies and personnel, spill response-related training, testing, exercises and research or other oil spill removal and related activities.
- (13) "Department" means the Department of Environmental Quality.
- (14) "Director" means the Director of the Department of Environmental Quality.
- (15) "Discharge" means any emission other than natural seepage of oil, whether intentional or unintentional. "Discharge" includes but is not limited to spilling, leaking, pumping, pouring, emitting, emptying or dumping oil.
- (16) "Drill" means the simulated performance of a spill response or task predicted in a plan.
- (17) "Effective Daily Recovery Capacity" or "EDRC" means the factor used to estimate limitations on equipment efficiency from variables such as sea state, current velocity or visibility.
- (18) "Field Document" means a simplified response plan for onsite use in the event of a spill, summarizing key notification and action elements.
- (19) "Facility" means a pipeline or any structure, group of structures, equipment or device, other than a vessel located on or near navigable waters of a state, that is used for producing, storing, handling, transferring, processing or transporting oil in bulk and that is capable of storing or transporting 10,000 or more gallons of oil per day. "Facility" does not include:
  - (a) A railroad car, motor vehicle or other rolling stock while transporting oil over the highways or rail lines of this state;
  - (b) An underground storage tank regulated by the Department of Environmental Quality or a local government under ORS 466.706 - 466.882 and 466.994; or
  - (c) Any structure, group of structures, equipment or device, other than a vessel located on or near navigable waters of a state, that is used for producing, storing, handling, transferring, processing or transporting 10,000 gallons or more of oil per day but does not receive oil from tank vessels, barges or pipelines.
- (20) "Initial assessment" is a task assigned to first responders who are participating with the Department in a Unified Command or Incident Command System, and includes the following tasks:
  - (a) Verifying the spill location;
  - (b) Establishing the type of incident based on products and conditions;
  - (c) Confirming or correcting the reported quantity released or area extent of the contamination;
  - (d) Reporting the efficacy of the initial containment;
  - (e) Projecting immediate resource needs to control the release; and
  - (f) Reporting local knowledge about the probable impacts of the release.
- (21) "Interim Storage Site" means a site used to temporarily store recovered oil or oily waste until the recovered oil or oily waste is disposed of at a permanent disposal site. Interim storage sites include trucks, barges and other vehicles used to store recovered oil or oily waste until transport begins.
- (22) "Maritime Association" means an association or cooperative of marine terminals, facilities, vessel owners, vessel operators, vessel agents or other maritime industry groups that provides oil spill response planning and spill related communications services within the state.
- (23) "Maximum Extent Practicable" means the highest level of effectiveness that can be achieved through staffing levels, training procedures and best achievable technology considering the effectiveness, engineering feasibility, commercial availability, safety and cost of the measures.
- (24) "National Interagency Incident Management System" or "NIIMS" means a style of Incident Command (IC). This is the type of organizational structure adopted by the State of Oregon.
- (25) "Navigable Waters" means the Columbia River, the Willamette River up to Willamette Falls, the Pacific Ocean and estuaries to the head of tide water.
- (26) "Non-Persistent Oil" means those petroleum products with physical characteristics less dense than persistent oils, also referred to as Group I petroleum products.
- (27) "Northwest Area Contingency Plan" means the regional emergency response plan developed in accordance with federal requirements and adopted as an annex to the State of Oregon all hazard plan as required by ORS 466.620.
- (28) "Offshore Facility" means any facility located in, on or under any of the navigable waters of the state.
- (29) "Oil" or "Oils" means oil including gasoline, crude oil, fuel oil, diesel oil, lubricating oil, oil sludge, oil refuse, and any other petroleum-related product.
- (30) "Oil Spill Contingency Response Planning Standards" means the Department's standards for reviewing oil spill contingency plans. The planning standards represent the Department's best general estimate of types and

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quantities of personnel and equipment required to ensure adequate response to any location.

(31) "Oil Spill Response Planning Zones" are geographic areas of the State for which the Department has established minimum planning standards. The Oil Spill Planning Zones are as follows:

(a) "Columbia River Zone" includes the Columbia River from where it enters the State of Oregon from the State of Washington to the point where it leaves the state at river mile zero at the Pacific Ocean, and extending 25 miles inland adjacent to the waterway. It is divided into four sub-Zones:

(A) "Columbia River, Upper River sub-Zone" means the Columbia River from the point where it enters Oregon from the State of Washington to the Bonneville Dam;

(B) "Columbia River, Portland sub-Zone" means the Willamette River below Willamette Falls, and the Columbia River between the Bonneville Dam and river mile 85 at St. Helens;

(C) "Columbia River, Rainier sub-Zone" means the Columbia River between river mile 85 at St. Helens and river mile 40 at Bugby Hole; and

(D) "Columbia River, Astoria sub-Zone" means the Columbia River between river mile 40 at Bugby Hole and river mile zero at the Pacific Ocean.

(b) "Coastal Bays Zone" means all ports on the Oregon coast where covered vessels make calls and extending inland 25 miles;

(c) "Open Ocean Zone" is the Pacific Ocean from the mark of average high tide out to the three mile limit of Oregon's authority; and

(d) "Inland Zone" means areas of Oregon where oil spill risks can be reduced through planning and contingency strategies, and not included in another listed Planning Zone.

(32) "Oily Waste" means oil contaminated waste resulting from an oil spill or oil spill response operations.

(33) "Onshore Facility" means any facility, located in, on or under any land of the state, other than submerged land, that, because of its location, could reasonably be expected to cause substantial harm to the environment by discharging oil into or on the navigable waters of the state or adjoining shorelines.

(34) "Owner or Operator" means:

(a) In the case of an onshore or offshore facility, any person owning or operating the facility.

(b) In the case of a vessel, any person owning, operating or chartering by demise, the vessel.

(c) In the case of an abandoned onshore or offshore facility, or vessel, the person who owned or operated the facility or vessel immediately before its abandonment.

(35) "Passenger vessel" means a ship of 300 or more gross tons carrying passengers for compensation.

(36) "Persistent Oil" means those petroleum products with environmental degradation resistance or viscosity characteristics equal to and greater than fuel oil having a specific gravity of more than 0.8, also referred to as Group II and higher petroleum products.

(37) "Person" includes individuals, corporations, associations, firms, partnerships, joint stock companies, public and municipal corporations, political subdivisions, the state and any agencies thereof, and the federal government and any agencies thereof.

(38) "Person Having Control Over Oil" includes, but is not limited to, any person using, storing or transporting oil immediately prior to entry of such oil into the navigable waters of the state, and specifically includes carriers and bailees of such oil.

(39) "Pipeline" means a facility, including piping, compressors, pump stations and storage tanks used to transport oil between facilities or between facilities and tank vessels.

(40) "Primary Response Contractor" means a response contractor that is identified in a required plan and is committed to the plan holder by contract or other approved means.

(41) "Region of Operation" with respect to the holder of a contingency plan means the area where the operations that require a contingency plan are located.

(42) "Resident" means that the resource is kept ready for use at an address within the planning Zone (or sub-Zone if planning standards specify) in which the facility or vessel is located.

(43) "Response Contractor" means an individual, organization, association, or cooperative that provides or intends to provide equipment, personnel for oil spill containment, cleanup or removal activities.

(44) "Self-propelled tank vessel" means a tank vessel that is capable of moving under its own power.

(45) "Ship" means any boat, ship, vessel, barge or other floating craft of any kind.

(46) "Spill or release" means the discharge, deposit, injection, dumping, spilling, emitting, releasing, leaking or placing of any oil or hazardous material into the air or into or on any land or waters of the state, as defined in ORS 468B.005, except as authorized by a permit issued under ORS chapter 454, 459, 459A, 468, 468A, 468B or 469, 466.005 to 466.385, 466.990(1) and (2) or 466.992 or federal law or while being stored or used for its intended purpose.

(47) "Tank vessel" means a ship that is constructed or adapted to carry, or that carries, oil in bulk as cargo or cargo residue. "Tank vessel" does not include:

(a) A vessel carrying oil in drums, barrels or other packages;

(b) A vessel carrying oil as fuel or stores for that vessel; or

(c) An oil spill response barge or vessel.

(48) "Trip" means travel to the appointed destination and return travel to the point of origin within the navigable waters of the State of Oregon.

(49) "Waters of the State" includes lakes, bays, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Pacific Ocean within the territorial limits of the State of Oregon and all other bodies of surface or underground waters, natural or artificial, inland or coastal, fresh or salt, public or private (except those private waters which do not combine or effect a junction with natural surface or underground waters), which are wholly or partially within or bordering the state or within its jurisdiction.

(50) "Worst case spill" means:

(a) In the case of a vessel, a spill of the entire cargo and fuel of the tank vessel complicated by adverse weather conditions.

(b) In the case of an onshore or offshore facility, the largest foreseeable spill in adverse weather conditions.

Stat. Auth.: ORS 468.020, ORS 468B.345 - ORS 468B.405

Stats. Implemented: ORS 468B.300 - ORS 468B.500

Hist.: DEQ 2-2003, f. & cert. ef. 1-31-03

## 340-141-0010

### Program Administration and Compliance Fees

(1) All offshore and onshore facilities required to develop oil spill prevention and emergency response plans under ORS 468B.345 will be assessed an annual fee of \$4,500. The fee is due in July, and covers the 12 month period commencing July 1.

(2) Covered vessels and facilities are subject to the following fees:

(a) Self-propelled tank vessels of more than 300 gross tons: \$836 per trip;

(b) Self-propelled tank vessels of 300 gross tons or less: \$42 per trip;

(c) Tank vessels and barges that are not self-propelled: \$42 per trip; and

(d) Cargo vessels: \$48 per trip.

(3) Fees assessed under section (2) must be remitted to the Department within 30 days of the conclusion of each trip.

(4) Moneys collected under this rule will be deposited in the State Treasury to the credit of the Oil Spill Prevention Fund established by ORS 468B.410.

Stat. Auth.: ORS 468.020, ORS 468B.345 - ORS 468B.500

Stats. Implemented: ORS 468B.405

Hist.: DEQ 2-2003, f. & cert. ef. 1-31-03

## 340-141-0100

### Plan Preparation

(1) The owner or operator of each onshore and offshore facility handling or storing 10,000 gallons of oil or more per day and of each covered vessel must prepare a contingency plan for the prevention, containment and cleanup of oil spills from the facility or vessel into the navigable waters of the state, and for the protection of fisheries and wildlife, other natural resources and public or private property from such spills.

(2) Plans must be in a form usable for oil spill prevention, control, containment, cleanup and disposal operations and must be capable of being located as required by OAR 340-141-0210(1) and (2).

(3) Plans must be thorough and contain enough information, analyses, supporting data and documentation to demonstrate the plan holder's ability to meet the requirements of this Division.

(4) Plans must be designed to promptly and properly remove oil and minimize environmental damage to the maximum extent practicable. They must cover a variety of spill sizes, including average most probable spills and worst case spills. At a minimum, plans must meet the plan content criteria specified in OAR 340-141-0140 and meet the planning standards in 340-141-0150.

Stat. Auth.: ORS 468.020, ORS 468B.395

Stats. Implemented: ORS 468B.355

Hist.: DEQ 2-2003, f. & cert. ef. 1-31-03

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## 340-141-0130

### Plan Format Requirements

(1) Plans must be prepared using a combination of narrative and graphic formats that provide both detailed spill response information and quick access to general information needed during an emergency response.

(2) Plans must be divided into a system of chapters and appendices. Chapters and appendices must be numbered. Chapters should be reserved primarily for information on emergency response and cleanup operations, such as notification procedures or description of the spill response organization structure. Appendices should be used primarily for supplemental background information and documentation such as response strategies or descriptions of drills and exercises. The spill prevention strategies may be part of the appendices.

(3) A system of index tabs must be used to provide easy reference to particular chapters and appendices.

(4) Plans must be formatted to allow replacement of revised pages and components without requiring replacement of the entire plan.

(5) Plans must include a simplified field document that summarizes key notification and action elements of the plan and is suitable for onsite use in the event of a spill.

(6) Plans may be submitted and updated electronically if all required plan components are in a form the Department can easily access. The Department will determine which types of electronic media are acceptable for the plan submittal.

(7) Composite plans that rely on standard documents the Department already has on file may incorporate those documents by reference.

Stat. Auth.: ORS 468.020, ORS 468B.395  
Stats. Implemented: ORS 468B.345 - ORS 468B.390  
Hist.: DEQ 2-2003, f. & cert. ef. 1-31-03

## 340-141-0140

### Plan Content Requirements

(1) Submittal Agreement. Each plan must contain a submittal agreement that:

(a) Includes the name, address and phone number of the submitting party;

(b) Verifies acceptance of the plan, including any incorporated contingency plans, by the owner or operator of the facility or covered vessel by either signature of the owner or operator or a person with authority to bind the corporation that owns or operates the facility or covered vessel;

(c) Commits to execution of the plan, including any incorporated contingency plans, by the owner or operator of the facility or covered vessel, and verifies authority for the plan holder to make appropriate expenditures in order to execute plan provisions; and

(d) Includes:

(A) In the case of a facility, the name, location including latitude, longitude and river mile, and address of the facility, type of facility, starting date of operations, types of oils (see definition of oil) handled, volume of oil stored and maximum volume of oil capable of being stored.

(B) In the case of a covered vessel, the vessel's name, the name, location and address of the owner or operator, official identification code or call sign, country of registry, common ports of call in Oregon, type of oils (see definition of oil) handled, volume of oil transported as fuel and expected period of operation in state waters.

(C) In the case of a covered vessel enrolled in a cooperative or maritime association plan, the vessel may provide evidence of coverage in lieu of paragraph (B) of this subsection.

(2) Amendments. Each plan must include a log sheet to record amendments to the plan. The log sheet must be placed at the front of the plan. The log sheet must provide for a record of the section amended, the date that the old section was replaced with the amended section, verification that the Department was notified of the amendment pursuant to OAR 340-141-0220(3) and the initials of the individual making the change. A description of the amendment and its purpose must also be included in the log sheet, or filed in the form of an amendment letter immediately after the log sheet.

(3) Table of Contents. Each plan must include a detailed table of contents based on chapter, section, appendix numbers and titles and tables and figures. If the plan is an integrated plan used to also satisfy USCG and USEPA requirements, a cross reference must be included.

(4) Purpose and Scope. Each plan must describe the purpose and scope of that plan, including:

(a) The region of operation covered by the plan;

(b) The onshore facility, offshore facility or covered vessel operations covered by the plan; and

(c) The size and type of the average most probable spill and the worst case spill from the facility or covered vessel.

(5) Updates. Each plan must describe the events or time periods that will trigger updates of the plan.

(6) Implementation Strategy. Each plan must present a strategy for ensuring use of the plan for spill response and cleanup operations as required by OAR 340-141-0210.

(7) Spill Response System. Each plan must describe the organization of the spill response system, including all task assignments anticipated by the end of the first full operational period, or necessary to manage the resources required by the 12 hour planning standard, given a response to an Average Most Probable Discharge. Plans must use a National Interagency Incident Management System (NIIMS) type of incident management system, as described in the Northwest Area Contingency Plan (NWACP).

(8) Contractor Identification. Each plan must identify the primary response contractor and subcontractors (except equipment rentals or supply vendors) whose services are bound to the plan by a contract or other approved means:

(a) If a plan holder is a member of an oil spill response cooperative and relies on that cooperative to perform or supplement its response operations within the regions of operations covered by the plan, the plan must state the cooperative's name, address, phone number and response capability. The plan must also include proof of cooperative membership; or

(b) If a plan holder is not a member of an oil spill response cooperative, for each contractor, the plan must state that contractor's name, address, phone number or other means of contact at any time of the day, and response capability (e.g., land spills only). For each contractor, the plan must include a letter of intent signed by the contractor which indicates the contractor's commitment to respond within the specified time period, with personnel and equipment listed in (12) and (13) of this section. Copies of written contracts or agreements with contractors must be available for inspection, if requested by the Department.

(9) Relationship to Other Plans. Each plan must briefly describe its relation to all applicable local, state, regional and federal government spill response plans. The plan must describe how the plan holder's response organization will be integrated into the Northwest Area Contingency Plan.

(10) Spill Detection. Each plan must list procedures that will be used to detect and document the presence and size of a spill, including methods which are effective during low visibility conditions. The plan must also describe the use of mechanical or electronic monitoring or alarm systems (including threshold sensitivities) used to detect oil discharges into adjacent land or water from tanks, pipes, manifolds and other transfer or storage equipment.

(11) Notifications. Each plan must describe procedures that will be taken to immediately notify appropriate parties that a spill has occurred.

(a) The plan holder must maintain a notification call out list that must be available for inspection upon the request of the Department, and that:

(A) Provides a contact at any time of the day for all spill response personnel identified under section (7) of this rule, including the contact's name, position title, phone number or other means of contact for any time of the day, and an alternate contact in the event the individual is unavailable;

(B) Lists the name and phone number of all government agencies that must be notified in the event of an oil spill pursuant to requirements under ORS 466.635; and

(C) Establishes a clear order of priority for immediate notifications.

(b) The plan must identify a central reporting office or individual who is responsible for implementing the call out process.

(12) Response Personnel. Each plan must describe the personnel, including contract personnel available, to respond to an oil spill, including:

(a) A job description for each type of spill response position needed as indicated in the spill response organization scheme addressed in section (7) of this rule, or a reference to a recognized NIIMS position;

(b) The number of personnel available to perform the duties of each type of spill response position;

(A) This number must be equal to or greater than the number of persons necessary to sustain a response to the worst case spill defined in the plan.

(B) If 24 hour operations are expected, the number of persons available to staff the ICS must be multiplied by the proposed number of operational periods (shifts).

(c) Arrangements for pre-positioning personnel at strategic locations that will meet criteria pursuant to OAR 340-141-0190(3)(d); and

(d) The type and frequency of spill response operations and safety training that each individual in a spill response position receives to attain the level of qualification demanded by their job description.

(13) Equipment and spill response resources. Each plan must describe equipment and spill resources as follows:



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(a) Each plan must list all resident equipment and resident dedicated response vessels used for oil containment, recovery, removal, shoreline and adjacent lands cleanup and wildlife rescue and rehabilitation. Each plan must also list all relied upon communication tools. The Department will accept information about equipment by reference if the equipment is being provided through a primary response contractor as part of the plan. The Department may request information about the condition and date of manufacture of any listed and referenced equipment to further evaluate its applicability to the planning standards or a response.

(b) For resident equipment and vessels listed under subsection (a) of this section that are not owned by or available exclusively to the plan holder, the plan must also estimate the extent that other contingency plans rely on the same equipment.

(c) For all resident oil containment and recovery equipment, the plan also must include equipment make and model, the manufacturer's nameplate capacity of the response equipment, the EDRC (in barrels per day) and applicable design limits (e.g., maximum wave height capability, suitability for inland waters or open ocean).

(d) Based on information described in subsection (c) of this section, the plan must state the maximum amount of oil that could be recovered per 24-hour period with the equipment used as it is designed.

(e) For purposes of determining plan adequacy under OAR 340-141-0190, and to assess realistic capabilities based on potential limitations by weather, sea state, and other variables, the Department will use the data presented in subsections (c) and (d) of this section to apply a higher efficiency factor for equipment listed in a plan if that plan holder provides adequate evidence that the higher efficiency factor is warranted for particular equipment or if the United States Coast Guard has approved a higher efficiency rating.

(f) The plan must provide arrangements for pre-positioning of oil spill response equipment at strategic locations that will meet response time criteria pursuant to OAR 340-141-0190(3)(d).

(g) When calculating the delivery time of equipment to a spill staging area, the plan must use travel speeds consistent with federal speed predictions for the equipment being moved.

(14) Communications. Each plan must describe the communication systems used for spill notification and response operations, including:

(a) Communication procedures that identify who will be responsible for the function, to whom and from whom communication will be established and any special instructions;

(b) The communication function (e.g., ground-to-air) assigned to each channel or frequency used;

(c) The maximum geographic range for each type of communications equipment used; and

(d) The communication system compatibility with key spill response agencies.

(15) Response Operation Sites. Each plan must describe the process used by the plan holder to establish sites needed for spill response operations, including location or location selection criteria for an incident command post, a communications center if located away from the command post and equipment and personnel staging areas.

(16) Response Flow Chart or Timeline. Each plan must describe the response process by:

(a) Presenting a flowchart or decision tree describing the procession of each major stage of spill response operations from spill discovery to completion of cleanup. The flowchart or decision tree must describe the general order and priority in which key spill response activities are performed; and

(b) Describing all key spill response operations in checklist forms, to be used by spill response managers in the event of an oil spill.

(17) Authorities. Each plan must describe responsible authorities by:

(a) Listing the local, state and other government authorities responsible for the emergency procedures peripheral to spill containment and cleanup; and

(b) Describing the plan holder's role in these emergency operation procedures before the proper authorities arrive, including but not limited to, control of fires and explosions, rescue activities, access restriction to the spill impact area and site security.

(18) Damage Control. Each plan must describe equipment and procedures to be used by the facility or covered vessel personnel to minimize the magnitude of the spill and minimize structural damage that could increase the quantity of oil spilled.

(a) For facilities, damage control procedures must include methods to slow or stop pipeline, storage tank, and other leaks, and methods to achieve immediate emergency shutdown.

(b) For tank vessels, damage control procedures must include methods and onboard equipment to achieve vessel stability and prevent further vessel damage, slow or stop pipe, tank, and other leaks and achieve emergency shutdown during oil transfer.

(c) For other covered vessels, damage control procedures must address methods to achieve vessel stability and slow or stop leaks from fuel tanks and lines.

(19) Containment. Each plan must describe, in detail, any nonstandard methods specific to the plan to contain spilled oil and recover it from the environment. When a plan calls for the use of methods that have not been expressly approved by the Department, the description of the proposed options must include:

(a) The surveillance methods expected to be used to detect and track the extent and movement of the spill; and

(b) A description of methods to be used to contain and remove oil that will be effective for environmentally sensitive locations included in the Zone, or Zones, for which the plan is written.

(20) Response Time. Each plan must briefly describe initial equipment and personnel deployment activities that will accomplish the response standard listed in OAR 340-141-0190(e)(d) and provide:

(a) An estimate of the actual execution time;

(b) The specific location in the Zone where the resident required response equipment is stored; and

(c) The source and management of personnel to deploy the initial response equipment.

(21) Chemical Agents. If the plan holder proposes to use dispersants, coagulants, bioremediants or other chemical agents for response operations under certain conditions, the plan must describe:

(a) Type and toxicity of chemicals, supplemented with material safety data sheets (MSDS) for each product;

(b) The conditions under which the chemicals will be applied, in conformance with all applicable local, state and federal requirements, including the Northwest Area Contingency plan and OAR 340-141-0020;

(c) Methods of deployment; and

(d) Location and accessibility of supplies and deployment equipment.

(22) In Situ-Burning. If the plan holder proposes to use in-situ burning for response operations, the plan must describe:

(a) Type of burning operations;

(b) Conditions under which burning will be applied in conformance with all applicable local, state and federal requirements, including the Northwest Area Contingency plan and OAR 340-264-0030 to 0040;

(c) Methods of application; and

(d) Location and accessibility of supplies and deployment equipment.

(23) Environmental Protection. Each plan must describe how environmental protection will be achieved, including:

(a) Protection of sensitive shoreline and island habitat by diverting or blocking oil movement;

(b) Priorities for sensitive area protection in the region of operation covered by the plan as provided in a Geographic Response Strategy of the Northwest Area Contingency Plan, or designated by the Department;

(c) Rescue and rehabilitation of birds, marine mammals and other wildlife contaminated or otherwise affected by the oil spill; and

(d) Measures taken to reduce damages to the environment caused by shoreline and adjacent land cleanup operations.

(24) Interim Storage. Each plan that has identified that oil will be recovered must plan for the storage of the oil and combined oily waste material potentially created.

(a) Each plan must describe site criteria and methods used for interim storage of oil recovered and oily wastes generated during response and cleanup operations, including sites available within the facility. Interim storage methods and sites must be designed to prevent contamination of the storage area by recovered oil and oily wastes.

(b) If use of interim storage sites will require approval by local, state or federal officials, the plan must include information that could expedite the approval process, including a list of appropriate contacts and a brief description of procedures to follow for each applicable approval process.

(c) Interim storage and permanent disposal methods and sites must be sufficient to sustain support for oil recovery operations and manage the entire volume of oil recovered and oily wastes generated.

(d) Interim storage and permanent disposal methods and sites must comply with all applicable local, state and federal requirements.

(25) Health and Safety. Each plan must describe procedures to protect the health and safety of oil spill response workers, and other individuals on-site. Provisions for training, decontamination facilities, safety gear and a safety officer position must be addressed.

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(26) Post Spill Review. Each plan must explain post-spill review procedures, including methods to review both the effectiveness of the plan and the need for plan amendments. Post-spill procedures must provide for a debriefing with the Department that will include any newly recognized need to amend the plan and list of any other lessons learned.

(27) Drills and Exercises. All approved plans must be verified by drills and exercises. Each plan must describe the schedule and type of drills and other exercises that will be practiced to ensure readiness of the plan elements, including drills that satisfy OAR 340-141-0200 (3).

(a) The plan holder must test and document internal call out procedures at least once every 90 calendar days. The plan holder must retain records of these drills for at least three years and make them available for Department review upon request.

(b) The plan holder must notify the Department of drills and exercises, at least 60 days before full deployment and tabletop drills, and 10 days prior to equipment exercises. Prior notice to the Department is not required before notification drills and internal phone number verification exercises.

(c) The plan holder must send post drill reports for all tabletop exercises or deployment drills to the Department no later than 60 days after the completion of the drill or exercise. The executive summary from a National Preparedness for Response Exercise Program (N-PREP) report may be submitted to meet this requirement when the exercise has been designed by the N-PREP staff.

(28) Risk Variables. Each plan must list the spill risk variables within the region of operation covered by the plan, including:

(a) Each plan for a facility must list the following:

(A) Types, physical properties and amounts of oil handled;

(B) A written description and map indicating site topography, stormwater and other drainage systems, mooring areas, pipelines, tanks, and other oil processing, storage and transfer sites and operations;

(C) A written description of sites or operations with a history of or high potential for oil spills, including key areas that pose significant navigation risk within the region of operation covered by the plan; and

(D) Methods to reduce spills during transfer operations, including overflow prevention.

(b) Each plan for a covered vessel must list the following:

(A) Types, physical properties and amounts of oil handled;

(B) A written description and diagram showing cargo, fuel and ballast tanks; and piping, power plants and other oil storage and transfer sites and operations; and

(C) A written description of operations with a history of or high potential for oil spills, including key areas that pose significant navigation risks within the region of operation covered by the plan.

(29) Environmental Variables. Each plan must list the environmental variables within the region of operation covered by the plan. Facility plans required to include river or coastal areas must identify the environmental variables from the probable point of release to the point the oil could travel in 24 hours in a current of four knots. Vessel contingency plans must encompass the entire length of the Oregon waterway in the Zone or sub-Zone entered. All plans must describe:

(a) Natural resources, including coastal and aquatic habitat types and sensitivity by season, breeding sites, presence of state or federally listed endangered or threatened species and presence of commercial and recreational species;

(b) Public resources, including public beaches, water intakes, drinking water supplies and marinas;

(c) Seasonal hydrographic and climatic conditions; and

(d) Physical geographic features, including relative isolation of coastal regions, beach types, and other geological characteristics. Plans may reference numbered Geographic Response Plan strategies (GRPs) in the Northwest Area Contingency Plan when identifying individual environmental features.

(30) Logistical Resources. Each plan must list the logistical resources within the region of operation covered by the plan, including facilities for fire services, medical services and accommodations; and shoreline access areas, including boat launches.

(31) Response Strategy Outline. Each plan must include a statement of the intended response activities. This statement must describe how the plan resources must be applied to adequately respond during the initial phase of the response to an average most probable and worst case spill, release or discharge. The Response Strategy Outline must begin with a description of the situation to be managed, and must describe:

(a) Deployment of resources and estimates of response times;

(b) The intended result of the activity for each person listed in section (7) and (12) of this section;

(c) Command and control arrangements;

(d) Required coordination; and

(e) Probable obstacles and an estimate of oil movement during the first 72 hours.

(32) Financial Responsibility. Each plan must provide evidence that the facility or vessel is in compliance with federal financial responsibility requirements pursuant to ORS 468B.390.

(33) Technical Terms Glossary. Each plan must include a glossary of technical terms and abbreviations used in the plan.

Stat. Auth.: ORS 468.020, ORS 468B.395

Stats. Implemented: ORS 468B.345 - ORS 468B.390

Hist.: DEQ 2-2003, f. & cert. ef. 1-31-03

## 340-141-0150

### Oil Spill Contingency Planning Standards

(1) The purpose of this rule is to establish oil spill prevention and emergency response contingency planning standards for onshore and offshore facilities, pipelines and vessels that will, when followed:

(a) Promote the prevention of oil spills;

(b) Promote a consistent west coast approach to oil spill prevention and response;

(c) Maximize the effectiveness and timeliness of oil spill response by responsible parties and response contractors;

(d) Ensure readiness of equipment and personnel;

(e) Support coordination with state, federal and other contingency plans in particular the state plan required under ORS 468B.495 - 468B.500; and

(f) Protect Oregon waters and other natural resources from the impacts of oil spills.

(2) A plan that conforms to the Department's planning standards, or alternative planning standard approved or required by the Department as provided in subsection (2)(a) and (2)(b), may be approved if all other planning requirements in this Division are met:

(a) Plans submitted that are based on standards that differ from the Department's planning standards must be supported by a detailed analysis that fully supports the methodology proposed. Alternative planning standards proposed by a plan submitter must be consistent with regional goals, be defended by the plan writer during public review of the plan and be approved by the Department.

(b) The Department will apply the applicable planning standard when evaluating the adequacy of a plan submitted to the Department for approval, unless the planning standards do not fully reflect the unique circumstances of a particular facility or vessel. If the Department determines that the plan does not fully protect the environment despite compliance with the general planning standards, the Department will provide a detailed written explanation of its decision outlining the basis for its decision and the specific changes needed in the submitted plan.

(3) Plan writers must identify in their plans adequate resources to protect the areas potentially affected by a spill from their facility or vessel. The plan must state how the Planning Standards, including any performance standards, will be achieved. Required resources are further described in section (4)(a), (4)(b) and (4)(c) of this rule. The lands and waters of the state are divided into Zones and sub-Zones for planning purposes. Planning standards are established for each Zone and sub-Zone covered by this Division:

(a) Facilities located in a sub-Zone of the Columbia River must meet the following planning standards, except as provided in subsections (g) and (h) of this section:

(A) By 1 hour after the discovery of a spill, the facility must have deployed containment boom around the spill source. The length of boom on hand for this purpose must be at least four times the length of the largest vessel, or combined vessel lengths, potentially at that facility. The boom must be placed in the water in a location and fashion so as to contain and facilitate recovery of the greatest amount of oil from the water.

(B) By 2 hours after the discovery of a spill, responders listed in the plan must be prepared to participate in an initial assessment of the release. The amount of boom deployed and available in reserve to be deployed, if needed, must be eight times the length of the largest vessel, or combined vessel lengths, potentially at that facility.

(C) By 6 hours after the discovery of a spill, the facility must arrange for recovery of spilled oil. There must be equipment and personnel on site with the ability to recover the lesser of 12,000 barrels of oil or an amount of oil equal to 10 percent of the facility's worst case spill from the water in the next 24 hours.

(D) By 12 hours after the discovery of a spill, the facility must have 35,000 feet of boom deployed or available at the designated staging area for equipment deployment. Facilities handling only nonpersistent oils need to

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have 15,000 feet of boom at this time. All facilities must have the ability at or before this time to recover the lesser of 36,000 barrels of oil or 15 percent of the worst case spill volume from the water in the next 24 hours. Facilities must have the ability to assess the impact of a spill on wildlife. Responders listed in the plan must have the ability to identify shoreline impacts.

(E) By 24 hours after the discovery of a spill, the facility must have in place equipment and personnel with the ability to recover oil from the water to the lesser of 48,000 barrels of oil or 20 percent of the worst case spill volume in the next 24 hours.

(F) By 48 hours after the discovery of a spill, the facility must have in place equipment and personnel with the ability to recover oil from the water to the lesser of 60,000 barrels of oil or 25 percent of the worst case spill volume in the next 24 hours.

(b) Facilities located in the Coastal Bays Zone must meet the following planning standards:

(A) By 1 hour after the discovery of a spill, the facility must have deployed containment boom around the spill source. The length of boom on hand for this purpose must be at least four times the length of the largest vessel, or combined vessel lengths, potentially at that facility. The boom must be placed in the water in a location and fashion so as to contain and facilitate recovery of the greatest amount of oil from the water.

(B) By 2 hours after the discovery of a spill, responders listed in the plan must be prepared to participate in an initial assessment of the release. The amount of boom deployed and available in reserve to be deployed if needed must be eight times the length of the largest vessel, or combined vessel lengths, potentially at that facility.

(C) By 6 hours after the discovery of a spill, the facility must arrange for recovery of spilled oil. There must be equipment and personnel on site with the ability to recover the lesser of 12,000 barrels of oil or an amount of oil equal to 10 percent of the facility's worst case spill from the water in the next 24 hours.

(D) By 12 hours after the discovery of a spill, the facility must have 35,000 feet of boom deployed or available at the designated staging area for equipment deployment. Facilities handling only nonpersistent oils need to have 10,000 feet of boom at this time. All facilities must have the ability to recover oil at or before this time and have in place equipment and personnel with the ability to recover the lesser of 36,000 barrels of oil or 15 percent of the worst case spill volume from the water in the next 24 hours. Facilities must have the ability to assess the impact of a spill on wildlife. Responders listed in the plan must have the ability to identify shoreline impacts.

(E) By 24 hours after the discovery of a spill, the facility must have deployed or have at the designated staging area for equipment deployment an amount of boom equal to 35,000 feet. Facilities handling only nonpersistent oils need to have 15,000 feet of boom at this time. All facilities must have in place equipment and personnel with the ability to recover from the water the lesser of 48,000 barrels of oil or 20 percent of the worst case spill volume in the next 24 hours.

(F) By 48 hours after the discovery of a spill, the facility must have the ability to recover oil from the water to the lesser of 60,000 barrels of oil or 25 percent of the worst case spill volume in the next 24 hours.

(c) Offshore facilities located in the Open Ocean Zone;

(A) By 1 hour after the discovery of a spill, the offshore facility must have begun deploying the open ocean rated boom required to be at the facility. This must be an amount of boom equal to the full perimeter of the offshore facility plus the length of the largest vessel or barge, or combined vessel lengths, moored at the offshore facility.

(B) By 6 hours after the discovery of a spill, responders listed in the plan must be prepared to participate in an initial assessment of the release. The offshore facility must also have the ability to begin recovering oil so an amount equal to 10 percent of the worst case spill volume can be recovered in the next 24 hours and stored on site.

(C) By 12 hours after the discovery of a spill, the offshore facility must have the ability to deploy protective boom at all sensitive coastal locations within 25 miles of the offshore facility. Facilities must have the ability to recover the lesser of 36,000 barrels of oil or 15 percent of the worst case spill volume from the water in the next 24 hours. Facilities must have the ability to assess the impact of a spill on wildlife. Responders listed in the plan must have the ability to identify shoreline impacts.

(D) By 24 hours after the discovery of a spill, the offshore facility must have the ability to recover oil from the water to the lesser of 48,000 barrels of oil or 20 percent of the worst case spill volume in the next 24 hours.

(E) By 48 hours after the discovery of a spill, the offshore facility must have the ability to establish shoreline cleanup resources and wildlife rescue services. The facility must have the ability to recover oil from the water to

the lesser of 60,000 barrels of oil or 25 percent of the worst case spill volume in the next 24 hours.

(d) Covered vessels operating in any sub-Zone of the Columbia River must meet the following planning standards:

(A) By 2 hours after the discovery of a spill, the responders listed in the operator's plan must be prepared to participate in an initial assessment of the release. Responders listed in the plan must have initiated deployment of containment boom around the source except in the case of passenger vessels, and vessels at risk of exacerbating the situation, where a deflection deployment for safety reasons may be used. The amount of boom being deployed must be the lesser of 1000 feet, or a length equal to four times the length of the vessel. The boom must be placed in the water in a location and fashion so as to safely contain and facilitate recovery of the greatest amount of oil from the water. Additional boom must be available at the staging area equal to the balance of four times the length of the vessel if the vessel is more than 250 feet in length. In all cases the plan must include, by contract or other approved means, a boat crew capable of deploying and tending the required boom to be operating on site at this time.

(B) By 6 hours after the discovery of a spill, the vessel operator must have arranged for recovery of spilled oil. There must be equipment and personnel available to be on site at this time with the ability to recover the lesser of 12,000 barrels of oil, or an amount of oil equal to two percent of the vessel's worst case spill, from the water in the next 24 hours. The vessel plan must also provide for the delivery of 10,000 feet of containment boom.

(C) By 12 hours after the discovery of a spill, the vessel operator must have the ability to deploy 40,000 feet of boom. There must be a recovery system capable of removing the lesser of 36,000 barrels of oil or five percent of the worst case spill volume from the water in the next 24 hours. Plans must include the ability to assess the impact of a spill on wildlife. Responders listed in the plan must have the ability to identify shoreline impacts.

(D) By 24 hours after the discovery of a spill, the vessel operator must have deployed, or have at the designated staging area for equipment deployment, equipment and operators with the ability to recover the lesser of 48,000 barrels of oil or 12 percent of the worst case spill volume from the water in the next 24 hours.

(E) By 48 hours after the discovery of a spill, the vessel operator must be able to arrange for an increased ability to recover oil from the water to the lesser of 60,000 barrels of oil or 17 percent of the worst case spill in the next 24 hours.

(e) Covered vessels operating in the Coastal Bays Zone must meet the following planning standards:

(A) By 2 hours after the discovery of a spill, the responders listed in the plan must be prepared to participate in an initial assessment of the release. Responders listed in the plan must have initiated deployment of containment boom around the source, or in the case of passenger vessels a deflection deployment for safety reasons. The amount of boom being deployed must be the lesser of 1,000 feet, or a length equal to four times the length of the vessel. The boom must be placed in the water in a location and fashion so as to contain and facilitate recovery of the greatest amount of oil from the water. Additional boom must be available at the staging area equal to the balance of four times the length of the vessel if the vessel is more than 250 feet in length. In all cases the plan must include, by contract or other approved means, a boat crew capable of deploying and tending the required boom to be operating on site at this time.

(B) By 6 hours after the discovery of a spill, the vessel operator must have arranged for recovery of spilled oil. There must be equipment and personnel on site at this time with the ability to recover the lesser of 12,000 barrels of oil or an amount of oil equal to two percent of the vessel's worst case spill from the water in the next 24 hours. The vessel plan must also have provided for the delivery to the site of 6,500 feet of containment boom.

(C) By 12 hours after the discovery of a spill, the vessel operator must have the ability to deploy 9,500 feet of boom. There must be a recovery system on site capable of removing the lesser of 36,000 barrels of oil or five percent of the worst case spill volume from the water in the next 24 hours. Vessels must have the ability to assess the impact of a spill on wildlife. Responders listed in the plan must have the ability to identify shoreline impacts.

(D) By 24 hours after the discovery of a spill, the vessel operator must have 14,000 feet of boom deployed, or at the designated staging area for equipment deployment, and equipment and operators with the ability to recover the lesser of 48,000 barrels of oil or 12 percent of the worst case spill volume from the water in the next 24 hours.

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(E) By 48 hours after the discovery of a spill, the vessel operator must be able to arrange to recover oil from the water to the lesser of 60,000 barrels of oil or 17 percent of the worst case spill volume in the next 24 hours.

(f) Covered vessels operating in the Open Ocean Zone:

(A) By 2 hours after the discovery of a spill, the responders listed in the plan must mobilize personnel, prepare to conduct an initial site assessment and site safety characterization of the spill area and arrange for aircraft for aerial observations. Transport of appropriate boom must take place in preparation for deployment at the source. In the case of passenger vessels, booming strategies must take into account the safety of passengers. Amount of boom must be the lesser of 1,000 feet, or a length equal to four times the length of the vessel. Booming strategies must maximize containment and facilitate recovery of the greatest amount of oil from the water. Additional boom must be available at the response resource staging area equal to the balance of four times the length of the vessel if the vessel is more than 250 feet in length. In all cases, the plan must have listed by contract or other approved means qualified personnel to accomplish the requirements of this paragraph.

(B) By 6 hours after the discovery of a spill, the vessel operator must have arranged for recovery of spilled oil. There must be equipment and personnel on site capable of recovering the lesser of 12,000 barrels of oil from the water or an amount of oil equal to two percent of the vessel's worst case spill in the next 24 hours. The vessel plan must also have provided for the delivery to the site of 10,000 feet of containment boom.

(C) By 12 hours after the discovery of a spill, the vessel operator must have the ability to deploy 40,000 feet of boom. There must be on site a recovery system capable of removing from the water the lesser of 36,000 barrels of oil or three percent of the worst case spill volume in the next 24 hours. Vessel operators must have the ability to assess the impact of a spill on wildlife. Responders listed in the plan must have the ability to identify shoreline impacts.

(D) By 24 hours after the discovery of a spill, the vessel operator must have deployed, or have at the designated staging area for equipment deployment, equipment and operators with the ability to recover the lesser of 48,000 barrels of oil or 12 percent of the worst case spill volume from the water in the next 24 hours.

(E) By 48 hours after the discovery of a spill, the vessel operator must be able to arrange to recover oil from the water to the lesser of 60,000 barrels of oil or 17 percent of the worst case spill volume in the next 24 hours.

(g) Pipelines located in, or crossing, a planning Zone where there is a potential for spilling or releasing oil to navigable waters of the state must meet the following planning standards:

(A) By 1 hour after the discovery of a spill, the pipeline operator must completely shutdown the pipeline.

(B) By 2 hours after the discovery of a spill, the pipeline operator or its dedicated response contractor must have deployed 1,000 feet of containment boom around the spill source entering the water. The boom must be placed in the water in a location and fashion so as to contain and facilitate recovery of the greatest amount of oil from the water.

(C) By 6 hours after the discovery of a spill, the pipeline operator must have arranged for recovery of spilled oil. There must be equipment and personnel on site capable of recovering the lesser of 12,000 barrels of oil or an amount of oil equal to 10 percent of the pipeline's worst case spill from the water in the next 24 hours.

(D) By 12 hours after the discovery of a spill, the pipeline operator must have 15,000 feet of boom deployed or at the designated staging area for equipment deployment. All pipelines must have the ability to recover oil at or before this time and have in place equipment and personnel with the ability to recover the lesser of 36,000 barrels of oil or 15 percent of the worst case spill volume from the water in the next 24 hours. The pipeline operator must have the ability to assess the damage potentially done to wildlife and shorelines in the impacted area of the spill.

(E) By 24 hours after the discovery of a spill, the pipeline operator must increase the ability to recover oil from the water to the lesser of 48,000 barrels of oil or 20 percent of the worst case spill volume in the next 24 hours. The pipeline operator must have arranged for sufficient boom of an appropriate design to be deployed for the protection of sensitive wildlife habitats within the potential drift of oil in 24 hours.

(F) By 48 hours after the discovery of a spill, the pipeline operator must increase the ability to recover oil from the water to the lesser of 60,000 barrels of oil or 25 percent of the worst case spill volume in the next 24 hours. The pipeline operator must have arranged for sufficient boom of an appropriate design to be deployed for the protection of sensitive wildlife habitats within the potential drift of oil in 48 hours.

(h) Pipelines located in, or crossing, the Inland Zone must meet the following planning standards:

(A) By 1 hour after the discovery of a spill, the pipeline operator must complete a shutdown of the pipeline.

(B) By 2 hours after the discovery of a spill, the pipeline operator must have assigned personnel and emergency equipment to locate the exact point of release. The pipeline operator must have arranged for the equipment and response personnel necessary to contain the spill.

(C) By 6 hours after the discovery of a spill, the pipeline operator must have the ability to complete the assessment of the spill. The pipeline operator must have the ability to rapidly get resources to the spill location using preplanned caches of materials where no local resources are resident.

(D) By 12 hours after the discovery of the spill, the pipeline operator must have the ability to recover free standing liquid oil from the environment equal to five percent of the worst case spill in the next 24 hours. The pipeline operator must have the ability to assess and mitigate the damage potentially done to wildlife, wildlife habitat and natural resources in the impacted area of the spill.

(E) By 24 hours after the discovery of a spill, the pipeline operator must have deployed or have at the designated staging area for equipment deployment an amount of equipment capable of removing 10 percent of the worst case spill volume from the land and any impacted water in the next 24 hours.

(F) By 48 hours after the discovery of a spill, the pipeline operator must increase the ability to remove oil from the environment to the lesser of 60,000 barrels in the next 24 hours, or 15 percent of the worst case spill volume. The pipeline operator must have arranged for sufficient equipment, of an appropriate design, to be deployed for the protection of sensitive wildlife habitats within the potential spread or travel of the oil in 24 hours.

(4) Resources identified in a plan to meet planning standards must include these conditions and qualifications:

(a) The required resources listed in the plans for facilities, not including transmission pipelines or pipeline terminals, must be the property of the plan holder or specifically available to the plan holder through a contract or other approved means. Those resources required for the first and second hours on the Columbia River must be stocks of materials and labor sources resident within the impacted sub-Zone. To meet the six hour planning standards, the resources on the Columbia River may also be those normally resident in an adjacent sub-Zone. To meet the planning standard on the Columbia River at 12 hours, the materials may be from resources resident in the Zone. Those resources required for the first through the sixth hours in a coastal bay must be stocks of materials and labor sources resident within the impacted Zone. To meet the 12-hour planning standards in Coastal and Inland Zones, the resources may be from an adjacent planning Zone.

(b) The required resources listed in a covered vessel plan must be the property of the plan holder, or specifically available to the plan holder through a contract or other approved means. Those resources necessary and available to meet planning standards for the initial response, and through the first two hours on the Columbia River must be stocks of materials and labor sources resident within the impacted sub-Zone. To meet the six hour planning standard, the resources may be from an adjacent sub-Zone. To meet the 12 hour planning standards the resources on the Columbia River must be those normally resident in that Zone. To meet planning standards at two hours and six hours in Coastal Bay Zone, the resources must be resident in the specific bay. To meet planning standards at 12 hours in the Coastal Bay Zone, the resources may be from an adjacent Zone.

(c) The required resources listed for a pipeline plan must be the property of the plan holder, or specifically available to the plan holder through a contract or other approved means. Those resources required for the first and second hours on the Columbia River must be stocks of materials and labor sources resident within the impacted sub-Zone. To meet the six hour planning standards, the resources on the Columbia River may also be those normally resident in an adjacent sub-Zone. To meet the 12 hour planning standard on the Columbia River, the materials may be from resources resident in the Zone. Those resources required for the first through the sixth hours in a Coastal Bay Zone must be stocks of materials and labor sources resident within the impacted Zone. To meet planning standards at 12 hours in Coastal and Inland Zones, the resources may be from an adjacent planning Zone.

(5) For all facilities, pipelines and covered vessels subject to planning standards in this rule, if equipment to recover oil from the water is required, the plan must identify interim storage for the recovered oil and oily water. Interim storage qualifications are described in section 0140 (24), the required content of contingency plans section of this rule, and are also addressed in OAR 340-142-0080. The Department will set plan specific interim storage planning standards, or apply a default interim storage capac-

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ity equal to three times the effective daily recovery capacity (EDRC) of the equipment used to achieve the recovery percentages or volumes given in the planning standards of section (3). EDRC is used in planning standards to adjust the total recovery ability of a particular piece of oil spill recovery equipment to a lower value compensating for any incidental water it may recover. Unless otherwise approved by the Department the nameplate efficiency for a piece of equipment will be derated to 20 percent of its manufacturer's claim. Requirements for the 6 to 12 hour planning standards must show how the plan will meet the need for interim storage.

Stat. Auth.: ORS 468.020, ORS 468B.395  
Stats. Implemented: ORS 468B.350  
Hist.: DEQ 2-2003, f. & cert. of. 1-31-03

## 340-141-0160

### Prevention Strategies for Facilities

(1) The owner or operator of each onshore and offshore facility must develop spill prevention strategies that will, when implemented, provide the best achievable protection from damages caused by the discharge of oil into the waters of the state. The strategies may be in the form of:

(a) Appendices to oil spill prevention and emergency response plans required under this chapter; or

(b) A stand alone prevention plan that meets all requirements of OAR 340-141-0100 to 340-141-0230.

(2) Spill Prevention Countermeasure and Control Plans (SPCC), Operation Manuals and other prevention documents prepared to meet federal requirements under 33 CFR 154, 33 CFR 156, 40 CFR 109, 40 CFR 112, or the Federal Oil Pollution Act of 1990 or plans prepared to meet the requirements of other states may be submitted to satisfy requirements under this chapter if the Department deems that such requirements equal or exceed those of the Department, or if the plans are modified or appended to satisfy requirements of this Division.

(3) Spill prevention strategies must at a minimum provide all of the following:

(a) Documentation of types and frequency of spill prevention training provided to applicable personnel;

(b) Evidence that the facility has an operations manual;

(c) A description of a drug and alcohol awareness program that provides training and information materials to all employees on recognition of alcohol and drug abuse treatment opportunities, and applicable company policies;

(d) Evidence of a maintenance and inspection program that includes:

(A) Summary of the frequency and type of all regularly scheduled inspection and preventative maintenance procedures for tanks, pipelines, key storage, transfer, or production equipment including associated pumps, valves, and flanges, and overpressure safety devices and other spill prevention equipment;

(B) Description of integrity testing of storage tanks and pipelines using such techniques as hydrostatic testing and visual inspection, including but not limited to the frequency of tests, means of identifying that a leak has occurred and measures to reduce spill risk if test material is product;

(C) External and internal corrosion detection and repair;

(D) Damage criteria for equipment repair or replacement;

(E) Maintenance and inspection records of the storage and transfer facilities and related equipment will be made available to the Department upon request; and

(F) Documentation required under 40 CFR 112.7(e) or 33 CFR 154, Subparts C and D may be used to address elements of this subsection.

(e) A description of the use of containment boom at facilities transferring persistent oil, including:

(A) Type(s) of boom used based upon the varied conditions within the region(s) of operation; and

(B) Methods of boom placement and anchoring.

(f) Identification of spill prevention technology currently in use, including if applicable:

(A) Tank and pipeline materials and design;

(B) Storage tank overflow alarms, tank overflow cutoff switches, low level alarms and automatic transfer shutdown systems, including methods to alert operators, system accuracy and tank fill margin remaining at time of alarm activation before overflow would occur at maximum pumping rate (documentation required under 40 CFR 112.7(e)(2)(viii) or 33 CFR 154.310(a) (12-13) may be used to address some or all of these elements);

(C) Leak detection systems for both active and nonactive pipeline conditions including detection thresholds in terms of duration and percentage of pipeline flow limitations on system performance due to normal pipeline events, and procedures for operator response to leak alarms (documentation

required under 40 CFR 112.7(e)(3) may be used to address some or all of these elements);

(D) Rapid pump and valve shutdown procedures, including means of ensuring that surge and overpressure conditions do not occur, rates of valve closure, sequence and time duration (average and maximum) for entire procedure, automatic and remote control capabilities utilized and visual displays of system status for operator use (documentation required under 40 CFR 112.7(e)(3) may be used to address some or all of these elements);

(E) Minimization of post-shutdown residual drainout from pipes, including criteria for locating valves, identification of all valves (including types and means of operation) that may be open during a transfer process, and any other techniques for reducing drain out;

(F) Means of relieving pressure due to thermal expansion of liquid in pipes during periods of nonuse;

(G) Secondary containment, including contents of the largest tank plus space for precipitation, and material design and permeability of the containment area (documentation required under 40 CFR 112.7(e)(1) and (2)(ii) - (iv) may be used to address some or all of these elements);

(H) Surge control systems;

(I) Internal and external corrosion control coatings or wrappings and instruments;

(J) Storm water and other drainage retention, treatment and discharge systems, including maximum storage capacities and identification of any applicable discharge permits (documentation required under 40 CFR 112.7(e)(1) and (2)(iii) and (ix) may be used to address some or all of these elements); and

(K) Criteria for suspension of operations while leak detection or other spill control systems are inoperative.

(g) A description of facility site security systems, including:

(A) Procedures for controlling and monitoring facility access;

(B) Lighting (documentation required under 33 CFR 154.570 may be used to address some or all of this element);

(C) Signage; and

(D) Right-of-way identification or other measures to prevent third party damage (documentation required under 40 CFR 122.7(e)(3)(v) and (9) may be used to address some or all of this element).

(h) History of any discharges of oil to the land or waters of the state in excess of 25 barrels (1,050 gallons) which occurred during the five-year period prior to the plan submittal date. For each discharge, describe:

(A) Quantity;

(B) Type of oil;

(C) Geographic area;

(D) Analysis of cause, including source(s) of discharged oil and contributing factors (e.g., equipment failure, employee error, adverse weather, etc.); and

(E) Measures taken to remedy the cause and prevent reoccurrence.

(i) A detailed and comprehensive site risk analysis that:

(A) Evaluates the construction, age, corrosion, inspection and maintenance, operation and oil spill risk of the transfer, production and storage system including piping, tanks, pumps, valves and associated equipment;

(B) Evaluates spill minimization and containment systems;

(C) Incorporates information required in subsection (f) of this section;

(D) Is prepared under the supervision of (and bears the seal of) a licensed professional engineer; and

(E) Includes documentation required under 40 CFR 112.7(b) and (e) may be used to address some or all of the elements in this subsection.

(j) A description of how the facility will incorporate those measures that will provide best achievable protection to address the spill risks identified in the risk analyses required in subsection (i) of this section. (Information documented pursuant to 40 CFR 112.7(e) and 33 CFR 154.310 may be used to address some or all of the elements of this subsection.)

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

Stat. Auth.: ORS 468.020, ORS 468B.395

Stats. Implemented: ORS 468B.345 - ORS 468B.390

Hist.: DEQ 2-2003, f. & cert. of. 1-31-03

## 340-141-0170

### Prevention Strategies for Vessels

(1) Each covered vessel must have spill prevention strategies that when implemented will provide the best achievable protection from damages caused by the discharge of oil into the waters of the state.

(2) Prevention documents prepared to meet federal requirements under the Oil Pollution Act of 1990 or plans prepared to meet the requirements of other states may be used to satisfy the criteria of this section.

(3) Vessel owners or operators will make maintenance and inspection records, and oil transfer procedures available to the Department upon request.

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Stat. Auth.: ORS 468.020, ORS 468B.395  
Stats. Implemented: ORS 468B.345 - ORS 468B.390  
Hist.: DEQ 2-2003, f. & cert. ef. 1-31-03

## 340-141-0180

### Plan Submittal

(1) Before operating in Oregon, facilities must submit plans for review as follows:

(a) Except as provided in (c), plans for facilities must be submitted to the Department at least 90 days before oil is moved into or out of the facility.

(b) Plans for covered vessels of 300 gross tons or more which transit the Columbia River and Willamette River must be submitted to the Department at least 90 days before that vessel enters navigable waters of the state.

(c) Plans for existing pipelines in the Inland Zone must be submitted by June 30, 2003. After June 30, 2003 plans for new pipelines must be submitted 90 days before pipeline operations commence.

(2) One complete copy of the plan (including appendices) must be submitted to the Department in printed or electronic form. Plans must be submitted to: Department of Environmental Quality, Emergency Response Program, 811 SW 6th Ave., Portland, Oregon 97204. Electronic copies must be sent to the Department on either standard computer disk or compact disk. A printed copy of the complete plan showing all revisions may be required during the public review period. The plan holder may be required to supply up to four printed copies of the final plan.

(3) Onshore and offshore facility plans may be submitted by:

(a) The facility owner or operator; or

(b) An oil spill response cooperative or maritime association in which the facility owner or operator is a participating member.

(4) Tank vessel plans may be submitted by:

(a) The tank vessel owner or operator;

(b) The owner or operator of a facility at which the tank vessel unloads cargo, in conformance with requirements under OAR 340-141-0150(1); or

(c) An oil spill response cooperative or maritime association in which the tank vessel owner or operator is a participating member.

(5) Cargo and passenger vessel plans may be submitted by:

(a) The vessel owner or operator;

(b) The agent for the vessel resident in this state;

(c) An oil spill response cooperative or maritime association in which the tank vessel owner or operator is a participating member; or

(d) A primary response contractor.

(6) Subject to the conditions imposed by the Department, the owner, operator, agent or a maritime association may submit a single contingency plan for cargo vessels or passenger vessels of a particular class.

(7) A single plan may be submitted for more than one facility or covered vessel owned by the same person, provided that the plan contents meet the requirements of OAR 340-141-0100 to 340-141-0230 for each facility, pipeline or covered vessel listed.

(8) The plan submitter may request that proprietary information be kept confidential under ORS 192.501(2). If a plan submitter wishes to claim that any provision in a plan is a trade secret, the submitter must specifically notify the Department of its claim and identify those provisions in the plan that are claimed to be trade secrets.

Stat. Auth.: ORS 468.020, ORS 468B.395  
Stats. Implemented: ORS 468B.355  
Hist.: DEQ 2-2003, f. & cert. ef. 1-31-03

## 340-141-0190

### Plan Review

(1) Upon receipt of a plan, the Department will promptly evaluate the plan for completeness. If the Department determines that a plan is incomplete, the submitter will be notified of deficiencies. The review period will not begin until the Department receives a complete plan. The Department will allow 30 days for the submitter to supply the missing components of the plan. After 30 days the plan will be returned without approval to the submitter.

(2) The Department will notify interested persons of any contingency plans under review by the Department, and make such plans available for review to ODFW, DLCD, the State Fire Marshal and any interested person. The Department will provide a 30-day period for agencies and other interested persons to comment on a plan.

(3) A Plan will be approved if, in addition to meeting criteria in OAR 340-141-0100 through 340-141-0170, it demonstrates that when implemented, it will:

(a) Provide for prompt and proper response to and cleanup of a variety of spills, including average most probable spills and worst case spills;

(b) Provide for prompt and proper protection of the environment from oil spills;

(c) Provide for immediate notification and mobilization of resources upon discovery of a spill; and

(d) Provide for initial deployment of response equipment and personnel at the site of the spill within one hour of discovery for facilities and two hours of discovery for covered vessels given suitable safety conditions.

(4) When reviewing plans, the Department will, in addition to the above criteria, consider the following:

(a) The volume and type of oil(s) addressed by the plan;

(b) The history and circumstances of prior spills by similar types of facilities, including spill reports by Department spill responders;

(c) The presence of operating hazards;

(d) The sensitivity and value of natural resources within the Oil Spill Response Planning Zones and geographic area covered by the plan;

(e) Any pertinent local, state, federal agency or public comments received on the plan; and

(f) The extent that reasonable, cost-effective spill prevention measures have been incorporated into the plan.

(5) The Department may approve a plan without a full review pursuant to this rule if that plan has been approved by a federal agency or other state using approval criteria that equal or exceed those of the Department.

(6) The Department will endeavor to notify the facility or covered vessel owner or operator within five working days after the review is completed whether the plan has been approved.

(7) If the plan is approved, the facility or covered vessel owner or operator will receive a certificate of approval describing the conditions of approval, including an expiration date not to exceed five years.

(8) The Department may approve a plan conditionally by requiring the owner or operator of a facility or covered vessel owner or operator to operate with specific precautionary measures until unacceptable components of the plan are resubmitted and approved.

(a) Precautionary measures may include, but are not limited to, placing spill containment boom around all vessels during oil transfers, reducing oil transfer rates, increasing personnel levels, or restricting operations to daylight hours. Precautionary measures may also include additional requirements to ensure availability of response workers and equipment.

(b) A plan holder will have 30 calendar days after the Department gives notification of conditional status to submit and implement required changes to the Department, with the option for an extension at the Department's discretion. Plan holders who fail to meet conditional requirements or provide required changes in the time allowed will lose conditional approval status.

(c) The Department may use plan approval with conditions as an alternate to rejecting a plan with minor defects.

(9) If plan approval is denied, the owner or operator of the facility or covered vessel will be given a written explanation of the Department's reasons for disapproval and a list of actions needed to gain approval. The facility or covered vessel must not commence or continue oil storage, transport, transfer, production or other operations until a plan for that facility or covered vessel has been approved.

(10) If a plan holder demonstrates an inability to comply with an approved contingency plan or otherwise fails to comply with requirements of this Division, the Department may, at its discretion:

(a) Place conditions on approval pursuant to section (8) of this rule; or

(b) Revoke its approval.

(11) Approval of a plan by the Department does not constitute an express assurance regarding the adequacy of the plan or constitute a defense to liability imposed under state law.

(12) A plan holder may request a hearing on the Department's decision under OAR chapter 340, division 11.

Stat. Auth.: ORS 468.020, ORS 468B.390  
Stats. Implemented: ORS 468B.365  
Hist.: DEQ 2-2003, f. & cert. ef. 1-31-03

## 340-141-0200

### Drills, Exercises, and Inspections

(1) The Department may require plan holders of approved plans to participate in one announced drill or one unannounced limited drill annually.

(2) As a condition of plan approval, the Department may require that the plan holder successfully conduct drills of the elements of a plan submitted for approval.

(3) Requirements under sections (1) and (2) of this rule may be met:

(a) By drills led by other state, local or federal authorities, if the Department finds that the criteria for drill execution and review equal or exceed those of the Department;

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(b) By drills initiated by the plan holder, if the Department participates, reviews and evaluates the drill, and if the Department finds that the drill adequately tests the plan; or

(c) By responses to actual spill events, if the Department participates, reviews and evaluates the spill response, and if the Department finds that the spill event adequately tests the plan.

(4) The Department may excuse a primary response contractor from full deployment participation in more than one drill if, in the past 12 months, the primary response contractor has performed to the Department's satisfaction in a full deployment drill in an exercise listed in section (3) of this rule or has satisfactorily responded to a significant spill event in Oregon.

(5) The Department may require the facility or covered vessel owner or operator to participate in additional drills beyond those required in section (1) of this rule if the Department is not satisfied with the adequacy of the plan or plan implementation during exercises or spill response events.

(6) The Department will review the degree to which the specifications of the plan are implemented during the drill. The Department will endeavor to notify the facility or covered vessel owner or operator of the review results within 30 calendar days following the drill. If the Department finds deficiencies in the plan, the Department will report those deficiencies to the plan holder and require the plan holder to make specific amendments to the plan pursuant to requirements of OAR 340-141-0220.

(7) The Department may publish an annual report on plan drills, including a summary of response times, actual equipment and personnel use, recommendations for plan requirement changes and industry response to those recommendations.

(8) The Department may require the plan holder to publish an annual report on plan drills including a summary of response times, active equipment and personnel use and recommendations for improvement.

(9) The Department may verify compliance with this Division by unannounced inspections in accordance with ORS 468B.370.

Stat. Auth.: ORS 468.020, ORS 468B.390  
Stats. Implemented: ORS 468B.370 - ORS 468B.380  
Hist.: DEQ 2-2003, f. & cert. ef. 1-31-03

## 340-141-0210

### Plan Maintenance and Use

(1) At least one copy of the plan must be kept in a central location accessible at any time by the incident commander or spill response manager named in accordance with OAR 340-141-0140(7). Each facility covered by the plan must possess a copy of the plan and keep it in a conspicuous and accessible location.

(2) A field document prepared under OAR 340-141-0130(5) must be available to all appropriate personnel. Each covered vessel covered by the plan must possess a copy of the field document and keep it in a conspicuous and accessible location.

(3) A facility or covered vessel owner or operator or their designee must implement the plan in the event of a spill. The owner or operator of the facility or covered vessel must receive approval from the Department before it conducts any major aspect of the spill response contrary to the plan unless:

(a) Such actions are necessary to protect human health and safety;

(b) Such actions must be performed immediately in response to unforeseen conditions to avoid additional environmental damage; or

(c) The plan holder has been directed to perform such actions by the Department or the United States Coast Guard.

Stat. Auth.: ORS 468.020, ORS 468B.345 - ORS 468B.390  
Stats. Implemented: ORS 468B.345 - ORS 468B.390  
Hist.: DEQ 2-2003, f. & cert. ef. 1-31-03

## 340-141-0220

### Plan Update Timeline

(1) The Department must be notified in writing as soon as possible and within 24 hours of any significant change that could affect implementation of the plan, including a significant decrease in available spill response equipment or personnel. Decreases are significant if they prevent the owner or operator from carrying out the requirements of the plan in the time specified in the Oil Spill Contingency Response Planning Standards for the Zones or sub-Zones of operation. The plan holder must also provide a schedule for the prompt return of the plan to full operational status. A receipt confirmed e-mail or facsimile will be considered written notice for purposes of this section. Changes that are not considered significant include minor variations in equipment or personnel characteristics, call out lists or operating procedures. Failure to notify the Department of significant changes constitutes noncompliance with this rule as well as an inability to comply with an approved plan under OAR 340-141-0210(3).

(2) If the Department finds that, as a result of a change, the plan no longer meets approval criteria pursuant to OAR 340-141-0190, the

Department may, in its discretion, place conditions on approval, require additional drills or inspections or revoke approval in accordance with OAR 340-141-0190(8). Plan holders are encouraged to maintain backup response resources in order to ensure that their plans can always be fully implemented.

(3) Within 30 calendar days of an approved change in the plan, the owner or operator of the facility or covered vessel must distribute the amended pages of the plan to the Department and other plan holders.

(4) Plans must be reviewed by the Department every five years pursuant to ORS 468B.345(3). Plans must be submitted for reapproval unless the plan holder submits a letter requesting that the Department review the plan already in the Department's possession. The plan holder must submit the plan or such a letter at least 90 calendar days before expiration of the plan.

(5) The Department may review a plan following any spill for which the plan holder is responsible.

(6) The Department may require plan holders of approved plans to renew the signed letter of intent required by OAR 340-141-0100 annually to confirm that there has been no change to the plan or the plan holder's commitment to its use.

Stat. Auth.: ORS 468.020, ORS 468B.345 - ORS 468B.390  
Stats. Implemented: ORS 468B.345 - ORS 468B.365  
Hist.: DEQ 2-2003, f. & cert. ef. 1-31-03

## 340-141-0230

### Noncompliance with Plan Requirements

(1) No person may cause or permit the operation of an onshore or offshore facility in the state, or a covered vessel within the navigable waters of the state without a properly implemented oil spill prevention and emergency response plan approved by the Department.

(2) No person may cause or permit the operation of a facility or covered vessel without proof of financial responsibility in compliance with ORS 468B.390, which requires the equivalent of the federal requirement.

(3) Any violation of this division will be subject to the enforcement and penalty provisions of ORS 468.140, and OAR 340 division 012.

Stat. Auth.: ORS 468.020, ORS 468B.345 - ORS 468B.390  
Stats. Implemented: ORS 468B.345 - ORS 468B.390  
Hist.: DEQ 2-2003, f. & cert. ef. 1-31-03

## 340-141-0240

### Equipment Mutual Aid

(1) The Department may preapprove the transfer of equipment, materials or personnel by a plan holder to another plan holder, or person, when necessary to assist in response to an oil discharge.

(2) The Department's preapproval may include:

(a) Waiver of response times specified in a plan; or

(b) Conditions specified by the Department regarding, but not limited to, notification to the Department, return or replacement of equipment, materials or personnel and measures necessary to prevent or reduce the potential for discharges during the period of reduced response capability.

(3) Preapproval under this rule does not require plan modification or update.

Stat. Auth.: ORS 468.020, ORS 468B.345 - ORS 468B.390  
Stats. Implemented: ORS 468B.365  
Hist.: DEQ 2-2003, f. & cert. ef. 1-31-03

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**Rules Repealed:** 340-108-0001, 340-108-0002, 340-108-0010, 340-108-0020, 340-108-0030, 340-108-0040, 340-108-0050, 340-108-0070, 340-108-0080

**Subject:** Sets the emergency response requirements for spills of oil and hazardous materials.

**Rules Coordinator:** Rachel Sakata—(503) 229-5659

## 340-142-0001

### Purpose and Scope

(1) The purpose of these rules is to identify the emergency response actions, reporting obligations, and follow up actions required in response to a spill or release, or threatened spill or release of oil or hazardous materials.

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(2) The rules of this division apply to any person owning or having control over any oil or hazardous material spilled or released or threatening to spill or release, except:

(a) Spills or releases or threatened spills or releases from underground heating oil tanks must be reported and remediated in accordance with OAR 340 division 177.

(b) Spills or releases or threatened spills or releases from petroleum underground storage tank (UST) systems must be reported and remediated in accordance with OAR 340-122-0205 through 0360.

(3) Spills or releases or threatened spills or releases of hazardous waste occurring on the site of a generator must be managed in accordance with both the contingency plan and emergency procedures required by Subpart C and D of 40 CFR 265 and this division.

(4) Spills or releases or threatened spills or releases of hazardous waste on the site of a hazardous waste treatment, storage or disposal facility must be managed in accordance with the contingency plan and emergency procedures required by Subparts C and D of 40 CFR Part 265, or a permit issued pursuant to OAR chapter 340, divisions 105 and 106, and this division.

(5) Spills or releases of Hazardous Substances regulated by the Hazardous Substance Remedial Action rules, OAR 340-122-0010 to 340-122-0110, must be managed in accordance with this division during the emergency response phase.

(6) Spills or releases or threatened spills or releases of pesticide or pesticide residue must be managed in accordance with this division during the emergency response phase.

(7) Spills or releases of chemicals from a dry cleaning facility must be reported and managed as required by ORS 465.505 and this division.

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

Stat. Auth: ORS 183, ORS 459, ORS 466 & ORS 468B

Stats. Implemented: ORS 466.625

Hist.: DEQ 3-2003, f. & cert. ef. 1-31-03

## 340-142-0005

### Definitions as Used in This Division Unless Otherwise Specified

(1) "Barrel" means 42 U.S. gallons at 60 degrees Fahrenheit.

(2) "Cleanup" means the containment, collection, removal, treatment or disposal of oil or hazardous material; site restoration; and any investigations, monitoring, surveys, testing and other information gathering required or conducted by the Department.

(3) "Cleanup Costs" means all costs associated with the cleanup of a spill or release incurred by the state, its political subdivision or any person with written approval from the Department when implementing ORS 466.205, 466.605 to 466.680, 468B.990(3) and (4) and 466.995 or 468B.320.

(4) "Commission" means the Environmental Quality Commission.

(5) "Department" means the Department of Environmental Quality.

(6) "Director" means the Director of the Department of Environmental Quality.

(7) "Dry cleaning facility" means any active or inactive facility located in this state that is or was engaged in dry cleaning apparel and household fabrics for the general public, and dry stores, other than a:

(a) Facility located on a United States military base;

(b) Uniform service or linen supply facility;

(c) Prison or other penal institution; or

(d) Facility engaged in dry cleaning operations only as a dry store and selling less than \$50,000 per year of dry cleaning services.

(8) "Having Control Over Any Oil or Hazardous Material" includes, but is not limited to using, handling, processing, manufacturing, storing, treating, disposing or transporting oil or hazardous material. During transport this also includes oil or hazardous materials that are cargo, fuel, or a part or fluid in the transporting vessel, vehicle, aircraft, or railcar.

(9) "Hazardous material" means one of the following:

(a) Hazardous waste as defined in ORS 466.005.

(b) Radioactive waste as defined in ORS 469.300, radioactive material identified by the Energy Facility Siting Council under ORS 469.605 and radioactive substances as defined in ORS 453.005.

(c) Communicable disease agents as regulated by the Health Division under ORS chapter 431 and ORS 433.010 to 433.045 and 433.106 to 433.990.

(d) Hazardous substances designated by the United States Environmental Protection Agency under section 311 of the Federal Water Pollution Control Act, P.L. 92-500, as amended.

(e) Substances listed by the United States Environmental Protection Agency in 40 Code of Federal Regulations Part 302 — Table 302.4 (List of Hazardous Substances and Reportable Quantities) and amendments.

(f) Material regulated as a Chemical Agent under ORS 465.550.

(g) Material used as a weapon of mass destruction, or biological weapon.

(h) Pesticide residue.

(i) Dry cleaning solvent as defined by ORS 465.200(9).

(10) "Immediately" in relation to a response to a spill means that the actions necessary to protect human health and the environment take priority over all other concerns of the responsible person.

(11) "Incident Commander" means the individual under the National Interagency Incident Management System (NIIMS) Incident Command System that is responsible for the overall management and control of responding entities. The first emergency responder to arrive at the scene becomes the incident commander until relieved, or the incident is over. The Department is the Lead Agency of the State of Oregon during the cleanup phase of oil and hazardous material incidents, and relieves the Incident Commander when the life safety portion of the emergency response is complete and the focus of the effort is on containment and cleanup of oil or hazardous materials.

(12) "Initial assessment" includes, but is not limited to, the following tasks:

(a) Verifying the spill location;

(b) Establishing of the type of incident based on products and conditions;

(c) Confirming or correcting the reported quantity released or areal extent of the contamination;

(d) Reporting the efficacy of the initial containment;

(e) Projecting immediate resource needs to control the release;

(f) Reporting local knowledge about the probable impacts of the release;

(g) Providing the Department with information necessary to the Department's preliminary risk evaluation for the incident and characterizing of the release; and

(h) Other tasks as necessary to collect ephemeral data and information ascertainable only at the time of the release.

(13) "Lead Agency" means the designated representative authority of either the state or federal government. The Department is the Lead Agency of the State of Oregon for oil and hazardous materials incidents. The Environmental Protection Agency and the United States Coast Guard are the Lead agencies of the federal government for oil and hazardous materials incidents. The Lead Agency appoints the State or Federal On-Scene Coordinator.

(14) "Non-petroleum oils" includes synthetic lubricants, edible oil, vegetable oils, and animal oils.

(15) "Oils" or "Oil" includes gasoline, crude oil, fuel oil, diesel oil, lubricating oil, sludge, oil refuse and any other petroleum related product.

(16) "Person" includes, but is not limited to, an individual, trust, firm, joint stock company, corporation, partnership, association, municipal corporation, political subdivision, interstate body, the state and any agency or commission thereof and the federal government and any agency thereof.

(17) "Pesticide" has the meaning given in ORS 634.006.

(18) "Pesticide Residue" means a hazardous waste that is generated from pesticide operations and pesticide management, such as, from pesticide use (except household use), manufacturing, repackaging, formulation, bulking and mixing, and spills. Pesticide residue includes, but is not limited to, unused commercial pesticides, tank or container bottoms or sludges, pesticide spray mixture, container rinsings and pesticide equipment washings, and substances generated from pesticide treatment, recycling, disposal, and rinsing spray and pesticide equipment. Pesticide residue does not include pesticide-containing materials that are used according to label instructions, and substances such as, but not limited to treated soil, treated wood, food-stuff, water, vegetation, and treated seeds where pesticides were applied according to label instructions.

(19) "Plan" as used in this Division, means any spill prevention, contingency, or emergency response document prepared in compliance with the requirements of a federal, state, or local government authority.

(20) "Reportable quantity" is an amount of oil or hazardous material which if spilled or released, or threatens to spill or release, in quantities equal to or greater than those specified in OAR 340-142-0050 must be reported pursuant to OAR 340-142-0040.

(21) "Respond" or "response" means:

(a) Actions taken to monitor, assess and evaluate a spill or release or threatened spill or release of oil or hazardous material;

(b) First aid, rescue or medical services, and fire suppression; or

(c) Containment or other actions appropriate to prevent, minimize or mitigate damage to the public health, safety, welfare or the environment



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which may result from a spill or release or threatened spill or release if action is not taken.

(22) "Responsible Person" means any person owning or having control over any oil or hazardous material spilled or released or threatening to spill or release.

(23) "SOSC" means State On-Scene Coordinator, the state official appointed by the Department when serving as the lead agency to represent the interests of the Department and the State of Oregon in response to an oil or hazardous material spill or release or threatened spill or release. The SOSC coordinates the interests of other state and local agencies within a unified command. Before assuming an incident command role under the National Interagency Incident Management System (NIIMS) Incident Command System, the SOSC may provide technical advice to police, fire and other first responders, and coordinate a cleanup response with state and local agencies.

(24) "Spill or Release" means the discharge, deposit, injection, dumping, spilling, emitting, releasing, leaking or placing of any oil or hazardous material into the air or into or on any land or waters of the state, as defined in 468B.005, except as authorized by a permit issued under ORS Chapter 454, 459, 459A, 468, 468A, 468B or 469, ORS 466.005 to 466.385, 466.990(1) and (2), 466.992 or federal law or while being stored or used for its intended purpose.

(25) "Threatened Spill or Release" means oil or hazardous material is likely to escape or be carried into the air or into or on any land or waters of the state

(26) "Unified Command" means the combined representatives of the Lead Agencies, responsible person, and others with the authority to make ultimate decisions as part of a National Interagency Incident Management System (NIIMS)-style Incident Command System during an emergency response.

(27) "Waters of the State" includes lakes, bays, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Pacific Ocean within the territorial limits of the State of Oregon and all other bodies of surface or underground waters, natural or artificial, inland or coastal, fresh or salt, public or private (except those private waters which do not combine or effect a junction with natural surface or underground waters), which are wholly or partially within or bordering the state or within its jurisdiction.

[Publications: Publications referenced are available from the agency.]  
Stat. Auth: ORS 183, ORS 459, ORS 466 & ORS 468B  
Stats. Implemented: ORS 466.605 & ORS 466.630  
Hist.: DEQ 3-2003, f. & cert. ef. 1-31-03

## 340-142-0030

### Emergency Action

(1) In the event of a spill or release or threatened spill or release of oil or hazardous material, the person owning or having control over the oil or hazardous material must take the following actions:

(a) Immediately implement the applicable spill plan or other contingency plan document prepared in compliance with the requirements of a federal, state, or local government authority, or

(b) If a spill plan or contingency plan covered in section (1)(a) of this rule is not implemented for any reason, immediately take the following actions in the order listed:

(A) Activate alarms or otherwise warn persons in the immediate area; and

(B) Undertake every reasonable method to stop the spill and contain the oil or hazardous material; and

(C) If there is a medical emergency or public safety hazard call 911, where available, or local fire and/or police where 911 does not exist.

(D) Arrange for properly trained and equipped personnel or contractor to stop any continuing release and manage the specific material spilled:

(i) Responsible persons will immediately hire a qualified contractor to respond and manage the spill if the necessary actions are beyond the ability of the responsible person's representatives on-site or the responsible person's own response services will be delayed in arriving at the spill site.

(ii) If the person owning or having control over oil or hazardous material does not, or can not, immediately arrange a response acceptable to the Department, the Department may dispatch a contractor. The Department will seek recovery of all costs incurred by the Department resulting from this action.

(c) In addition to subsection (1)(a) or (1)(b) above, immediately report the spill or release as required by OAR 340-142-0040.

(2) Responsible persons at the site of an oil or hazardous materials spill must make an initial assessment of the spill. Responders must coordinate resource deployment with the Department if the spill is being managed by the Department. This includes responses where the responsible person is

coordinating contractor activities with Department guidance. It does not include first responders acting solely under the direction of a local fire department or the Oregon State Fire Marshal.

(3) The responsible person must clean up the spill or release, and take steps to mitigate any threatened spill or release of oil or hazardous material as provided in this division. The Department may, in any case, evaluate the action taken and may require additional action to complete the cleanup and disposal. The costs of such an evaluation are cleanup costs recoverable by the Department from the liable party. (Comment: 40 CFR 264.1(g) states that a hazardous waste management facility permit is not required for treatment or containment activities taken during immediate response to a spill or release of a hazardous waste.)

Stat. Auth: ORS 183, ORS 459, ORS 466 & ORS 468B  
Stats. Implemented: ORS 466.635, ORS 466.625 & ORS 466.645  
Hist.: DEQ 3-2003, f. & cert. ef. 1-31-03

## 340-142-0040

### Required Reporting

(1) Reporting is required if the amount of oil or hazardous material spilled or released, or threatening to spill or release, exceeds the reportable quantity established in ORS 466.605 or listed in OAR 340-142-0050, or will exceed a reportable quantity in any 24-hour period. Immediately report the spill or release or threatened spill or release to the Oregon Emergency Management Division's Oregon Emergency Response System (OERS) by calling 1-800-452-0311.

(2) No present release of material is needed to qualify as a threatened spill or release. Threatened spills or releases of oil or hazardous material likely to escape or be carried into the air or into or on any land or waters of the state include, but are not limited to:

(a) The loss of steering or propulsion by a deep draft vessel while it is operating in the Columbia River or Coastal Bay Zones;

(b) The accidental loss of tow or control during an oil barge transit of the Columbia River or the Coastal Bays Planning Zones;

(c) The grounding, allision, or collision of vessels, vehicles, or rail cars where reportable quantities of materials are involved and are at risk of release;

(d) The physical compromise of a containment system or container holding any oil or hazardous material of an amount that could become a reportable quantity when spilled over less than a 24 hour time period.

(3) Reports of spills and releases, or threats of spills and releases, from vessels, containers or tanks must include an estimate of the actual volume of the contents of the source vessel, container or tank.

(4) The spill or release of hazardous materials for which the reportable quantity has been exceeded need not be reported to the Oregon Emergency Response System if all of the following conditions are met:

(a) It occurs within an engineered containment area with an impervious surface designed to contain such a release;

(b) It does not penetrate any surface of the containment area;

(c) The spilled material does not and will not escape the containment;

(d) It is completely cleaned up in less than 24 hours; and

(e) The cause of the spill or release is repaired.

Stat. Auth: ORS 465, ORS 466 & ORS 468B  
Stats. Implemented: ORS 466.625 & ORS 466.635.  
Hist.: DEQ 3-2003, f. & cert. ef. 1-31-03

## 340-142-0050

### Reportable Quantities

(1) Spills and releases, or threatened spills or releases of oil or hazardous materials as defined by OAR 340-142-0005(9) in quantities equal to or greater than the following amounts must be reported:

(a) Any quantity of radioactive material or radioactive waste;

(b) If spilled or discharged into waters of the state or in a location from which it is likely to escape into waters of the state any quantity of oil that would produce a visible film, sheen, oily slick, oily solids, or coat aquatic life, habitat or property with oil, but excluding normal discharges from properly operating marine engines;

(c) If spilled on the surface of the land, and not likely to escape into waters of the state, any quantity of oil over one barrel (42 gallons);

(d) An amount equal to or greater than the quantity listed in 40 CFR Part 302 — Table 302.4 (List of Hazardous Substances and Reportable Quantities) and amendments adopted prior to July 1, 2002;

(e) 10 pounds or more of a hazardous material not otherwise listed as having a different reportable quantity by the Department or the United States Environmental Protection Agency on the list of hazardous substances in 40 CFR 302.4;

(f) Any quantity of chemical agent (such as nerve agents GB or VX, blister agent HD, etc.);

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- (g) 200 pounds (25 gallons) of pesticide residue;
- (h) Any quantity of a material regulated as a Chemical Agent under ORS 465.550;
- (i) Any quantity of a material used as a weapon of mass destruction, or biological weapon;
- (j) One pound (1 cup) or more of dry cleaning solvent, including perchloroethylene, spilled or released outside the designed containment by a dry cleaning facility regulated under ORS 465.505(4).

(2) Spills or releases of products, mixtures or solutions containing oil or hazardous materials for which reporting is required must also be reported if the total quantity of all the hazardous materials in the mixture or solution (in pounds) exceeds the lowest reportable quantity referenced in this rule for any one of the hazardous materials in the mixture or solution. A person may rely upon actual knowledge and readily available information such as material safety data sheets (MSDS), shipping papers, hazardous waste manifests and container labels, to determine the presence and concentration of hazardous materials in a mixture or solution.

(3) The quantity determination required by section (1) of this rule will be the quantity of oil or hazardous material spilled or released before contacting or mixing with any other material or substance (e.g., with soil, water, sawdust, etc.). In the case of a threatened spill or release, the applicable quantity is the amount of oil or hazardous material in the container or tank from which a spill or release is likely and imminent.

Stat. Auth.: ORS 183, ORS 459, ORS 465, ORS 466 & ORS 468B  
Stats. Implemented: ORS 465.550, ORS 466.605, ORS 466.625, ORS 466.630 & ORS 466.635  
Hist.: DEQ 3-2003, f. & cert. ef. 1-31-03

## 340-142-0060

### Cleanup Standards

(1) Any person liable for a spill or release or threatened spill or release of oil or hazardous materials must immediately clean up the spill or release or threatened spill or release as required by applicable Department rules. The cleanup of a threatened spill or release must be accomplished by taking immediate repair, corrective or containment action.

(2) Spills and releases of oil or hazardous materials must be cleaned up as completely as possible. The acceptable level of oil or hazardous material that may remain will be determined by the Department in a manner consistent with OAR chapter 340 division 122-0010 to 122-0590, or a rule of the Department applying to the specific material being cleaned up.

(3) Spills and releases of hazardous wastes must be cleaned up in accordance with OAR chapter 340 division 102 immediately after completion of the emergency actions. Cleanup standards applied will be consistent with those applied to non-emergency cleanups.

(4) Intentional dilution of wastes during a spill response to avoid regulations is prohibited.

Stat. Auth.: ORS 466  
Stats. Implemented: ORS 466.625 & ORS 466.645  
Hist.: DEQ 3-2003, f. & cert. ef. 1-31-03

## 340-142-0070

### Approval Required for Use of Chemicals

(1) Use of any material on water to coagulate oil spills, treat oil spills, or disperse oil spills, must be specifically approved by the Department in advance of such use.

(2) Physical removal of oil, and any materials added to the environment during the spill response, will ordinarily be required unless the Department determines the use of chemical dispersants is warranted by extreme fire danger or other unusually hazardous circumstances.

(3) Use of surfactants and treatments to remove oil spill contamination from marine structures and vessels is limited to those materials approved by the Department during a response.

(4) Fire suppressant materials must be used in accordance with the manufacturer's instructions.

Stat. Auth.: ORS 468B  
Stats. Implemented: ORS 468B.315  
Hist.: DEQ 3-2003, f. & cert. ef. 1-31-03

## 340-142-0080

### Disposal of Recovered Spill Materials

(1) Spilled oils and oil contaminated materials resulting from control, treatment, and clean up must be handled and disposed of in a manner approved by the Department.

(2) Oils and oily wastes resulting from clean up of an oil spill may be disposed of by reclaiming and recycling, disposing at a disposal site operated under and in accordance with a permit issued pursuant to ORS Chapter 459 or treating and discharging in accordance with a permit issued under ORS 468B.050.

(3) Recovered hazardous materials or hazardous waste must be disposed of in compliance with the rules and statutes applicable to the specific material after the emergency phase of a response is complete. Disposal conducted during the emergency must be consistent with Department rules unless health, safety, and environmental concerns require alternate procedures approved by the Department during the emergency.

(4) Any storage of recovered oil or hazardous materials between its recovery and permanent disposal must be of sufficient capacity and design to provide for complete containment of all recovered materials and contaminated media. Interim storage must also be sited so as to cause the lowest practicable environmental impact, and be fully compatible with all applicable safety requirements.

Stat. Auth.: ORS 449  
Stats. Implemented: ORS 468B.315  
Hist.: DEQ 3-2003, f. & cert. ef. 1-31-03

## 340-142-0090

### Cleanup Report

The Department may require the responsible person to submit a written report to the Department describing all aspects of the spill and cleanup, and steps taken to prevent a recurrence.

Stat. Auth.: ORS 183, ORS 466 & ORS 468B  
Stats. Implemented: ORS 466.610, ORS 466.625, ORS 466.645 & ORS 468B.305 - 315  
Hist.: DEQ 3-2003, f. & cert. ef. 1-31-03

## 340-142-0100

### Sampling/Testing Procedures

All samples used to support and define spill cleanup must be of a type approved by EPA, or the Department, such as those listed in the EPA Office of Solid Waste guidance SW 846. Samples and sampling procedures must be appropriate for the site conditions and materials spilled and be consistent with Department guidance. If the cleanup of spilled materials will be part of a more complex site cleanup, sampling procedures and plans should anticipate greater information needs and be developed and coordinated with the Department.

[Publications: Publications referenced are available from the agency.]  
Stat. Auth.: ORS 466, ORS 468B  
Stats. Implemented: ORS 466.625  
Hist.: DEQ 3-2003, f. & cert. ef. 1-31-03

## 340-142-0120

### Information Requests, Inspections and Investigations

(1) To determine the need for response to a spill or release or threatened spill or release under ORS 466.605 to 466.680, 466.990(3) and (4), 466.995 (3) and 468.070, and this division, or enforce the provisions of ORS 466.605 to 466.680, 466.990(3) and (4), 466.995 (3) and 468.070, and this division, any person who prepares, manufactures, processes, packages, stores, transports, handles, uses, applies, treats or disposes of oil or hazardous material must, upon the request of the Department:

- (a) Furnish information relating to the oil or hazardous material; and
- (b) Permit the Department at all reasonable times to have access to and copy records relating to the type, quantity, storage locations and hazards of the oil or hazardous material.

(2) To carry out section (1) of this rule, the Department may enter to inspect at reasonable times any establishment or other place where oil or hazardous material is present.

(3) The Department may conduct an investigation as necessary to identify the person or persons responsible for a spill or release or threatened spill or release. The cost of this investigation is a cleanup cost and recoverable from the liable party or parties.

(4) ORS 192.501 provides that certain records (i.e., trade secrets) are exempt from disclosure under ORS 192.410 to 192.505 unless the public interest requires disclosure in a particular instance. Persons required to provide information under section (1) of this rule may request that the Department treat some or all of their information as exempt from public disclosure by:

(a) Making the claim in writing at the time the requested information is first provided to the Department; and

(b) Providing any written documentation or analysis that supports the claim of exemption from public disclosure at the time the requested information is first provided to the Department.

Stat. Auth.: ORS 466 & ORS 468  
Stats. Implemented: ORS 192.501 ORS 466.190, ORS 466.610 & ORS 468.095  
Hist.: DEQ 3-2003, f. & cert. ef. 1-31-03

## 340-142-0130

### Incident Management and Emergency Operations

(1) Any person required by an approved plan or a rule, contract, permit or formal agreement to coordinate activity with the Department during

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an emergency involving a spill or release of oil or hazardous material must follow a protocol of organization consistent with the National Interagency Incident Management System (NIIMS).

(2) Any person required by an approved plan or a rule, contract, permit or formal agreement to coordinate activity with the Department during an emergency involving a spill or release of oil or hazardous material must accept the Department as the Lead Agency of the State for cleanup at oil and hazardous materials incidents. The Department will assign a State On-Scene Coordinator (SOSC). The SOSC will represent all state agencies responding to the incident. The SOSC will be the point of contact through which the Director will delegate assignments in an emergency. The SOSC will assume the NIIMS command role from any local Incident Commander when the incident requires state or federal management.

(3) Any person required to coordinate with the Department must do so regardless of whether or not the Department staff responding to the spill or other emergency is available at the site of the spill or other emergency. The Department may provide services from a remote location. Telephone communication, electronically transmitted data, facsimile transmission, or other communication with responders constitutes a presence at an incident command location or spill site and carries the full authority of the Department.

Stat. Auth.: ORS 466.625, ORS 468B.010  
Stats. Implemented: ORS 466.610, ORS 466.620, and ORS 468B.395  
Hist.: DEQ 3-2003, f. & cert. ef. 1-31-03

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**Adm. Order No.:** DEQ 4-2003

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**Rules Adopted:** 340-230-0365, 340-230-0370, 340-230-0373, 340-230-0375, 340-230-0377, 340-230-0380, 340-230-0383, 340-230-0385, 340-230-0387, 340-230-0390, 340-230-0395

**Rules Amended:** 340-230-0010, 340-230-0020, 340-230-0030, 340-230-0120, 340-230-0300, 340-230-0310, 340-230-0320, 340-230-0330, 340-230-0340, 340-230-0350, 340-238-0040, 340-238-0050, 340-238-0060, 340-244-0200, 340-244-0210, 340-244-0220, 340-244-0230

**Rules Repealed:** 340-230-0360

**Subject:** Adopts by reference federal National Emission Standards for Hazardous Air Pollutants (NESHAPs), New Source Performance Standards (NSPS) and emission standards for existing municipal waste combustors. These rules will affect 7 NESHAP source categories and 2 NSPS source categories. By adopting these rules, the Department will maintain consistency with the federal requirements. The Department also adopted new application deadlines for State Maximum Achievable Control Technology (MACT) for existing sources. The Department also proposes to remove the performance testing requirement and compliance demonstration deadline from State MACT for new and reconstructed major hazardous air pollutant (HAP) sources.

**Rules Coordinator:** Rachel Sakata—(503) 229-5659

## 340-230-0010

### Purpose

The purpose of this division is to establish state of the art emission standards, design requirements, and performance standards for all solid and infectious waste incinerators, hospital/medical/infectious waste incinerators, crematory incinerators, and municipal waste combustors in order to minimize air contaminant emissions and provide adequate protection of public health.

Stat. Auth.: ORS 183, ORS 468 & ORS 468A  
Stats. Implemented: ORS 468A.025  
Hist.: DEQ 9-1990, f. & cert. ef. 3-13-90; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-025-0850; DEQ 4-2003, f. & cert. ef. 2-06-03

## 340-230-0020

### Applicability

(1) OAR 340-230-0030 through 340-230-0150 apply to all solid and infectious waste incinerators other than:

(a) Municipal waste combustors, including those municipal waste combustors that burn some medical waste, that are subject to either OAR 340-238-0060, or 340-230-0300 through 340-230-0395; and

(b) Hospital/medical/infectious waste incinerators that are subject to OAR 340-230-0400 through 340-230-0410.

(2) OAR 340-230-0200 through 340-230-0230 apply to all new and existing crematory incinerators;

(3) OAR 340-230-0300 through 340-230-0395 apply to municipal waste combustors as specified in OAR 340-230-0300.

(4) OAR 340-230-0400 through 340-230-0410 apply to hospital/medical/infectious waste incinerators as specified in OAR 340-230-0400.

Stat. Auth.: ORS 468.020  
Stats. Implemented: ORS 468A.025  
Hist.: DEQ 27-1996, f. & cert. ef. 12-11-96; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-025-0852; DEQ 4-2003, f. & cert. ef. 2-06-03

## 340-230-0030

### Definitions

The definitions in OAR 340-200-0020, 340-238-0040 and this rule apply to this division. If the same term is defined in this rule and OAR 340-200-0020 or 340-238-0040, the definition in this rule applies to this division. Applicable definitions have the same meaning as those provided in 40 CFR 60.51c including, but not limited to:

(1) "Acid Gases" means any exhaust gas that includes hydrogen chloride and sulfur dioxide.

(2) "Air curtain incinerator" means an incinerator that operates by forcefully projecting a curtain of air across an open chamber or pit in which combustion occurs. Incinerators of that type can be constructed above or below ground and with or without refractory walls and floor.

(3) "Best Available Control Technology (BACT)" means an emission limitation as defined in OAR 340-200-0020.

(4) "CFR" means Code of Federal Regulations revised as of July 1, 2002

(5) "Chemotherapeutic waste" means waste material resulting from the production or use of antineoplastic agents used for the purpose of stopping or reversing the growth of malignant cells. (6) "Co-fired combustor" means a unit combusting hospital waste and/or medical/infectious waste with other fuels or wastes (e.g., coal, municipal solid waste) and subject to an enforceable requirement limiting the unit to combusting a fuel feed stream, 10 percent or less of the weight of which is comprised, in aggregate, of hospital waste and medical/infectious waste as measured on a calendar quarter basis. For purposes of this definition, pathological waste, chemotherapeutic waste, and low-level radioactive waste are considered "other" wastes when calculating the percentage of hospital waste and medical/infectious waste combusted.

(7) "Commercial and industrial solid waste incineration unit (CISWI)" means any combustion device that combusts commercial and industrial waste, as defined in this subpart. The boundaries of a CISWI unit are defined as, but not limited to the commercial or industrial solid waste fuel feed system, grate system, flue gas system, and bottom ash. The CISWI unit does not include air pollution control equipment or the stack. The CISWI unit boundary starts at the commercial and industrial solid waste hopper (if applicable) and extends through two areas:

(a) The combustion unit flue gas system, which ends immediately after the last combustion chamber.

(b) The combustion unit bottom ash system, which ends at the truck loading station or similar equipment that transfers the ash to final disposal. It includes all ash handling systems connected to the bottom ash handling system.

(8) "Commercial and industrial waste" means solid waste combusted in an enclosed device using controlled flame combustion without energy recovery that is a distinct operating unit of any commercial or industrial facility (including field-erected, modular, and custom built incineration units operating with starved or excess air), or solid waste combusted in an air curtain incinerator without energy recovery that is a distinct operating unit of any commercial or industrial facility.

(9) "Continuous Emission Monitoring (CEM)" means a monitoring system for continuously measuring the emissions of a pollutant from an affected incinerator. Continuous monitoring equipment and operation must be certified in accordance with EPA performance specifications and quality assurance procedures outlined in 40 CFR 60, Appendices B and F, and the Department's CEM Manual.

(10) "Crematory Incinerator" means an incinerator used solely for the cremation of human and animal bodies.

(11) "Department" means the Department of Environmental Quality.

(12) "Dry Standard Cubic Foot" means the amount of gas that would occupy a volume of one cubic foot, if the gas were free of uncombined water at standard conditions. When applied to combustion flue gases from waste or refuse burning, "Standard Cubic Foot (SCF)" implies adjustment of gas volume to that which would result at a concentration of seven percent oxygen or 50 percent excess air.

(13) "Existing" means constructed or modified before March 13, 1990.

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(14) "Emission" means a release into the atmosphere of air contaminants.

(15) "Fluidized bed combustion unit" means a unit where municipal waste is combusted in a fluidized bed of material. The fluidized bed material may remain in the primary combustion zone or may be carried out of the primary combustion zone and returned through a recirculation loop.

(16) "Fugitive Emissions" means the same as defined in OAR 340-200-0020(50).

(17) "Hospital" means any facility that has an organized medical staff, maintains at least six inpatient beds, and where the primary function of the institution is to provide diagnostic and therapeutic patient services and continuous nursing care primarily to human inpatients who are not related and who stay on average in excess of 24 hours per admission. This definition does not include facilities maintained for the sole purpose of providing nursing or convalescent care to human patients who generally are not acutely ill but who require continuous medical supervision.

(18) "Hospital/medical/infectious waste incinerator" or HMIWI means any device that combusts any amount of hospital waste and/or medical/infectious waste.

(19) "Hospital waste" means discards generated at a hospital, except unused items returned to the manufacturer. This definition does not include human corpses, remains and anatomical parts intended for interment or cremation.

(20) "Incinerator" means any structure or furnace in which combustion takes place, the primary purpose of which is the reduction in volume and weight of unwanted material.

(21) "Infectious agent" means any organism such as a virus or bacteria that is capable of being communicated by invasion and multiplication in body tissues and capable of causing disease or adverse health impacts in humans.

(22) "Infectious Waste" means waste as defined in ORS Chapter 763, Oregon Laws 1989, that contains or may contain any disease producing microorganism or material, and includes, but is not limited to the following:

(a) "Biological waste", which includes blood and blood products, and body fluids that cannot be directly discarded into a municipal sewer system, and waste materials saturated with blood or body fluids, but does not include soiled diapers;

(b) "Cultures and stocks", which includes etiologic agents and associated biologicals; including specimen cultures and dishes, devices used to transfer, inoculate and mix cultures, wastes from production of biologicals, and serums and discarded live and attenuated vaccines. "Cultures" does not include throat and urine cultures;

(c) "Pathological waste", which includes biopsy materials and all human tissues, anatomical parts that emanate from surgery, obstetrical procedures, autopsy and laboratory procedures and animal carcasses exposed to pathogens in research and the bedding and other waste from such animals. "Pathological wastes" does not include teeth or formaldehyde or other preservative agents;

(d) "Sharps", which includes needles, IV tubing with needles attached, scalpel blades, lancets, glass tubes that could be broken during handling and syringes that have been removed from their original sterile containers.

(23) "Infectious Waste Facility" or "Infectious Waste Incinerator" means an incinerator that is operated or utilized for the disposal or treatment of infectious waste, including combustion for the recovery of heat, and which utilizes high temperature thermal destruction technologies.

(24) "Large HMIWI", except as provided in Subsection (d)(A) and (B) means:

(a) A HMIWI whose maximum design waste burning capacity is more than 500 pounds per hour; or

(b) A continuous or intermittent HMIWI whose maximum charge rate is more than 500 pounds per hour; or

(c) A batch HMIWI whose maximum charge rate is more than 4,000 pounds per day;

(d) The following are not large HMIWI:

(A) A continuous or intermittent HMIWI whose maximum charge rate is less than or equal to 500 pounds per hour; or

(B) A batch HMIWI whose maximum charge rate is less than or equal to 4,000 pounds per day.

(25) "Low-level radioactive waste" means waste material which contains radioactive nuclides emitting primarily beta or gamma radiation, or both, in concentrations or quantities that exceed applicable federal or state standards for unrestricted release. Low-level radioactive waste is not high-level radioactive waste, spent nuclear fuel, or by-product material as defined by the Atomic Energy Act of 1954 (42 U.S.C. 2014(e)(2)).

(26) "Mass burn refractory municipal waste combustion unit" means a field-erected municipal waste combustion unit that combusts municipal solid waste in a refractory wall furnace. Unless otherwise specified, that includes municipal waste combustion units with a cylindrical rotary refractory wall furnace.

(27) "Mass burn rotary waterwall municipal waste combustion unit" means a field-erected municipal waste combustion unit that combusts municipal solid waste in a cylindrical rotary waterwall furnace.

(28) "Mass burn waterwall municipal waste combustion unit" means a field-erected municipal waste combustion unit that combusts municipal solid waste in a waterwall furnace.

(29) "Medical/infectious waste" means any waste generated in the diagnosis, treatment, or immunization of human beings or animals, in research pertaining thereto, or in the production of testing of biologicals that is listed in paragraphs (a) through (g) of this definition. The definition of medical/infectious waste does not include hazardous waste identified or listed under the regulations in part 261 of Chapter I; household waste as defined in Subsection 261.4(b)(1) of Chapter I; ash from incineration of medical/infectious waste once the incineration process is completed; human corpses, remains, and anatomical parts intended for interment or cremation and domestic sewage materials identified in Subsection 261.4(a)(1) of Chapter I:

(a) Cultures and stocks of infectious agents and associated biologicals, including: cultures from medical and pathological laboratories; cultures and stocks of infectious agents from research and industrial laboratories; wastes from the production of biologicals; discarded live and attenuated vaccines; and culture dishes and devices used to transfer, inoculate and mix cultures;

(b) Human pathological waste, including tissues, organs, and body parts and body fluids that are removed during surgery or autopsy, or other medical procedures, and specimens of body fluids and their containers;

(c) Human blood and blood products including:

(A) Liquid waste human blood;

(B) Products of blood;

(C) Items saturated and/or dripping with human blood; or

(D) Items that were saturated and/or dripping with human blood that are now caked with dried human blood; including serum, plasma, and other blood components, and their containers that were used or intended for use in either patient care, testing and laboratory analysis or the development of pharmaceuticals. Intravenous bags are also included in this category.

(d) Sharps that have been used in animal or human patient care or treatment or in medical, research, or industrial laboratories, including hypodermic needles, syringes (with or without the attached needle), pasteur pipettes, scalpel blades, blood vials, needles with attached tubing, and culture dishes (regardless of presence of infectious agents). Also included are other types of broken or unbroken glassware that were in contact with infectious agents, such as used slides and cover slips;

(e) Animal waste including contaminated animal carcasses, body parts and bedding of animals that were known to have been exposed to infectious agents during research (including research in veterinary hospitals), production of biologicals or testing of pharmaceuticals;

(f) Isolation wastes including biological waste and discarded materials contaminated with blood, excretions, exudates or secretions from humans who are isolated to protect others from certain highly communicable diseases, or isolated animals known to be infected with highly communicable diseases;

(g) Unused sharps including the following unused, discarded sharps: hypodermic needles, suture needles, syringes and scalpel blades.

(30) "Medium HMIWI", except as provided in (i) means:

(a) A HMIWI whose maximum design waste burning capacity is more than 200 pounds per hour but less than or equal to 500 pounds per hour; or

(b) A continuous or intermittent HMIWI whose maximum charge rate is more than 200 pounds per hour but less than or equal to 500 pounds per hour; or

(c) A batch HMIWI whose maximum charge rate is more than 1,600 pounds per day but less than or equal to 4,000 pounds per day. The following are not medium HMIWI:

(A) A continuous or intermittent HMIWI whose maximum charge rate is less than or equal to 200 pounds per hour or more than 500 pounds per hour; or

(B) A batch HMIWI whose maximum charge rate is more than 4,000 pounds per day or less than or equal to 1,600 pounds per day.

(31) "Modification or modified hospital/medical/infectious waste incinerator" means any change to a HMIWI unit after the effective date of these standards such that:

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(a) The cumulative costs of the modifications, over the life of the unit, exceed 50 per cent of the original cost of the construction and installation of the unit (not including the cost of any land purchased in connection with such construction or installation) updated to current costs; or

(b) The change involves a physical change or change in the method of operation of the unit that increases the amount of any air pollutant emitted by the unit for which standards have been established under Section 129 or Section 111.

(32) "Modular excess-air municipal waste combustion unit" means a municipal waste combustion unit that combusts municipal solid waste, is not field-erected, and has multiple combustion chambers, all of which are designed to operate at conditions with combustion air amounts in excess of theoretical air requirements.

(33) "Modular starved-air municipal waste combustion unit" means a municipal waste combustion unit that combusts municipal solid waste, is not field-erected, and has multiple combustion chambers in which the primary combustion chamber is designed to operate at substoichiometric conditions.

(34) "Municipal waste combustor plant" means one or more municipal waste combustor units at the same location for which construction was commenced on or before September 20, 1994.

(35) "Municipal waste combustor plant capacity" means the aggregate municipal waste combustor unit capacity of all municipal waste combustor units at a municipal waste combustor plant for which construction was commenced on or before September 20, 1994.

(36) "New" means constructed or modified on or after March 13, 1990.

(37) "Opacity" means the degree to which an emission reduces transmission of light and obscures the view of an object in the background.

(38) "Particulate Matter" means all solid or liquid material, other than uncombined water, emitted to the ambient air as measured by EPA Method 5 or an equivalent test method in accordance with the **Department Source Test Manual**. Particulate matter emission determinations by EPA Method 5 must consist of the average of three separate consecutive runs having a minimum sampling time of 60 minutes each and a minimum sampling volume of 30.0 dscf each.

(39) "Parts Per Million (ppm)" means parts of a contaminant per million parts of gas by volume on a dry-gas basis (1 ppm equals 0.0001 percent by volume).

(40) "Pathological waste" means waste material consisting of only human or animal remains, anatomical parts, and/or tissue, the bags/containers used to collect and transport the waste material and animal bedding (if applicable).

(41) "Person" means individuals, corporations, associations, firms, partnerships, joint stock companies, public and municipal corporations, political subdivisions, the state and any agencies thereof, and the federal government and any agencies thereof.

(42) "Primary Combustion Chamber" means the discrete equipment, chamber or space in which drying of the waste, pyrolysis, and essentially the burning of the fixed carbon in the waste occurs.

(43) "Pyrolysis" means the endothermic gasification of hospital waste and/or medical/infectious waste using external energy.

(44) "Refuse-derived fuel" means a type of municipal solid waste produced by processing municipal solid waste through shredding and size classification. That includes all classes of refuse-derived fuel including two fuels:

(a) Low-density fluff refuse-derived fuel through densified refuse-derived fuel

(b) Pelletized refuse-derived fuel.

(45) "Secondary" or "Final Combustion Chamber" means the discrete equipment, chamber, or space in which the products of pyrolysis are combusted in the presence of excess air such that essentially all carbon is burned to carbon dioxide.

(46) "Small hospital/medical/infectious waste incinerator", except as provided in (i), means:

(a) A HMIWI whose maximum design waste burning capacity is less than or equal to 200 pounds per hour; or

(b) A continuous or intermittent HMIWI whose maximum charge rate is less than or equal to 200 pounds per hour; or

(c) A batch HMIWI whose maximum charge rate is less than or equal to 1,600 pounds per day. The following are not small HMIWI:

(A) A continuous or intermittent HMIWI whose maximum charge rate is more than 200 pounds per hour;

(B) A batch HMIWI whose maximum charge rate is more than 1,600 pounds per day.

(47) "Solid Waste" means refuse, more than 50 percent of which is waste consisting of a mixture of paper, wood, yard wastes, food wastes, plastics, leather, rubber, and other combustible materials, and noncombustible materials such as metal, glass, and rock.

(48) "Solid Waste Facility" or "Solid Waste Incinerator" means an incinerator that is operated or utilized for the disposal or treatment of solid waste including combustion for the recovery of heat, and that utilizes high temperature thermal destruction technologies.

(49) "Spreader stoker, mixed fuel-fired (coal/refuse-derived fuel) combustion unit" means a municipal waste combustion unit that combusts coal and refuse-derived fuel simultaneously, in which coal is introduced to the combustion zone by a mechanism that throws the fuel onto a grate from above. Combustion takes place both in suspension and on the grate.

(50) "Standard Conditions" means temperature of 68 degrees Fahrenheit (15.6 degrees Celsius) and a pressure of 14.7 pounds per square inch absolute (1.03 kilograms per square centimeter).

(51) "Startup/Shutdown" means the time during which an air contaminant source or emission control equipment is brought into normal operation and normal operation is terminated, respectively.

(52) "Transmissometer" means a device that measures opacity and conforms to EPA Specification Number 1 in 40 CFR 60, Appendix B.

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

Stat. Auth.: ORS 183, ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: [DEQ 22-1998, f. & cert. ef. 10-21-98]; [DEQ 9-1990, f. & cert. ef. 3-13-90; DEQ 4-1993, f. & cert. ef. 3-10-93]; [DEQ 27-1996, f. & cert. ef. 12-11-96]; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-025-0750, 340-025-0855, 340-025-0950; DEQ 4-2003, f. & cert. ef. 2-06-03

## 340-230-0120

### Design and Operation

(1) Temperature and Residence Time. Each incinerator must be designed and operated to maintain combustion gases at a minimum temperature of 1,800° F. for at least one second residence time. For a multi-chamber incinerator, these parameters must be met after the primary combustion chamber, which must be maintained at no less than 1,000° F.

(2) Auxiliary Burners. Each incinerator must be designed and operated with automatically controlled auxiliary burners capable of maintaining the combustion chamber temperatures specified in section (1) of this rule, and must have sufficient auxiliary fuel capacity to maintain said temperatures.

(3) Interlocks. Each incinerator must be designed and operated with an interlock system that:

(a) Prevents charging until the final combustion chamber reaches 1,800° F.;

(b) For batch-fed incinerators, prevents recharging until each combustion cycle is complete;

(c) Ceases charging if the incinerator temperature falls below either 1,800° F. for any continuous 15-minute period; and

(d) Ceases charging if carbon monoxide levels exceed 150 ppm, corrected to seven percent O<sub>2</sub> over a continuous 15-minute period. Existing incinerators may request from the Department, and the Department may grant, an exemption for installing an interlock system, if it can be shown to the satisfaction of the Department that such a system would not allow sufficient flexibility in operation, or that significant technical or economic constraints would prevent retrofitting.

(4) Air Locks. All infectious waste facilities with mechanically fed incinerators must be designed and operated with an air lock control system to prevent opening the incinerator to the room environment. The volume of the loading system must be designed so as to prevent overcharging to assure complete combustion of the waste.

(5) Flue Gas Outlet Temperature. Each incinerator must be designed and operated such that the flue gas temperature at the outlet from the primary control device does not exceed 350° F., unless it can be demonstrated that a greater collection of condensable matter can be achieved at a higher outlet temperature.

(6) Combustion efficiency. Except during periods of startup and shutdown, all waste incinerators must achieve a combustion efficiency of 99.9 percent based on a running eight-hour average, computed as follows: [Table not included. See ED. NOTE.]

(7) Stack Height. All incinerator stacks must be designed in accordance with Good Engineering Practice (GEP) as defined in 40 CFR 51.100(ii) and 51.118, in order to assure compliance with applicable air standards, and to avoid the flow of stack pollutants into any building ventilation intake plenum.

(8) Operator Training and Certification. Each incinerator must be operated at all times under the direction of one or more individuals who have

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received training necessary for proper operation. A description of the training program must be submitted to the Department for approval. A satisfactory training program consists of any of the following:

- (a) Certification by the American Society of Mechanical Engineers (ASME) for solid waste incinerator operation; or
- (b) For infectious waste incineration, successful completion of EPA's Medical Waste Incinerator Operator training course; or
- (c) Other certification or training by a qualified organization as to proper operating practices and procedures, which has been pre-approved by the Department before enrollment. In addition, the owner or operator of an incinerator facility must develop and submit a manual for proper operation and maintenance, to be reviewed with employees responsible for incinerator operation on an annual basis.

(9) In cases where incinerator operation may cause odors that unreasonably interfere with the use and enjoyment of property, the Department may require by permit the use of good practices and procedures to prevent or eliminate those odors.

[ED. NOTE: Tables & Publications referenced are available from the agency.]  
Stat. Auth.: ORS 183, ORS 468 & ORS 468A  
Stats. Implemented: ORS 468A.025  
Hist.: DEQ 9-1990, f. & cert. ef. 3-13-90; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-025-0870; DEQ 4-2003, f. & cert. ef. 2-06-03

## 340-230-0300

### Applicability

(1) Applicability: OAR 340-230-0310 through 340-230-0350 apply to each municipal waste combustor unit with a combustion capacity greater than 250 tons per day of municipal solid waste for which construction was commenced on or before September 20, 1994.

(a) MWC greater than 250 tons per day that commenced construction after September 20, 1989 and on or before September 20, 1994 are also subject to **40 CFR Part 60 Subpart Ea** as adopted under OAR 340-238-0060.

(b) MWC subject to OAR 340-230-0300 through 340-230-0350 are not subject to the incinerator rules in OAR 340-230-0100 through 340-230-0150.

### (2) Exemptions:

(a) Any municipal waste combustion unit that is capable of combusting more than 250 tons per day of municipal solid waste and is subject to a federally enforceable permit limiting the maximum amount of municipal solid waste that may be combusted in the unit to less than or equal to 11 tons per day is not subject to this rule if the owner or operator:

- (A) Notifies the Department of an exemption claim;
- (B) Provides a copy of the federally enforceable permit that limits the firing of municipal solid waste to less than 11 tons per day; and
- (C) Keeps records of the amount of municipal solid waste fired on a daily basis.

(b) Physical or operational changes made to an existing municipal waste combustor unit primarily for the purpose of complying with emission limits under these rules are not considered in determining whether the unit is a modified or reconstructed facility under 40 CFR 60, Subparts Ea or Eb.

(c) A qualifying small power production facility, as defined in **section 3(17)(C) of the Federal Power Act (16 U.S.C. 796(17)(C))**, that burns homogeneous waste (such as automotive tires or used oil, but not including refuse-derived fuel) for the production of electric energy is not subject to these rules if the owner or operator of the facility notifies the Department of this exemption and provides data documenting that the facility qualifies for this exemption.

(d) A qualifying cogeneration facility, as defined in **section 3(18)(B) of the Federal Power Act (16 U.S.C. 796(18)(B))**, that burns homogeneous waste (such as automotive tires or used oil, but not including refuse-derived fuel) for the production of electric energy and steam or forms of useful energy (such as heat) that are used for industrial, commercial, heating, or cooling purposes, is not subject to these rules if the owner or operator of the facility notifies the Department of this exemption and provides data documenting that the facility qualifies for this exemption.

(e) Any unit combusting a single-item waste stream of tires is not subject to this rule if the owner or operator of the unit:

- (A) Notifies the Department of an exemption claim; and
- (B) Provides data documenting that the unit qualifies for this exemption.

(f) Any unit required to have a permit under section 3005 of the Solid Waste Disposal Act is not subject to these rules.

(g) Any materials recovery facility (including primary or secondary smelters) that combusts waste for the primary purpose of recovering metals is not subject to these rules.

(h) Any cofired combustor, as defined in **40 CFR 60.51b**, that meets the capacity specifications in section (1) of this rule is not subject to these rules if the owner or operator of the cofired combustor:

- (A) Notifies the Department of an exemption claim;
- (B) Provides a copy of the federally enforceable permit (specified in the definition of cofired combustor); and
- (C) Keeps a record on a calendar quarter basis of the weight of municipal solid waste combusted at the cofired combustor and the weight of all other fuels combusted at the cofired combustor.

(i) Pyrolysis/combustion units that are an integrated part of a plastics/rubber recycling unit (as defined in **40 CFR 60.51b**) are not subject to this rule if the owner or operator of the plastics/rubber recycling unit keeps records of:

(A) The weight of plastics, rubber, and/or rubber tires processed on a calendar quarter basis;

(B) The weight of chemical plant feedstocks and petroleum refinery feedstocks produced and marketed on a calendar quarter basis; and

(C) The name and address of the purchaser of the feedstocks. The combustion of gasoline, diesel fuel, jet fuel, fuel oils, residual oil, refinery gas, petroleum coke, liquified petroleum gas, propane, or butane produced by chemical plants or petroleum refineries that use feedstocks produced by plastics/rubber recycling units are not subject to these rules.

(j) Air curtain incinerators that meet the capacity specifications in paragraph (a) of this section, and that combust a fuel stream composed of 100 percent yard waste are exempt from all provisions of this subpart except the opacity standard under OAR 340-230-0310, the testing procedures under OAR 340-230-0340, and the reporting and recordkeeping provisions under OAR 340-230-0350.

(k) Air curtain incinerators that meet the capacity specifications in paragraph (a) of this section and that combust municipal solid waste other than yard waste are subject to all provisions of this subpart.

(l) Cement kilns firing municipal solid waste are not subject to this subpart.

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

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.025

Hist.: DEQ 27-1996, f. & cert. ef. 12-11-96; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-025-0950; DEQ 4-2003, f. & cert. ef. 2-06-03

## 340-230-0310

### Emissions Limitations

No person may cause, suffer, allow, or permit the operation of any affected municipal waste combustor unit in a manner that violates the following emission limits and requirements:

(1) Particulate matter emissions from each unit must not exceed 27 milligrams per dry standard cubic meter (0.012 grains per dry standard cubic foot) corrected to 7 percent oxygen;

(2) Opacity. The emission limit for opacity exhibited by the gases discharged to the atmosphere from a designated facility must not exceed 10 percent opacity as a 6-minute average.

### (3) Municipal Waste Combustor Metals:

(a) Cadmium emissions from each unit must not exceed 0.040 milligrams per dry standard cubic meter (0.000018 gr/dscf) corrected to 7 percent oxygen.

(b) Lead emissions from each unit must not exceed 0.49 milligrams per dry standard cubic meter (0.00021 gr/dscf) corrected to 7 percent oxygen.

(c) Mercury emissions from each unit must not exceed 0.080 milligrams per dry standard cubic meter (0.000035 gr/dscf) or 15 percent of the potential mercury emission concentration (an 85-percent reduction by weight), corrected to 7 percent oxygen, whichever is less stringent.

(4) Sulfur dioxide (SO<sub>2</sub>) emissions from each unit must not exceed 31 parts per million by volume or 25 percent of the potential sulfur dioxide emission concentration (75-percent reduction by weight or volume), corrected to 7 percent oxygen (dry basis), whichever is less stringent. Compliance with this emission limit is based on a 24-hour daily geometric mean.

(5) Hydrogen chloride (HCl) emissions from each unit must not exceed 31 parts per million by volume or 5 percent of the potential hydrogen chloride emission concentration (95-percent reduction by weight or volume), corrected to 7 percent oxygen (dry basis), whichever is less stringent.

### (6) The dioxin/furan emissions from each unit must not exceed:

(a) 60 nanograms per dry standard cubic meter (total mass), corrected to 7 percent oxygen, for municipal waste combustor units that employ an electrostatic precipitator-based emission control system;

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(b) 30 nanograms per dry standard cubic meter (total mass), corrected to 7 percent oxygen, for municipal waste combustor units that do not employ an electrostatic precipitator-based emission control system.

(7) Emissions of nitrogen oxides from each unit must not exceed 205 parts per million by dry volume corrected to 7 percent O<sub>2</sub>.

(8) Fugitive Emissions:

(a) No owner or operator may cause or allow visible emissions of combustion ash from an ash conveying system (including conveyor transfer points) in excess of 5 percent of the observation period (i.e., 9 minutes per 3-hour period), as determined by EPA Reference Method 22 observations, except as provided in paragraphs (b) and (c) of this section.

(b) The emission limit specified in paragraph (a) of this section does not cover visible emissions discharged inside buildings or enclosures of ash conveying systems; however, the emission limit specified in paragraph (a) of this section does cover visible emissions discharged to the atmosphere from buildings or enclosures of ash conveying systems.

(c) The provisions specified in paragraph (a) of this section do not apply during maintenance and repair of ash conveying systems.

(9) Air Curtain Incinerators. No person may cause, suffer, allow, or permit the operation of any affected air curtain incinerator that burns 100 percent yard waste in a manner that violates the following emission limits and requirements:

(a) The opacity limit is 10 percent (6-minute average) for air curtain incinerators that can combust at least 35 tons per day of municipal solid waste and no more than 250 tons per day of municipal solid waste.

(b) The opacity limit is 35 percent (6-minute average) during the start-up period that is within the first 30 minutes of operation.

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

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.025

Hist.: DEQ 27-1996, f. & cert. ef. 12-11-96; DEQ 14-1999, f. & cert. ef. 10-14-99,

Renumbered from 340-025-0960; DEQ 4-2003, f. & cert. ef. 2-06-03

## 340-230-0320

### Operating Practices

(1) Emissions of carbon monoxide from each unit must not exceed 100 parts per million corrected to 7 percent O<sub>2</sub> as a four hour block arithmetic average.

(2) No owner or operator of an affected facility may cause such facility to operate at a load level greater than 110 percent of the maximum demonstrated municipal waste combustor unit load as defined in 40 CFR 60.51b except as specified in paragraphs (a) and (b) of this section. The averaging time is a 4-hour block arithmetic average.

(a) During the annual dioxin/furan performance test and the 2 weeks preceding the annual dioxin/furan performance test, no municipal waste combustor unit load limit is applicable.

(b) The municipal waste combustor unit load limit may be waived in accordance with permission granted by the Administrator or the Department in writing for the purpose of evaluating system performance, testing new technology or control technologies, diagnostic testing, or related activities for the purpose of improving facility performance or advancing the state-of-the-art for controlling facility emissions.

(3) No owner or operator of an affected facility may cause or allow such facility to operate at a temperature, measured at the particulate matter control device inlet, exceeding 17°C above the maximum demonstrated particulate matter control device temperature as defined in 40 CFR 60.51b, except as specified in paragraphs (a) and (b) of this section. The averaging time must be a 4-hour block arithmetic average. The requirements specified in this paragraph apply to each particulate matter control device utilized at the affected facility.

(a) During the annual dioxin/furan performance test and the 2 weeks preceding the annual dioxin/furan performance test, no particulate matter control device temperature limitations are applicable.

(b) The particulate matter control device temperature limits may be waived in accordance with permission granted by the Administrator or delegated State regulatory authority for the purpose of evaluating system performance, testing new technology or control technologies, diagnostic testing, or related activities for the purpose of improving facility performance or advancing the state-of-the-art for controlling facility emissions.

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

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.025

Hist.: DEQ 27-1996, f. & cert. ef. 12-11-96; DEQ 14-1999, f. & cert. ef. 10-14-99,

Renumbered from 340-025-0970; DEQ 4-2003, f. & cert. ef. 2-06-03

## 340-230-0330

### Operator Training and Certification

(1) Each chief facility operator and shift supervisor must have completed full certification with either the **American Society of Mechanical Engineers [QRO-1-1994 — see 40 CFR 60.17]** or other State approved certification program.

(2) If a chief facility operator or shift supervisor is not fully certified in accordance with OAR 340-230-0330(1), the chief facility operator or shift supervisor must obtain and maintain a current provisional operator certification from either the **American Society of Mechanical Engineers (ASME) [QRO-1-1994 — see 40 CFR 60.17]** or other State approved certification and must have scheduled a full certification exam with either the **ASME [QRO-1-1994]** or other State approved certification program.

(3) No owner or operator of an affected facility may allow the facility to be operated at any time unless one of the following persons is on duty and at the affected facility: A fully certified chief facility operator, a provisionally certified chief facility operator who is scheduled to take the full certification exam, a fully certified shift supervisor, or a provisionally certified shift supervisor who is scheduled to take the full certification exam.

(4) If one of the persons listed in OAR 340-230-0330(3) must leave the affected facility during their operating shift, a provisionally certified control room operator who is onsite at the affected facility may fulfill the requirement in OAR 340-230-0330(3).

(5) The owner or operator of an affected facility must develop and update on a yearly basis a site-specific operating manual that, at a minimum, addresses the elements of municipal waste combustor unit operation specified below:

(a) A summary of the applicable standards under OAR 340-230-0300 through 340-230-0350;

(b) A description of basic combustion theory applicable to a municipal waste combustor unit;

(c) Procedures for receiving, handling, and feeding municipal solid waste;

(d) Municipal waste combustor unit startup, shutdown, and malfunction procedures;

(e) Procedures for maintaining proper combustion air supply levels;

(f) Procedures for operating the municipal waste combustor unit within the standards established under OAR 340-230-0300 through 340-230-0350;

(g) Procedures for responding to periodic upset or off-specification conditions;

(h) Procedures for minimizing particulate matter carryover;

(i) Procedures for handling ash;

(j) Procedures for monitoring municipal waste combustor unit emissions; and

(k) Reporting and recordkeeping procedures.

(6) The owner or operator of an affected facility must establish a training program to review the operating manual according to the schedule specified in (a) and (b) of this section with each person who has responsibilities affecting the operation of an affected facility including, but not limited to, chief facility operators, shift supervisors, control room operators, ash handlers, maintenance personnel, and crane/load handlers.

(a) Each person specified in OAR 340-230-0330(6) must undergo initial training no later than the date specified in (a)(A) or (B), whichever is later.

(A) The date before the day the person assumes responsibilities affecting municipal waste combustor unit operation; or

(B) June 19, 1998.

(b) Annually, following the initial review.

(7) The operating manual required by OAR 340-230-0330(5) must be kept in a readily accessible location for all persons required to undergo training under OAR 340-230-0330(6). The operating manual and records of training must be available for inspection by the EPA or the Department upon request.

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

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.025

Hist.: DEQ 27-1996, f. & cert. ef. 12-11-96; DEQ 14-1999, f. & cert. ef. 10-14-99,

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## 340-230-0340

### Monitoring and Testing

(1) The standards under OAR 340-230-0310 apply at all times except during periods of startup, shutdown, or malfunction. Duration of startup, shutdown, or malfunction periods are limited to 3 hours per occurrence except as provided in subsection (c) of this section.

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(a) The startup period commences when the affected facility begins the continuous burning of municipal solid waste and does not include any warmup period when the affected facility is combusting fossil fuel or other nonmunicipal solid waste fuel, and no municipal solid waste is being fed to the combustor.

(b) Continuous burning is the continuous, semicontinuous, or batch feeding of municipal solid waste for purposes of waste disposal, energy production, or providing heat to the combustion system in preparation for waste disposal or energy production. The use of municipal solid waste solely to provide thermal protection of the grate or hearth during the startup period when municipal solid waste is not being fed to the grate is not considered to be continuous burning.

(c) For purposes of compliance with the carbon monoxide emissions limit in OAR 340-230-320(1), if a loss of boiler water level control (e.g., boiler waterwall tube failure) or a loss of combustion air control (e.g., loss of combustion air fan, induced draft fan, combustion grate bar failure) is determined to be a malfunction, the duration of the malfunction period is limited to 15 hours per occurrence.

(2) The owner or operator of an affected facility must install, calibrate, maintain, and operate a continuous emission monitoring system and record the output of the system for measuring the oxygen or carbon dioxide content of the flue gas at each location where carbon monoxide, sulfur dioxide, or nitrogen oxides emissions are monitored and must comply with test procedures and test methods specified below.

(a) The span value of the oxygen (or carbon dioxide) monitor is 25 percent oxygen (or carbon dioxide).

(b) The monitor must be installed, evaluated, and operated in accordance with 40 CFR 60.13.

(c) The monitor must conform to Performance Specification 3 in appendix B of 40 CFR 60 except for section 2.3 (relative accuracy requirement).

(d) The quality assurance procedures of Appendix F of 40 CFR 60 except for section 5.1.1 (relative accuracy test audit) apply to the monitor.

(e) If carbon dioxide is selected for use in diluent corrections, the relationship between oxygen and carbon dioxide levels must be established by the owner or operator during the initial performance test after December 31, 1997, but not later than June 8, 2004, according to the following procedures and methods. This relationship may be reestablished during subsequent performance compliance tests.

(A) The emission rate correction factor and the integrated bag sampling and analysis procedure of EPA Reference Method 3B must be used to determine the oxygen concentration at the same location as the carbon dioxide monitor.

(B) Samples must be taken for at least 30 minutes in each hour.

(C) Each sample must represent a 1-hour average.

(D) A minimum of three runs must be performed.

(f) The relationship between carbon dioxide and oxygen concentrations that is established in accordance with (e) of this section must be submitted to the Department as part of the performance test report for the first test conducted after December 31, 2003.

(3) The procedures and test methods specified below must be used to determine compliance with the emission limits for particulate matter and opacity.

(a) EPA Reference Method 1 must be used to select sampling site and number of traverse points.

(b) EPA Reference Method 3 or 3A must be used for gas analysis.

(c) EPA Reference Method 5 must be used for determining compliance with the particulate matter emission limit. The minimum sample volume must be 1.7 cubic meters (60 cubic feet). The probe and filter holder heating systems in the sample train must be set to provide a gas temperature no less than or greater than  $160 \pm 14^\circ\text{C}$  ( $320 \pm 25^\circ\text{F}$ ). An oxygen or carbon dioxide measurement must be obtained simultaneously with each Method 5 run.

(d) An owner or operator may request that compliance with the particulate matter emission limit be determined using carbon dioxide measurements corrected to an equivalent of 7 percent oxygen. The relationship between oxygen and carbon dioxide levels for the affected facility must be established as specified in OAR 340-230-0340(2)(e).

(e) All performance tests must consist of at least three test runs conducted under representative full load operating conditions and at least two of the test runs must be valid. The average of the particulate matter emission concentrations from all valid test runs is used to determine compliance.

(f) EPA Method 9 is to be used for determining compliance with the opacity limit except as provided under 40 CFR 60.11(e).

(g) The owner or operator of an affected facility must install, calibrate, maintain, and operate a continuous opacity monitoring system for measur-

ing opacity and must follow the methods and procedures specified by 40 CFR 60.13.

(A) The output of the continuous opacity monitoring system must be recorded on a 6-minute average basis.

(B) The continuous opacity monitoring system must conform to Performance Specification 1 in appendix B of 40 CFR 60.

(h) For each affected facility, the owner or operator must conduct a performance test for particulate matter on an annual basis (no more than 12 calendar months following the previous performance test).

(i) For each affected facility, the owner or operator must conduct a performance test for opacity on an annual basis (no more than 12 calendar months following the previous performance test) using the test method specified in (3)(f) of this rule.

(4) The procedures and test methods specified below must be used to determine compliance with the emission limits for cadmium, lead, and mercury.

(a) The procedures and test methods specified below must be used to determine compliance with the emission limits for cadmium and lead.

(A) EPA Reference Method 1 must be used for determining the location and number of sampling points.

(B) EPA Reference Method 3, 3A or 3B must be used for flue gas analysis.

(C) EPA Reference Method 29 must be used for determining compliance with the cadmium and lead emission limits. The minimum sample volume is 1.7 dscm (60 dscf).

(D) An oxygen or carbon dioxide measurement must be obtained simultaneously with each Method 29 test run for cadmium and lead.

(E) An owner or operator may request that compliance with the cadmium or lead emission limit be determined using carbon dioxide measurements corrected to an equivalent of 7 percent oxygen. The relationship between oxygen and carbon dioxide levels for the affected facility must be established as specified in OAR 340-230-0340(2)(e).

(F) All performance tests must consist of at least three test runs conducted under representative full load operating conditions and at least two of the test runs must be valid. The average of the cadmium and lead emission concentrations from all valid test runs is used to determine compliance.

(G) For each affected facility, the owner or operator must conduct a performance test for compliance with the emission limits for cadmium and lead on an annual basis (no more than 12 calendar months following the previous performance test), thereafter.

(b) The procedures and test methods specified below must be used to determine compliance with the mercury emission limit.

(A) EPA Reference Method 1 must be used for determining the location and number of sampling points.

(B) EPA Reference Method 3, 3A or 3B must be used for flue gas analysis.

(C) EPA Reference Method 29 must be used to determine the mercury emission concentration. The minimum sample volume when using Method 29 for mercury is 1.7 cubic meters (60 cubic feet).

(D) An oxygen (or carbon dioxide) measurement must be obtained simultaneously with each Method 29 test run for mercury.

(E) The percent reduction in the potential mercury emissions (%PHG) is computed using equation 2: [Equation not included. See ED. NOTE.]

(F) All performance tests must consist of at least three test runs conducted under representative full load operating conditions and at least two of the test runs must be valid. The average of the mercury emission concentrations from all valid test runs is used to determine compliance.

(G) An owner or operator may request that compliance with the mercury emission limit be determined using carbon dioxide measurements corrected to an equivalent of 7 percent oxygen. The relationship between oxygen and carbon dioxide levels for the affected facility must be established as specified in OAR 340-230-0340(2)(e).

(H) The owner or operator of an affected facility must conduct a performance test for mercury emissions on an annual basis (no more than 12 calendar months from the previous performance test).

(I) The owner or operator of an affected facility where activated carbon injection is used to comply with the mercury emission limit must follow the procedures specified in OAR 340-230-0340(12) for measuring and calculating carbon usage.

(5) The procedures and test methods specified below must be used for determining compliance with the sulfur dioxide emission limit.

(a) Compliance with the sulfur dioxide emission limit must be determined based on the 24-hour daily geometric average of the hourly arithmetic average emission concentrations using continuous emission monitoring system outlet data if compliance is based on an emission concentration, or con-



## ADMINISTRATIVE RULES

tinuous emission monitoring system inlet and outlet data if compliance is based on a percent reduction.

(b) EPA Reference Method 19, section 4.3, must be used to calculate the daily geometric average sulfur dioxide emission concentration.

(c) EPA Reference Method 19, section 5.4, must be used to determine the daily geometric average percent reduction in the potential sulfur dioxide emission concentration.

(d) An owner or operator may request that compliance with the sulfur dioxide emission limit be determined using carbon dioxide measurements corrected to an equivalent of 7 percent oxygen. The relationship between oxygen and carbon dioxide levels for the affected facility must be established as specified in OAR 340-230-0340(2)(e).

(e) The owner or operator of an affected facility must install, calibrate, maintain, and operate a continuous emission monitoring system for measuring sulfur dioxide emissions discharged to the atmosphere and record the output of the system in accordance with 40 CFR 60.13. If showing compliance with the percent reduction standards, the owner or operator must also install, calibrate, maintain, and operate a continuous monitoring system for measuring the sulfur dioxide concentration at the inlet to the sulfur dioxide control device and record the output in accordance with 40 CFR 60.13.

(f) At a minimum, valid continuous monitoring system hourly averages must be obtained for 75 percent of the operating hours per day for 90 percent of the operating days per calendar quarter that the affected facility is combusting municipal solid waste.

(A) At least two data points, separated by at least 15 minutes, per hour must be used to calculate each 1-hour arithmetic average.

(B) Each sulfur dioxide 1-hour arithmetic average must be corrected to 7 percent oxygen on an hourly basis using the 1-hour arithmetic average of the oxygen (or carbon dioxide) continuous emission monitoring system data.

(g) The 1-hour arithmetic averages must be expressed in parts per million corrected to 7 percent oxygen (dry basis) and used to calculate the 24-hour daily geometric average emission concentrations and daily geometric average emission percent reductions. The 1-hour arithmetic averages must be calculated using the data points required under 40 CFR 60.13(e)(2).

(h) All valid continuous emission monitoring system data must be used in calculating average emission concentrations and percent reductions even if the minimum continuous emission monitoring system data requirements are not met.

(i) The continuous emission monitoring system must be operated according to Performance Specification 2 in appendix B of 40 CFR 60.

(A) During each relative accuracy test run of the continuous emission monitoring system required by Performance Specification 2 in appendix B of 40 CFR 60, sulfur dioxide and oxygen (or carbon dioxide) must be collected concurrently (or within a 30- to 60-minute period) by both the continuous emission monitors and the test methods specified as follows: For sulfur dioxide, EPA Reference Method 6, 6A, or 6C must be used; and, for oxygen (or carbon dioxide), EPA Reference Method 3, 3A or 3B must be used.

(B) The span value of the continuous emissions monitoring system at the inlet to the sulfur dioxide control device must be 125 percent of the maximum estimated hourly potential sulfur dioxide emissions of the municipal waste combustor unit. The span value of the continuous emission monitoring system at the outlet of the sulfur dioxide control device must be 50 percent of the maximum estimated hourly potential sulfur dioxide emissions of the municipal waste combustor unit.

(j) Quarterly accuracy determinations and daily calibration tests must be performed in accordance with procedure 1 in Appendix F of 40 CFR 60.

(k) When sulfur dioxide emissions data are not obtained because of continuous emission monitoring system breakdowns, repairs, calibration checks, and zero and span adjustments, emissions data must be obtained by using other monitoring systems as approved by the Department or EPA Reference Method 19 to provide, as necessary, valid emissions data for a minimum of 75 percent of the hours per day that the affected facility is operated and combusting municipal solid waste for 90 percent of the days per calendar quarter that the affected facility is operated and combusting municipal solid waste.

(6) The procedures and test methods specified below must be used for determining compliance with the hydrogen chloride emission limit.

(a) EPA Reference Method 26 or 26A, as applicable, must be used to determine the hydrogen chloride emission concentration. The minimum sampling time for Method 26 must be 1 hour.

(b) An oxygen (or carbon dioxide) measurement must be obtained simultaneously with each Method 26 test run for hydrogen chloride.

(c) The percent reduction in potential hydrogen chloride emissions (% PHCI) is computed using equation 3: [Equation not included. See ED. NOTE.]

(d) An owner or operator may request that compliance with the hydrogen chloride emission limit be determined using carbon dioxide measurements corrected to an equivalent of 7 percent oxygen. The relationship between oxygen and carbon dioxide levels for the affected facility must be established as specified in OAR 340-230-0340(2)(e).

(e) All performance tests must consist of at least three test runs conducted under representative full load operating conditions and at least two of the test runs must be valid. The average of the hydrogen chloride emission concentrations from all valid test runs is used to determine compliance.

(f) The owner or operator of an affected facility must conduct a performance test for hydrogen chloride emissions on an annual basis (no more than 12 calendar months following the previous performance test).

(7) The procedures and test methods specified below must be used by the owner or operator to determine compliance with the limits for dioxin/furan emissions.

(a) EPA Reference Method 1 must be used for determining the location and number of sampling points.

(b) EPA Reference Method 3, 3A or 3B must be used for flue gas analysis.

(c) EPA Reference Method 23 must be used for determining the dioxin/furan emission concentration.

(A) The minimum sample time is 4 hours per test run.

(B) An oxygen (or carbon dioxide) measurement must be obtained simultaneously with each Method 23 test run for dioxins/furans.

(d) The owner or operator of an affected facility must conduct performance tests for dioxin/furan emissions according to the following schedules. Performance tests must be conducted on an annual basis (no more than 12 calendar months following the previous performance test.) Where all performance tests for all affected facilities over a 2-year period indicate that dioxin/furan emissions are less than or equal to 7 nanograms per dry standard cubic meter (total mass), the owner or operator of the municipal waste combustor plant may elect to conduct annual performance tests for one affected facility (i.e., unit) per year at the municipal waste combustor plant. At a minimum, a performance test for dioxin/furan emissions must be conducted annually (no more than 12 months following the previous performance test) for one affected facility at the municipal waste combustor plant. Each year a different affected facility at the municipal waste combustor plant must be tested, and the affected facilities at the plant must be tested in sequence (e.g., unit 1, unit 2, unit 3, as applicable). If each annual performance test continues to indicate a dioxin/furan emission level less than or equal to 7 nanograms per dry standard cubic meter (total mass), the owner or operator may continue conducting a performance test on only one affected facility per year. If any annual performance test indicates a dioxin/furan emission level greater than 7 nanograms per dry standard cubic meter (total mass), performance tests thereafter must be conducted annually on all affected facilities at the plant until and unless all annual performance tests for all affected facilities at the plant over a 2-year period indicate a dioxin/furan emission level less than or equal to 7 nanograms per dry standard cubic meter (total mass).

(e) The owner or operator of an affected facility where activated carbon is used to comply with the dioxin/furan emission limits or the dioxin/furan emission level specified in OAR 340-230-0340(7)(d) must follow the procedures specified in OAR 340-230-0340(13) for measuring and calculating the carbon usage rate.

(f) An owner or operator may request that compliance with the dioxin/furan emission limit be determined using carbon dioxide measurements corrected to an equivalent of 7 percent oxygen. The relationship between oxygen and carbon dioxide levels for the affected facility must be established as specified in OAR 340-230-0340(2)(e).

(g) All performance tests must consist of at least three test runs conducted under representative full load operating conditions and at least two of the test runs must be valid. The average of the dioxin/furan emission concentrations from all valid test runs is used to determine compliance.

(8) The procedures and test methods specified below must be used to determine compliance with the nitrogen oxides emission limit for affected facilities.

(a) Compliance with the nitrogen oxides emission limit must be determined by using the continuous emission monitoring system specified in OAR 340-230-0340(8)(c) for measuring nitrogen oxides and calculating a 24-hour daily arithmetic average emission concentration using EPA Reference Method 19, section 4.1.

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(b) An owner or operator may request that compliance with the nitrogen oxides emission limit be determined using carbon dioxide measurements corrected to an equivalent of 7 percent oxygen. The relationship between oxygen and carbon dioxide levels for the affected facility must be established as specified in OAR 340-230-0340(2)(e).

(c) The owner or operator must install, calibrate, maintain, and operate a continuous emission monitoring system for measuring nitrogen oxides discharged to the atmosphere, and record the output of the system in accordance with 40 CFR 60.13.

(d) At a minimum, valid continuous emission monitoring system hourly averages must be obtained for 75 percent of the operating hours per day for 90 percent of the operating days per calendar quarter that the affected facility is combusting municipal solid waste.

(A) At least 2 data points, separated by at least 15 minutes, per hour must be used to calculate each 1-hour arithmetic average.

(B) Each nitrogen oxides 1-hour arithmetic average must be corrected to 7 percent oxygen on an hourly basis using the 1-hour arithmetic average of the oxygen (or carbon dioxide) continuous emission monitoring system data.

(e) The 1-hour arithmetic averages must be expressed in parts per million by volume corrected to 7 percent oxygen (dry basis) and used to calculate the 24-hour daily arithmetic average concentrations.

(f) All valid continuous emission monitoring system data must be used in calculating emission averages even if the minimum continuous emission monitoring system data requirements are not met.

(g) The owner or operator must operate the continuous emission monitoring system according to Performance Specification 2 in Appendix B of 40 CFR 60 and must follow the procedures and methods specified as follows:

(A) During each relative accuracy test run of the continuous emission monitoring system required by Performance Specification 2 in Appendix B of 40 CFR 60, nitrogen oxides and oxygen (or carbon dioxide) must be collected concurrently (or within a 30- to 60-minute period) by both the continuous emission monitors and the test methods specified as follows: For nitrogen oxides, EPA Reference Methods 7, 7A, 7C, 7D, or 7E must be used; and, for oxygen (or carbon dioxide), EPA Reference Method 3, 3A or 3B must be used.

(B) The span value of the continuous emission monitoring system is 125 percent of the maximum estimated hourly potential nitrogen oxide emissions of the municipal waste combustor unit.

(h) Quarterly accuracy determinations and daily calibration drift tests must be performed in accordance with procedure 1 in Appendix F of 40 CFR Part 60.

(i) When nitrogen oxides continuous emissions data are not obtained because of continuous emission monitoring system breakdowns, repairs, calibration checks, and zero and span adjustments, emissions data must be obtained using other monitoring systems as approved by the Department or EPA Reference Method 19 to provide, as necessary, valid emissions data for a minimum of 75 percent of the hours per day for 90 percent of the days per calendar quarter the unit is operated and combusting municipal solid waste.

(9) The procedures specified below must be used for determining compliance with the opacity limit for air curtain incinerators.

(a) EPA Reference Method 9 must be used to determine compliance with the opacity limit.

(b) The owner or operator of the air curtain incinerator must conduct an initial performance test for opacity as required by 40 CFR Part 60.8.

(c) Following the date that the initial performance test is completed the owner or operator of the air curtain incinerator must conduct a performance test for opacity on an annual basis (no more than 12 calendar months following the previous performance test).

(10) The procedures specified below must be used for determining compliance with the operating requirements under OAR 340-230-0320.

(a) The owner or operator of an affected facility must install, calibrate, maintain, and operate a continuous emission monitoring system for measuring carbon monoxide at the combustor outlet and record the output of the system in accordance with 40 CFR 60.13 and the following:

(A) Compliance with the carbon monoxide emission limits must be determined using a 4-hour block arithmetic average.

(B) The owner or operator of an affected facility must install, calibrate, maintain, and operate a continuous emission monitoring system for measuring carbon monoxide at the combustor outlet and record the output of the system following the procedures below.

(i) The continuous emission monitoring system must be operated according to Performance Specification 4A in 40 CFR 60, Appendix B.

(ii) During each relative accuracy test run of the continuous emission monitoring system required by Performance Specification 4A in Appendix B of 40 CFR Part 60, carbon monoxide and oxygen (or carbon dioxide) must be collected concurrently (or within a 30- to 60-minute period) by both the continuous emission monitors and the test methods specified as follows: For carbon monoxide, EPA Reference Methods 10, 10A, or 10B must be used; and, for oxygen (or carbon dioxide), EPA Reference Method 3, 3A, or 3B must be used.

(iii) The span value of the continuous emission monitoring system must be 125 percent of the maximum estimated hourly potential carbon monoxide emissions of the municipal waste combustor unit.

(E) The 4-hour block and 24-hour daily arithmetic averages must be calculated from 1-hour arithmetic averages expressed in parts per million by volume corrected to 7 percent oxygen (dry basis). The 1-hour arithmetic averages must be calculated using the data points generated by the continuous emission monitoring system. At least two data points, separated by at least 15 minutes, per hour must be used to calculate each 1-hour arithmetic average.

(F) An owner or operator may request that compliance with the carbon monoxide emission limit be determined using carbon dioxide measurements corrected to an equivalent of 7 percent oxygen. The relationship between oxygen and carbon dioxide levels for the affected facility must be established as specified in OAR 340-230-0340(2)(e).

(G) At a minimum, valid continuous emission monitoring system hourly averages must be obtained for 75 percent of the hours per day for 90 percent of the operating days per calendar quarter that the affected facility is combusting municipal solid waste.

(H) All valid continuous emission monitoring system data must be used in calculating carbon monoxide emission even if the minimum data requirements are not met.

(I) Quarterly accuracy determinations and daily calibration drift tests for the carbon monoxide continuous emission monitoring system must be performed in accordance with procedure 1 of 40 CFR 60, Appendix F (2002).

(b) The procedures specified below must be used by the owner or operator to determine compliance with load level requirements under OAR 340-230-0320.

(A) The owner or operator of an affected facility with steam generation capability must install, calibrate, maintain, and operate a steam flow meter or a feedwater flow meter; measure steam (or feedwater) flow in kilograms per hour (or pounds per hour) on a continuous basis; and record the output of the monitor. Steam (or feedwater) flow must be calculated in 4-hour block arithmetic averages.

(B) The method included in the "American Society of Mechanical Engineers Power Test Codes: Test Code for Steam Generating Units, Power Test Code 4.1 -- 1964 (R1991)" section 4 (incorporated by reference, see 40 CFR 60.17) must be used for calculating the steam (or feedwater) flow. The recommendations in "American Society of Mechanical Engineers Interim Supplement 19.5 on Instruments and Apparatus: Application, Part II of Fluid Meters, 6th edition (1971)," chapter 4 (incorporated by reference -- see 40 CFR 60.17(h)(3)) must be followed for design, construction, installation, calibration, and use of nozzles and orifices except as specified below:

(i) Measurement devices such as flow nozzles and orifices are not required to be recalibrated after they are installed.

(ii) All signal conversion elements associated with steam (or feedwater flow) measurements must be calibrated according to the manufacturer's instructions before each dioxin/furan performance test, and at least once per year.

(C) The owner or operator of an affected facility without steam generation capability is not required to monitor unit load.

(D) The maximum demonstrated municipal waste combustor unit load must be the highest 4-hour arithmetic average load achieved during four consecutive hours during the most recent test during which compliance with the dioxin/furan emission limit was achieved.

(c) To determine compliance with the maximum particulate matter control device temperature requirements, the owner or operator of an affected facility must install, calibrate, maintain, and operate a device for measuring on a continuous basis the temperature of the flue gas stream at the inlet to each particulate matter control device utilized by the affected facility.

(A) Temperature must be calculated in 4-hour block arithmetic averages.

(B) For each particulate matter control device employed at the affected facility, the maximum demonstrated particulate matter control device temperature must be the highest 4-hour arithmetic average temperature achieved at the particulate matter control device inlet during four consecu-

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tive hours during the most recent test during which compliance with the dioxin/furan limit was achieved.

(d) At a minimum, valid continuous load level and control device inlet temperature monitoring system hourly averages must be obtained for 75 percent of the operating hours per day for 90 percent of the operating days per calendar quarter that the affected facility is combusting municipal solid waste.

(A) At least two data points, separated by at least 15 minutes, per hour must be used to calculate each 1-hour arithmetic average.

(B) All valid continuous emission monitoring system data must be used in calculating the parameters specified under OAR 340-230-0340(9) even if the minimum data requirements are not met. When carbon monoxide continuous emission data are not obtained because of continuous emission monitoring system breakdowns, repairs, calibration checks, and zero and span adjustments, emissions data must be obtained using other monitoring systems as approved by the Department or EPA Reference Method 10 to provide, as necessary, the minimum valid emission data.

(11) The procedures specified below must be used for calculating municipal waste combustor unit capacity as defined by 40 CFR 60.51b .

(a) For municipal waste combustor units capable of combusting municipal solid waste continuously for a 24-hour period, municipal waste combustor unit capacity, in megagrams per day of municipal solid waste combusted, must be calculated based on 24 hours of operation at the maximum charging rate. The maximum charging rate must be determined by one of the following procedures, as applicable:

(A) For combustors that are designed based on heat capacity, the maximum charging rate must be calculated based on the maximum design heat input capacity of the unit and a heating value of 12,800 kilojoules per kilogram for combustors firing refuse-derived fuel and a heating value of 10,500 kilojoules per kilogram for combustors firing municipal solid waste that is not refuse-derived fuel.

(B) For combustors that are not designed based on heat capacity, the maximum charging rate is the maximum design charging rate.

(b) For batch feed municipal waste combustor units, municipal waste combustor unit capacity, in megagrams per day of municipal solid waste combusted, must be calculated as the maximum design amount of municipal solid waste that can be charged per batch multiplied by the maximum number of batches that could be processed in a 24-hour period. The maximum number of batches that could be processed in a 24-hour period is calculated as 24 hours divided by the design number of hours required to process one batch of municipal solid waste, and may include fractional batches (e.g., if one batch requires 16 hours, then 24/16, or 1.5 batches, could be combusted in a 24-hour period). For batch combustors that are designed based on heat capacity, the design heating value of 12,800 kilojoules per kilogram for combustors firing refuse-derived fuel and a heating value of 10,500 kilojoules per kilogram for combustors firing municipal solid waste that is not refuse-derived fuel must be used in calculating the municipal waste combustor unit capacity in megagrams per day of municipal solid waste.

(12) The procedures specified below must be used for determining compliance with the fugitive ash emission limit.

(a) EPA Reference Method 22 must be used for determining compliance with the fugitive ash emission limit. The minimum observation time must be a series of three 1-hour observations. The observation period must include times when the facility is transferring ash from the municipal waste combustor unit to the area where ash is stored or loaded into containers or trucks.

(b) The average duration of visible emissions per hour must be calculated from the three 1-hour observations. The Department will use the average to determine compliance.

(c) The owner or operator of an affected facility must conduct a performance test for fugitive ash emissions on an annual basis (no more than 12 months following previous performance tests).

(13) The owner or operator of an affected facility where activated carbon injection is used to comply with the mercury emission limit, or the dioxin/furan emission limits, or the dioxin/furan emission level specified in OAR 340-230-0340(7)(d) must follow the procedures specified below:

(a) During any performance test for dioxins/furans and mercury, as applicable, the owner or operator must estimate an average carbon mass feed rate based on carbon injection system operating parameters such as the screw feeder speed, hopper volume, hopper refill frequency, or other parameters appropriate to the feed system being employed, as specified below:

(A) An average carbon mass feed rate in kilograms per hour or pounds per hour must be estimated during each performance test for mercury emissions.

(B) An average carbon mass feed rate in kilograms per hour or pounds per hour must be estimated during each performance test for dioxin/furan emissions.

(b) During operation of the affected facility, the carbon injection system operating parameter(s) that are the primary indicator(s) of the carbon mass feed rate (e.g., screw feeder setting) must equal or exceed the level(s) documented during the performance tests specified under (a)(A) or (B) of this section.

(c) The owner or operator must estimate the total carbon usage of the plant (kilograms or pounds) for each calendar quarter by two independent methods, according to the procedures specified below:

(A) The weight of carbon delivered to the plant.

(B) Estimate the average carbon mass feed rate in kilograms per hour or pounds per hour for each hour of operation for each affected facility based on the parameters specified under (a) of this section, and sum the results for all affected facilities at the plant for the total number of hours of operation during the calendar quarter.

(14) Continuous monitoring for opacity, sulfur dioxide, nitrogen oxides, carbon monoxide, and diluent gases (oxygen or carbon dioxide) must be conducted in accordance with the Department's Continuous Monitoring Manual and the specific requirements of this rule. If at any time there is a conflict between the Department's **Continuous Monitoring Manual** and the federal requirements contained in **40 CFR 60.13, Appendix B and Appendix F**, the federal requirements must govern.

(Publications & Equation referenced are available from the agency.)

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Stats. Implemented: ORS 468A.02

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### 340-230-0350

#### Recordkeeping and Reporting

(1) The owner or operator of an affected facility subject to the standards contained in OAR 340-230-0300 through 340-230-0350 must maintain records of the applicable information specified below for each affected facility for a period of at least 5 years. The information must be available for submittal to the Department or for review onsite by an inspector.

(a) The calendar date of each record.

(b) The following emission concentrations and parameters measured using continuous monitoring systems:

(A) All 6-minute average opacity levels.

(B) All 1-hour average sulfur dioxide emission concentrations.

(C) All 1-hour average nitrogen oxides emission concentrations.

(D) All 1-hour average carbon monoxide emission concentrations, municipal waste combustor unit load measurements (if applicable), and particulate matter control device inlet temperatures.

(E) All 24-hour daily geometric average sulfur dioxide emission concentrations and all 24-hour daily geometric average percent reductions in sulfur dioxide emissions.

(F) All 24-hour daily arithmetic average nitrogen oxides emission concentrations.

(G) All 4-hour block arithmetic average carbon monoxide emission concentrations.

(H) All 4-hour block arithmetic average municipal waste combustor unit load levels (if applicable) and particulate matter control device inlet temperatures.

(c) Identification of the calendar dates when any of the average opacity levels, emission concentrations, percent reductions, or operating parameters recorded under OAR 340-230-0350(1)(b) are above the applicable limits, with reasons for such exceedances and a description of corrective actions taken.

(d) For affected facilities that apply activated carbon for mercury or dioxin/furan control, the records specified below:

(A) The average carbon mass feed rate (in kilograms per hour or pounds per hour) estimated during each mercury emissions performance test, with supporting calculations.

(B) The average carbon mass feed rate (in kilograms per hour or pounds per hour) estimated during each dioxin/furan emissions performance test, with supporting calculations.

(C) The average carbon mass feed rate (in kilograms per hour or pounds per hour) estimated for each hour of operation, with supporting calculations.

(D) The total carbon usage for each calendar quarter estimated, with supporting calculations.

(E) Carbon injection system operating parameter data for the parameter(s) that are the primary indicator(s) of carbon feed rate (e.g., screw feeder speed).

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(e) Identification of the calendar dates for which the minimum number of hours of any of the data specified below have not been obtained including reasons for not obtaining sufficient data and a description of corrective actions taken.

- (A) Sulfur dioxide emissions data;
- (B) Nitrogen oxides emissions data;
- (C) Carbon monoxide emissions data;
- (D) Municipal waste combustor unit load data; and
- (E) Particulate matter control device temperature data.

(F) For affected facilities that apply activated carbon for mercury or dioxin/furan control, carbon usage and carbon injection system operating parameter data.

(f) Identification of each occurrence that sulfur dioxide emissions data, nitrogen oxides emissions data, or operational data (i.e., carbon monoxide emissions, unit load, and particulate matter control device temperature) have been excluded from the calculation of average emission concentrations or parameters, and the reasons for excluding the data.

(g) The results of daily drift tests and quarterly accuracy determinations for sulfur dioxide, nitrogen oxides, and carbon monoxide continuous emission monitoring systems, as required by **40 CFR 60.13** and **Procedure 1** of **40 CFR 60.13, Appendix F**.

(h) The test reports documenting the results of all performance tests conducted to determine compliance with the particulate matter, opacity, cadmium, lead, mercury, dioxins/furans, hydrogen chloride, and fugitive ash emission limits, including the oxygen/carbon dioxide relationship (if applicable according to OAR 340-230-0340(2)(e)) be recorded along with supporting calculations and the following information:

(A) For the first dioxin/furan performance test conducted after December 31, 1997 and all subsequent dioxin/furan performance tests, the maximum demonstrated municipal waste combustor unit load and maximum demonstrated particulate matter control device temperature (for each particulate matter control device); and

(B) For affected facilities that apply carbon for mercury or dioxin/furan control, the average carbon injection rate during the first mercury or dioxin/furan performance test conducted after December 31, 1997 and all subsequent mercury or dioxin/furan performance tests.

(i) Training records as specified below:

(C) Records showing the names of the municipal waste combustor chief facility operator, shift supervisors, and control room operators who have been provisionally certified by the American Society of Mechanical Engineers or an equivalent State-approved certification program, including the dates of initial and renewal certifications and documentation of current certification.

(D) Records showing the names of the municipal waste combustor chief facility operator, shift supervisors, and control room operators who have been fully certified by the American Society of Mechanical Engineers or an equivalent State-approved certification program, including the dates of initial and renewal certifications and documentation of current certification.

(E) Records showing the names of the municipal waste combustor chief facility operator, shift supervisors, and control room operators who have completed the EPA municipal waste combustor operator training course or a State-approved equivalent course, including documentation of training completion.

(F) Records showing the names of persons who have completed a review of the operating manual, including the date of the initial review and subsequent annual reviews.

(i) For affected facilities that apply activated carbon for mercury or dioxin/furan control:

(A) Identification of the calendar dates when the average carbon mass feed rates were less than either of the hourly carbon feed rates estimated during performance tests for mercury or dioxin/furan emissions with reasons for such feed rates and a description of corrective actions taken.

(B) Identification of the calendar dates when the carbon injection system operating parameter(s) that are the primary indicator(s) of carbon mass feed rate (e.g., screw feeder speed) are below the level(s) estimated during the performance tests, with reasons for such occurrences and a description of corrective actions taken.

(j) For affected facilities installing additional controls, records of semi-annual progress reports.

(2) The owner or operator of an affected facility must submit the following information in a performance test report within 60 days following the completion of each performance test:

(a) The test report documenting the performance test recorded under subsection (1)(h) of this rule for particulate matter, opacity, cadmium, lead, mercury, dioxins/furans, hydrogen chloride, fugitive ash emissions;

(b) The oxygen/carbon dioxide relationship established in accordance with OAR 340-230-0340(2)(e), if applicable;

(c) Data as recorded under paragraphs (1)(b)(A) and (1)(b)(E) through (1)(b)(H) of this rule for three consecutive days coinciding with each performance test;

(d) Unless previously submitted, the performance evaluation of the continuous emission monitoring systems using the applicable performance specifications in **40 CFR 60.13 Appendix B**;

(e) The maximum demonstrated municipal waste combustor unit load and maximum demonstrated particulate matter control device inlet temperature(s) established during the dioxin/furan performance test;

(f) For affected facilities that apply activated carbon injection for mercury control, the owner or operator must submit the average carbon mass feed rate recorded during the mercury performance test; and

(g) For affected facilities that apply activated carbon injection for dioxin/furan control, the owner or operator must submit the average carbon mass feed rate recorded during the dioxin/furan performance test.

(3) The owner or operator of an affected facility must submit semi-annual reports including the following information, as applicable, no later than July 30 for the first six months of each calendar year and February 1 for the second six months of each calendar year.

(a) A summary of data collected for all pollutants and parameters regulated under this rule, which includes the following information:

(A) A list of the particulate matter, opacity, cadmium, lead, mercury, dioxins/furans, hydrogen chloride, and fugitive ash emission levels achieved during any performance tests conducted during the reporting period.

(B) A list of the highest emission level recorded for sulfur dioxide, nitrogen oxides, carbon monoxide, municipal waste combustor unit load level, and particulate matter control device inlet temperature recorded during the reporting period.

(C) List the highest opacity level measured and recorded during the reporting period.

(D) The total number of days that the minimum number of hours of data for opacity, sulfur dioxide, nitrogen oxides, carbon monoxide, municipal waste combustor unit load, and particulate matter control device temperature data were not obtained based on the data recorded during the reporting period.

(E) The total number of hours that data for opacity, sulfur dioxide, nitrogen oxides, carbon monoxide, municipal waste combustor unit load, and particulate matter control device temperature were excluded from the calculation of average emission concentrations or parameters based on the data recorded during the reporting period.

(b) The summary of data reported under OAR 340-230-0350(3)(a) must also provide the types of data specified in OAR 340-230-0350(3)(a) for the calendar year preceding the year being reported, in order to provide the Department with a summary of the performance of the affected facility over a 2-year period.

(c) The summary of data including the information specified in OAR 340-230-0350(3)(a) and (b) must highlight any emission or parameter levels that did not achieve the emission or parameter limits specified by OAR 340-230-0310 through 340-230-0320.

(d) A notification of intent to begin the reduced dioxin/furan performance testing schedule specified in OAR 340-230-0340(7)(d) during the following calendar year.

(4) The owner or operator of an affected facility must submit a semi-annual report that includes the following information for any recorded pollutant or parameter that does not comply with the pollutant or parameter limit by July 30 for the first six months of each calendar year and February 1 for the second six months of each calendar year.

(a) The semiannual report must include information recorded under subsection (1)(c) of this rule for sulfur dioxide, nitrogen oxides, carbon monoxide, municipal waste combustor unit load level, particulate matter control device inlet temperature, and opacity.

(b) For each date recorded and reported, the semiannual report must include the sulfur dioxide, nitrogen oxides, carbon monoxide, municipal waste combustor unit load level, particulate matter control device inlet temperature, or opacity data, as applicable and as recorded by paragraphs (1)(b)(A) and (E) through (H) of this rule.

(c) If the test reports recorded under subsection (1)(h) of this rule document any particulate matter, opacity, cadmium, lead, mercury, dioxins/furans, hydrogen chloride, and fugitive ash emission levels that were above the applicable pollutant limits, the semiannual report must include a copy of the emission levels and the corrective actions taken.

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(d) The semiannual report must include the information recorded under paragraph (1)(j)(B) of this rule for the carbon injection system operating parameter(s) that are the primary indicator(s) of carbon mass feed rate.

(e) For each operating date reported under subsection (4)(d) of this rule, the semiannual report must include the carbon feed rate data recorded under paragraph (1)(d)(C) of this rule.

(5) All reports specified under OAR 340-230-0350(2), (3), and (4) must be submitted as a paper copy, postmarked on or before the submittal dates specified, and maintained onsite as a paper copy for a period of 5 years.

(6) All records specified under OAR 340-230-0350(1) must be maintained onsite in either paper copy or computer-readable format, unless an alternative format is approved by the Department.

(7) If an owner or operator would prefer to select a different annual or semiannual date for submitting the periodic reports, then the dates may be changed in an Oregon Title V Operating Permit by mutual agreement between the owner or operator and the Department.

(8) For affected facilities installing additional controls, the owner or operator must submit to the Department semi-annual progress reports on July 30 for the first six months of each calendar year and February 1 for the second six months of each calendar year.

(9) The owner or operator of an affected facility subject to OAR 340-230-0300 through 340-230-0350 must maintain records of and submit the following information with any Notice of Construction required by OAR 340-210-0200 through 340-210-0220 or Notice of Approval required by OAR 340-218-0190:

(a) Intent to construct;

(b) Planned initial startup date;

(c) The types of fuels that the owner or operated plans to combust in the municipal waste combustor; and

(d) The municipal waste combustor capacity, municipal waste combustor plant capacity, and supporting capacity calculations prepared in accordance with OAR 340-230-0340(10).

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

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.025

Hist.: DEQ 27-1996, f. & cert. ef. 12-11-96; DEQ 4-2003, f. & cert. ef. 2-06-03 DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-025-1000; DEQ 4-2003, f. & cert. ef. 2-06-03

### 340-230-0365

#### Small Municipal Waste Combustion Unit

(1) Applicability:

(a) OAR 340-230-0365 through 340-230-0395 apply to each municipal waste combustion unit that has the capacity to combust at least 35 tons per day of municipal solid waste but no more than 250 tons per day of municipal solid waste or refuse-derived fuel on which construction commenced on or before August 30, 1999.

(A) Class I units are small municipal waste combustion units that are located at municipal waste combustion plants with an aggregate plant combustion capacity greater than 250 tons per day of municipal solid waste.

(B) Class II units are small municipal waste combustion units that are located at municipal waste combustion plants with an aggregate plant combustion capacity less than or equal to 250 tons per day of municipal solid waste.

(b) MWC subject to OAR 340-230-0365 through 340-230-0395 are not subject to the incinerator rules in OAR 340-230-0100 through 340-230-0150.

(2) The following units in OAR 340-230-0365(2)(a) - (k) are exempt from the requirements in OAR 340-230-0370 through 340-230-0395:

(a) Small municipal waste combustion units that combust less than 11 tons per day are exempt if the following requirements are met

(A) The municipal waste combustion unit is subject to a federally enforceable permit limiting the amount of municipal solid waste combusted to less than 11 tons per day.

(B) The owner or operator of the unit notifies the Department of an exemption claim.

(C) The owner or operator of the unit provides a copy of the federally enforceable permit.

(D) The owner or operator of the unit keeps daily records of the amount of municipal solid waste combusted.

(b) Small power production units are exempt if four requirements are met:

(A) The unit qualifies as a small power production facility under section 3(17)(C) of the Federal Power Act (16 U.S.C. § 796(17)(C)).

(B) The unit combusts homogeneous waste (excluding refuse-derived fuel) to produce electricity.

(C) The owner or operator of the unit notifies the Department of an exemption claim.

(D) The owner or operator of the unit provides documentation that the unit qualifies for the exemption.

(c) Cogeneration units are exempt if four requirements are met:

(A) The unit qualifies as a cogeneration facility under section 3(18)(B) of the Federal Power Act (16 U.S.C. § 796(18)(B)).

(B) The unit combusts homogeneous waste (excluding refuse-derived fuel) to produce electricity and steam or other forms of energy used for industrial, commercial, heating, or cooling purposes.

(C) The owner or operator of the unit notifies the Department of an exemption claim.

(D) The owner or operator of the unit provides documentation that the unit qualifies for the exemption.

(d) Municipal waste combustion units that combust only tires are exempt if three requirements are met:

(A) The municipal waste combustion unit combusts a single-item waste stream of tires and no other municipal waste (the unit can co-fire coal, fuel oil, natural gas, or other nonmunicipal solid waste).

(B) The owner or operator of the unit notifies the Department of an exemption claim.

(C) The owner or operator of the unit provides documentation that the unit qualifies for the exemption.

(e) Hazardous waste combustion units are exempt if the units have received a permit under section 3005 of the Solid Waste Disposal Act (42 U.S.C. § 6925).

(f) Materials recovery units are exempt if the units combust waste mainly to recover metals. Primary and secondary smelters may qualify for the exemption.

(g) Co-fired units are exempt if four requirements are met:

(A) The unit has a federally enforceable permit limiting municipal solid waste combustion to 30 percent of the total fuel input by weight.

(B) The owner or operator of the unit notifies the Department of an exemption claim.

(C) The owner or operator of the unit provides documentation that the unit qualifies for the exemption.

(D) The owner or operator records the weights, each quarter, of municipal solid waste and of all other fuels combusted.

(h) Plastics/rubber recycling units are exempt if four requirements are met:

(B) The pyrolysis/combustion unit is an integrated part of a plastics/rubber recycling unit.

(C) The owner or operator of the unit records the weight, each quarter, of plastics, rubber, and rubber tires processed.

(D) The owner or operator of the unit records the weight, each quarter, of feed stocks produced and marketed from chemical plants and petroleum refineries.

(E) The owner or operator of the unit keeps the name and address of the purchaser of the feed stocks.

(i) Units that combust fuels made from products of plastics/rubber recycling plants are exempt if two requirements are met:

(A) The unit combusts gasoline, diesel fuel, jet fuel, fuel oils, residual oil, refinery gas, petroleum coke, liquified petroleum gas, propane, or butane produced by chemical plants or petroleum refineries that use feed stocks produced by plastics/rubber recycling units.

(B) The unit does not combust any other municipal solid waste.

(j) Cement kilns that combust municipal solid waste are exempt.

(3) Reducing small municipal waste combustion unit capacity. An owner or operator of an affected municipal waste combustion unit may choose to reduce, by the final compliance date, the maximum combustion capacity of the unit to less than 35 tons per day of municipal solid waste. A final control plan must be submitted with the notifications of achievement of increments of progress as specified in OAR 340-230-0370(1)(a). The final control plan must include a description of the physical changes that will be made to accomplish the reduction and calculations of the current maximum combustion capacity and the planned maximum combustion capacity after the reduction, using the equations specified below. A permit restriction or a change in the method of operation does not qualify as a reduction in capacity.

(a) For a municipal waste combustion unit that can operate continuously for 24-hour periods, calculate the municipal waste combustion unit capacity based on 24 hours of operation at the maximum charge rate. To determine the maximum charge rate, use one of two methods.

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(i) If the municipal waste combustion unit combusts refuse-derived fuel, use a heating value of 12,800 kilojoules per kilogram (5,500 British thermal units per pound).

(ii) If the municipal waste combustion unit combusts municipal solid waste, use a heating value of 10,500 kilojoules per kilogram (4,500 British thermal units per pound).

(b) For municipal waste combustion units with a design not based on heat input capacity, use the maximum designed charging rate.

(c) For a batch municipal waste combustion unit calculate the capacity of a batch municipal waste combustion unit as the maximum design amount of municipal solid waste charged per batch multiplied by the maximum number of batches processed in 24 hours. Calculate the maximum number of batches by dividing 24 by the number of hours needed to process one batch. Retain fractional batches in the calculation. For example, if one batch requires 16 hours, the municipal waste combustion unit can combust 24/16, or 1.5 batches, in 24 hours.

[Publications: Publications referenced are available from the agency.]  
Stat. Auth.: ORS 468.020  
Stats. Implemented: ORS 468A.025  
Hist.: DEQ 4-2003, f. & cert. ef. 2-06-03

### 340-230-0370

#### Increments of Progress

##### (1) Increments of Progress

(a) For Class I units, if the owner or operator plans to achieve compliance more than 1 year following December 31, 2003 and a permit modification is not required, or more than 1 year following the date of issuance of a revised construction or operation permit if a permit modification is required, five increments of progress must be met as follows:

- (A) Submit a final control plan;
- (B) Submit a notification of retrofit contract award;
- (C) Initiate onsite construction;
- (D) Complete onsite construction;
- (E) Achieve final compliance.

(b) For Class II units, if the owner or operator plans to achieve compliance more than 1 year following December 31, 2003 and a permit modification is not required, or more than 1 year following the date of issuance of a revised construction or operation permit if a permit modification is required, the following two increments of progress must be met:

- (A) Submit a final control plan;
- (B) Achieve final compliance.

##### (c) Deadlines:

(A) Submission of a final control plan to the Department by no later than December 31, 2003.

(B) For Class I units only, award contracts must be submitted to the Department by no later than June 6, 2004

(C) For Class I units only, onsite construction must begin by December 6, 2004.

(D) For Class I units only, onsite construction must be completed by June 6, 2005.

(E) Final compliance must be completed by December 6, 2005.

##### (2) Notification:

(a) The notification of achievement of increment of progress must include: notification that the increment of progress has been achieved and any items required to be submitted with the increment of progress. The notification must be signed by the owner or operator of the municipal waste combustion unit.

(b) Notifications of achievement of increments of progress must be postmarked no later than 10 days after the compliance date for the increment.

(3) Failure to meet deadlines. If the owner or operator fails to meet an increment of progress, a notification to the Department must be submitted no later than 10 days after the compliance date for the increment. The notification must explain to the Department why the increment was not met and the plan for meeting the increment as expeditiously as possible. Reports must be submitted each subsequent month until the increment of progress is met.

##### (4) Control Plan:

(a) Submit the final control plan, including a description of the devices for air pollution control and process changes that will be used to comply with the emission limits and other requirements of this division.

(b) A copy of the final control plan must be maintained onsite.

(5) Awarding Contracts. A signed copy of the contracts awarded to initiate onsite construction, initiate onsite installation of emission control equipment, and incorporated process changes must be submitted to the Department. Submit the copy of the contracts with the notification that the increment of progress has been achieved.

##### (6) Onsite Construction:

(a) Initiate onsite construction and installation of emission control equipment and initiate the process changes outlined in the final control plan.

(b) Complete onsite construction and installation of emission control equipment and complete process changes outlined in the final control plan.

##### (7) Final compliance:

(a) Complete all process changes and complete retrofit construction as specified in the final control plan.

(b) Connect the air pollution control equipment with the municipal waste combustion unit identified in the final control plan and complete process changes to the municipal waste combustion unit so that if the affected municipal waste combustion unit is brought online, all necessary process changes and air pollution control equipment are operating as designed.

##### (8) Closure of the combustion unit:

(a) If the municipal waste combustion unit is closed but must reopen before the final compliance date, the owner or operator must meet the increments of progress specified in OAR 340-230-0370(1). Additionally, the owner or operator must complete emission control retrofit and meet the emission limits and good combustion practices on the date the municipal waste combustion unit restarts operation.

(b) If the municipal waste combustion unit must be closed rather than comply, the owner or operator must submit a closure notification, including the date of closure, to the Department by the date the final control plan is due. If the closure date is later than 1 year after the effective date of State plan approval, the owner or operator must enter into a legally binding closure agreement with the Department by the date the final control plan is due. The agreement must specify the date by which operation must cease.

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.025

Hist.: DEQ 4-2003, f. & cert. ef. 2-06-03

### 340-230-0373

#### Operator Training

##### (1) Who must complete the operator training course:

(a) Chief facility operators, shift supervisors, and control room operators must complete the EPA or State-approved operator training course. If a chief facility operator, shift supervisor, and control room operator have obtained full certification from the American Society of Mechanical Engineers by June 19, 2004, the training requirements do not apply.

(b) The employees must complete the operator training by December 19, 2004.

(c) The owner or operator may ask the Department to waive the requirement contained in subsection (a) for chief facility operators, shift supervisors, and control room operators who have obtained provisional certification from the American Society of Mechanical Engineers by June 19, 2004.

(2) Who must complete the plant-specific training course All employees with responsibilities that affect how a municipal waste combustion unit operates must complete the plant-specific training course. Chief facility operators, shift supervisors, control room operators, ash handlers, maintenance personnel, and crane or load handlers must be included.

##### (3) Plant Specific Training:

(a) For training at a particular plant, develop a specific operating manual for that plant by June 19, 2004.

(b) Establish a program to review the plant-specific operating manual with people whose responsibilities affect the operation of the municipal waste combustion unit. Complete the review by June 19, 2004.

(c) Update the manual annually.

(d) Review the manual with staff annually.

(4) The following information must be included in the plant-specific operating manual:

(a) A summary of the applicable standards under OAR 340-230-0365 through 340-230-0395;

(b) A description of basic combustion theory applicable to a municipal waste combustion unit;

(c) Procedures for receiving, handling, and feeding municipal solid waste;

(d) Procedures to follow during periods of municipal waste combustion unit startup, shutdown, and malfunction procedures;

(e) Procedures for maintaining proper combustion air supply levels;

(f) Procedures for operating the municipal waste combustor unit within the standards established under OAR 340-230-0365 through 340-230-0395;

(g) Procedures for responding to periodic upset or off-specification conditions;

(h) Procedures for minimizing particulate matter carryover;

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- (i) Procedures for handling ash;
  - (j) Procedures for monitoring municipal waste combustor unit emissions; and
  - (k) Reporting and recordkeeping procedures.
- (5) Where the plant specific training manual must be kept. The operating manual must be kept in an easily accessible location at the plant. It must be available for review or inspection by all employees who must review it and by the Department.

Stat. Auth.: ORS 468.020  
Stats. Implemented: ORS 468A.025  
Hist.: DEQ 4-2003, f. & cert. ef. 2-06-03

## 340-230-0375

### Operator Certification

- (1) Types of operator certification:
- (a) Each chief facility operator and shift supervisor must obtain and keep a current provisional operator certification from the American Society of Mechanical Engineers or a current provisional operator certification from the State certification program.
  - (b) Each chief facility operator and shift supervisor must obtain a provisional certification by December 19, 2004.
  - (c) Each chief facility operator and shift supervisor must take one of three actions:
    - (A) Obtain a full certification from the American Society of Mechanical Engineers or a State certification program in the State;
    - (B) Schedule a full certification exam with the American Society of Mechanical Engineers; or
    - (C) Schedule a full certification exam with the State certification program.
  - (d) The chief facility operator and shift supervisor must obtain the full certification or be scheduled to take the certification exam by June 19, 2004 for Class I units and by December 19, 2004 for Class II units.

(2) Who is allowed to operate the municipal waste combustion unit. After the required date for full or provisional certification, no person may operate the municipal waste combustion unit unless one of the following four employees is on duty: a fully certified chief facility operator, a provisionally certified chief facility operator who is scheduled to take the full certification exam, a fully certified shift supervisor, or a provisionally certified shift supervisor who is scheduled to take the full certification exam.

(3) Who can temporarily operate the unit:

(a) If the certified chief facility operator and certified shift supervisor both are unavailable, a provisionally certified control room operator at the municipal waste combustion unit may fulfill the certified operator requirement. Depending on the length of time that a certified chief facility operator and certified shift supervisor are away, one of the following criteria must be met:

(A) When the certified chief facility operator and certified shift supervisor are both offsite for 12 hours or less and no other certified operator is onsite, the provisionally certified control room operator may perform those duties without notice to, or approval by, the Department.

(B) When the certified chief facility operator and certified shift supervisor are offsite for more than 12 hours, but for 2 weeks or less, and no other certified operator is onsite, the provisionally certified control room operator may perform those duties without notice to, or approval by, the Department. However, the owner or operator must record the periods when the certified chief facility operator and certified shift supervisor are offsite and include the information in the annual report as specified under OAR 340-230-0395(4)(b)(L).

(C) When the certified chief facility operator and certified shift supervisor are offsite for more than 2 weeks, and no other certified operator is onsite, the provisionally certified control room operator may perform those duties without prior notice to, or approval by, the Department. However, the owner or operator must take two subsequent actions:

(i) Notify the Department in writing. In the notice, state what caused the absence and what is being done to ensure that a certified chief facility operator or certified shift supervisor is onsite.

(ii) Submit a status report and corrective action summary to the Department every 4 weeks following the initial notification. If the Department notifies the owner or operator that the status report or corrective action summary is disapproved, the municipal waste combustion unit may continue operation for 90 days, but then must cease operation. If corrective actions are taken in the 90-day period such that the Department withdraws the disapproval, municipal waste combustion unit operation may continue.

Stat. Auth.: ORS 468.020  
Stats. Implemented: ORS 468A.025  
Hist.: DEQ 4-2003, f. & cert. ef. 2-06-03

## 340-230-0377

### Operating Requirements

(1) No person may operate the municipal waste combustor unit at loads greater than 110 percent of the maximum demonstrated load of the municipal waste combustion unit (4-hour block average).

(2) No person may operate the municipal waste combustion unit so that the temperature at the inlet of the particulate matter control device exceeds 170 C above the maximum demonstrated temperature of the particulate matter control device (4-hour block average).

(3) If the municipal waste combustion unit uses activated carbon to control dioxins/furans or mercury emissions, an 8-hour block average carbon feed rate must be maintained at or above the highest average level established during the most recent dioxins/furans or mercury test.

(4) If the municipal waste combustion unit uses activated carbon to control dioxins/furans or mercury emissions, the total carbon usage for each calendar quarter must be evaluated. The total amount of carbon purchased and delivered to the municipal waste combustion plant must be at or above the required quarterly usage of carbon. The owner or operator may choose to evaluate required quarterly carbon usage on a municipal waste combustion unit basis for each individual municipal waste combustion unit at the plant. The calculation of the required quarterly usage of carbon must be made using either equation 4 or 5 for plant basis or unit basis.

(a) Equation 4: Plant basis  $C = \sum_{i=1}^n f_i \cdot h_i$  Where C = required quarterly carbon usage for the plant in kilograms (or pounds);  $f_i$  = required carbon feed rate for the municipal waste combustion unit in kilograms (or pounds) per hour. That is the average carbon feed rate during the most recent mercury or dioxins/furans stack tests (whichever has a higher feed rate);  $h_i$  = number of hours the municipal waste combustion unit was in operation during the calendar quarter (hours); n = number of municipal waste combustion units, i, located at the plant.

(b) Equation 5: Unit basis  $C = f \cdot h$  Where C = required quarterly carbon usage for the unit in kilograms (or pounds); f = required carbon feed rate for the municipal waste combustion unit in kilograms (or pounds) per hour. That is the average carbon feed rate during the most recent mercury or dioxins/furans stack tests (whichever has a higher feed rate); h = number of hours the municipal waste combustion unit was in operation during the calendar quarter (hours);

(5) The municipal waste combustion unit is exempt from limits on load level, temperature at the inlet of the particulate matter control device, and carbon feed rate during any of the following five situations:

(a) During the annual tests for dioxins/furans.  
(b) During the annual mercury tests (for carbon feed rate requirements only).

(c) During the 2 weeks preceding the annual tests for dioxins/furans.  
(d) During the 2 weeks preceding the annual mercury tests (for carbon feed rate requirements only).

(e) Whenever the Department permits any of the following five activities:

(A) Evaluate system performance  
(B) Test new technology or control technologies  
(C) Perform diagnostic testing  
(D) Perform other activities to improve the performance of the municipal waste combustion unit

(E) Perform other activities to advance the state of the art for emission controls for the municipal waste combustion unit.

(6) Exception for periods of startup, shutdown, and malfunction.

(a) The operating requirements contained in this rule apply at all times except during periods of municipal waste combustion unit startup, shutdown, or malfunction.

(b) Each startup, shutdown, or malfunction must not last for longer than 3 hours.

Stat. Auth.: ORS 468.020  
Stats. Implemented: ORS 468A.025  
Hist.: DEQ 4-2003, f. & cert. ef. 2-06-03

## 340-230-0380

### Emission Limits

No person may cause, allow, or permit the operation of any affected municipal waste combustion unit in a manner that violates the following emission limits and requirements.

(1) Class I units:

(a) Organics:

(A) Dioxins/Furans (total mass basis). The dioxins/furans emissions must not exceed 30 nanograms per dry standard cubic meter corrected to 7 percent oxygen for municipal waste combustion units that do not employ an electrostatic precipitator-based emission control system or must not exceed

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60 nanograms per dry standard cubic meter corrected to 7 percent oxygen for municipal waste combustion units that employ an electrostatic precipitator-based emission control system. A 3-run average (minimum run is 4 hours) must be used. Compliance must be determined by a stack test.

(b) Metals:

(A) Cadmium. The cadmium emissions must not exceed 0.040 milligrams per dry standard cubic meter corrected to 7 percent oxygen, using a 3-run average (run duration specified in test method). Compliance must be determined by a stack test.

(B) Lead. The lead emissions must not exceed 0.490 milligrams per dry standard cubic meter corrected to 7 percent oxygen, using a 3-run average (run duration specified in test method). Compliance must be determined by a stack test.

(C) Mercury. The mercury emissions must not exceed 0.080 milligrams per dry standard cubic meter or an 85 percent reduction of potential mercury emissions, corrected to 7 percent oxygen and using a 3-run average (run duration specified in test method). Compliance must be determined by a stack test.

(D) Opacity. The opacity emissions must not exceed 10 percent opacity, using thirty 6-minute averages. Compliance must be determined by a stack test.

(E) Particulate Matter. The particulate matter emissions must not exceed 27 milligrams per dry standard cubic meter corrected to 7 percent oxygen, using a 3-run average (run duration specified in test method). Compliance must be determined by a stack test.

(c) Acid Gases:

(A) Hydrogen Chloride. The hydrogen chloride emissions must not exceed 31 parts per million by dry volume or 95 percent reduction of potential hydrogen chloride emissions, corrected to 7 percent oxygen, using a 3-run average (minimum run duration is 1 hour). Compliance must be determined by a stack test.

(B) Sulfur Dioxide. The sulfur dioxide emissions must not exceed 31 parts per million by dry volume or 75 percent reduction of potential sulfur dioxide emissions, corrected to 7 percent oxygen, using 24-hour daily block geometric average concentration percent reduction. Compliance must be determined by a continuous emission monitoring system.

(d) Other:

(A) Fugitive Ash. No owner or operator may cause or allow visible emissions in excess of 5 percent of the hourly observation period, using three 1-hour observation periods. Compliance must be determined by visible emission test.

(B) Nitrogen Oxide. The nitrogen oxide emissions must not exceed 380 parts per million by dry volume corrected to 7 percent oxygen, with a 24-hour daily block arithmetic average concentration. Compliance is determined by continuous emission monitoring systems.

(C) Carbon Monoxide. The carbon monoxide emissions must not exceed 50 parts per million by dry volume corrected to 7 percent oxygen, with a 4-hour averaging time. Compliance must be determined by continuous emission monitoring system.

(2) Class II units:

(a) Organics: Dioxins/Furans (total mass basis). The dioxins/furans emissions must not exceed 125 nanograms per dry standard cubic meter corrected to 7 percent oxygen. A 3-run average (minimum run is 4 hours) must be used. Compliance must be determined by a stack test.

(b) Metals:

(A) Cadmium. The cadmium emissions must not exceed 0.10 milligrams per dry standard cubic meter corrected to 7 percent oxygen, using a 3-run average (run duration specified in test method). Compliance must be determined by a stack test.

(B) Lead. The lead emissions must not exceed 1.6 milligrams per dry standard cubic meter corrected to 7 percent oxygen, using a 3-run average (run duration specified in test method). Compliance must be determined by a stack test.

(C) Mercury. The mercury emissions must not exceed 0.080 milligrams per dry standard cubic meter or an 85 percent reduction of potential mercury emissions, corrected to 7 percent oxygen and using a 3-run average (run duration specified in test method). Compliance must be determined by a stack test.

(D) Opacity. The opacity emissions must not exceed 10 percent opacity, using thirty 6-minute averages. Compliance must be determined by a stack test.

(E) Particulate Matter. The particulate matter emissions must not exceed 70 milligrams per dry standard cubic meter corrected to 7 percent oxygen, using a 3-run average (run duration specified in test method). Compliance must be determined by a stack test.

(c) Acid Gases:

(A) Hydrogen Chloride. The hydrogen chloride emissions must not exceed 250 parts per million by volume or 50 percent reduction of potential hydrogen chloride emissions, corrected to 7 percent oxygen, using a 3-run average (minimum run duration is 1 hour). Compliance must be determined by a stack test.

(B) Sulfur Dioxide. The sulfur dioxide emissions must not exceed 77 parts per million by dry volume or 50 percent reduction of potential sulfur dioxide emissions, corrected to 7 percent oxygen, using 24-hour daily block geometric average concentration percent reduction. Compliance must be determined by a continuous emission monitoring system.

(d) Other:

(A) Fugitive Ash. No owner or operator may cause or allow visible emissions in excess of 5 percent of the hourly observation period, using three 1-hour observation periods. Compliance must be determined by visible emission test.

(B) Carbon Monoxide. The carbon monoxide emissions must not exceed 50 parts per million by dry volume corrected to 7 percent oxygen, with a 4-hour averaging time. Compliance must be determined by continuous emission monitoring system.

(3) Class I unit compliance dates. If the Class I municipal waste combustion unit began construction, reconstruction, or modification after June 26, 1987, then the owner or operator must comply with the applicable dioxins/furans and mercury emission limits specified in OAR 340-230-0380(1) by December 31, 2003. Final compliance with the dioxins/furans limits must be achieved no later than December 6, 2005, even if the date one year after the issuance of a revised construction or operation permit is later than December 6, 2005.

(4) Startup, shutdown, and malfunction:

(a) The emission limits apply at all times except during periods of municipal waste combustion unit startup, shutdown, or malfunction.

(b) Each startup, shutdown, or malfunction must not last for longer than 3 hours.

(c) A maximum of 3 hours of test data may be dismissed from compliance calculations during periods of startup, shutdown, or malfunction.

(d) During startup, shutdown, or malfunction periods longer than 3 hours, emissions data cannot be discarded from compliance calculations and all provisions under **40 CFR Part 60.11(d)** apply.

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

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.025

Hist.: DEQ 4-2003, f. & cert. ef. 2-06-03

### 340-230-0383

#### Continuous Emission Monitoring

(1) Types of monitoring. To continuously monitor emissions, the owner or operator must perform the following four tasks:

(a) Install continuous emission monitoring systems for certain gaseous pollutants.

(b) Make sure the continuous emission monitoring systems are operating correctly.

(c) Make sure the minimum amount of monitoring data is obtained.

(d) Install a continuous opacity monitoring system.

(2) What continuous emission monitoring systems (CEMS) must be installed and its use:

(a) The owner or operator must install, calibrate, maintain, and operate continuous emission monitoring systems for oxygen or carbon dioxide, sulfur dioxide, and carbon monoxide. If it is a Class I municipal waste combustion unit, also install, calibrate, maintain, and operate a continuous emission monitoring system for nitrogen oxides. Install the continuous emission monitoring systems for sulfur dioxide, nitrogen oxides, and oxygen or carbon dioxide at the outlet of the air pollution control device.

(b) The owner or operator must install, evaluate, and operate each continuous emission monitoring system in accordance with 40 CFR Part 60.13.

(c) The owner or operator must monitor the oxygen or carbon dioxide concentration at each location where sulfur dioxide and carbon monoxide is monitored. Also, if there is a Class I municipal waste combustion unit, the owner or operator must monitor the oxygen or carbon dioxide concentration at the location where nitrogen oxides is monitored.

(d) The owner or operator may choose to monitor carbon dioxide instead of oxygen as a diluent gas. If the owner or operator chooses to monitor carbon dioxide, then an oxygen monitor is not required and the requirements in OAR 340-230-0383(6) must be met.

(e) If the owner or operator chooses to demonstrate compliance by monitoring the percent reduction of sulfur dioxide, continuous emission monitoring systems for sulfur dioxide and oxygen or carbon dioxide must be installed at the inlet of the air pollution control device.



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(f) If the owner or operator prefers to use an alternative sulfur dioxide monitoring method, such as parametric monitoring, or cannot monitor emissions at the inlet of the air pollution control device to determine percent reduction, the owner or operator may apply to the Department for approval to use an alternative monitoring method under 40 CFR 60.13(i).

(g) Use of data from continuous emission monitoring systems. The owner or operator must use data from the continuous emission monitoring systems for sulfur dioxide, nitrogen oxides, and carbon monoxide to demonstrate continuous compliance with the applicable emission limits specified in OAR 340-230-0380(1) and (2). To demonstrate compliance for dioxins/furans, cadmium, lead, mercury, particulate matter, opacity, hydrogen chloride, and fugitive ash, see OAR 340-230-0385(2).

(3) Continuous Emissions Monitoring Systems QA/QC. The owner or operator must:

(a) Conduct initial, daily, quarterly, and annual evaluations of the continuous emission monitoring systems that measure oxygen or carbon dioxide, sulfur dioxide, nitrogen oxides (Class I municipal waste combustion units only), and carbon monoxide.

(b) Complete the initial evaluation of the continuous emission monitoring systems within 180 days after the final compliance date.

(c) For initial and annual evaluations, collect data concurrently (or within 30 to 60 minutes) using the oxygen or carbon dioxide continuous emission monitoring system, the sulfur dioxide, nitrogen oxides, or carbon monoxide continuous emission monitoring systems, as appropriate, and the appropriate test methods specified.

(A) For nitrogen oxides (Class I units only) use Method 7, 7A, 7B, 7C, 7D, or 7E in Appendix A of 40 CFR Part 60 to validate pollutant concentration levels. Use Method 3 or 3A in Appendix A of 40 CFR Part 60 to measure oxygen (or carbon dioxide).

(B) For sulfur dioxide use Method 6 or 6C in Appendix A of 40 CFR Part 60 to validate pollutant concentration levels. Use Method 3 or 3A in Appendix A of 40 CFR Part 60 to measure oxygen (or carbon dioxide).

(C) For carbon monoxide use Method 10, 10A, or 10B in Appendix A of 40 CFR Part 60 to validate pollutant concentration levels. Use Method 3 or 3A in Appendix A of 40 CFR Part 60 to measure oxygen (or carbon dioxide).

(d) Collect the data during each initial and annual evaluation of the continuous emission monitoring systems following the applicable performance specifications in appendix B 40 CFR Part 60. Use the performance specifications that apply to each continuous emission monitoring system.

(A) Opacity. Use a span value of 100 percent opacity, and Performance Specification 1 in Appendix B of 40 CFR Part 60. Use Method 9 in Appendix A of 40 CFR Part 60 to collect data if needed to meet minimum data requirements.

(B) Nitrogen Oxides (Class I units only). Use a span value at the control device outlet: 125 percent of the maximum expected hourly potential nitrogen oxides emissions of the municipal waste combustion unit and Performance Specification 2 in Appendix B of 40 CFR Part 60. Use Method 7E in Appendix A of 40 CFR Part 60 to collect data if needed to meet minimum data requirements.

(C) Sulfur Dioxide. Use a span value at the inlet to control device: 125 percent of the maximum expected hourly potential sulfur dioxide emissions of the municipal waste combustion unit. At the control device outlet: 50 percent of the maximum expected hourly potential sulfur dioxide emissions of the municipal waste combustion unit. Use Performance Specification 2 in Appendix B of 40 CFR Part 60. Use Method 6C in Appendix A of 40 CFR Part 60 to collect data if needed to meet minimum data requirements.

(D) Carbon Monoxide. Use a span value of 125 percent of the maximum expected hourly potential carbon monoxide emissions of the municipal waste combustion unit and Performance Specification 4A in Appendix B of 40 CFR Part 60. Use Method 10 with alternative interference trap in Appendix A of 40 CFR Part 60 to collect data if needed to meet minimum data requirements.

(E) Oxygen or Carbon Dioxide. Use a span value of 25 percent oxygen or 25 percent carbon dioxide with Performance Specification 3 in Appendix B of 40 CFR Part 60. Use Method 3A or 3B in Appendix A of 40 CFR Part 60 to collect data if needed to meet minimum data requirements.

(e) Follow the quality assurance procedures in Procedure 1 of Appendix F 40 CFR Part 60 for each continuous emission monitoring system. The procedures include daily calibration drift and quarterly accuracy determinations.

(4) Exemptions. The accuracy tests for the sulfur dioxide continuous emission monitoring system requires the oxygen (or carbon dioxide) continuous emission monitoring system to be evaluated. Therefore, the oxygen (or

carbon dioxide) continuous emission monitoring system is exempt from two requirements:

(a) Section 2.3 of Performance Specification 3 in Appendix B of 40 CFR Part 60 (relative accuracy requirement) and

(b) Section 5.1.1 of Appendix F of 40 CFR Part 60 (relative accuracy test audit).

(5) CEMS evaluation schedule. The owner or operator must:

(a) Conduct annual evaluations of the continuous emission monitoring systems no more than 13 months after the previous evaluation was conducted and

(b) Evaluate the continuous emission monitoring systems daily and quarterly as specified in Appendix F of 40 CFR Part 60.

(6) Using carbon dioxide instead of oxygen as a diluent gas. The owner or operator must establish the relationship between oxygen and carbon dioxide during the initial evaluation of the continuous emission monitoring systems. The owner or operator may reestablish the relationship during annual evaluations. To establish the relationship the owner or operator must use the following three procedures:

(a) EPA Reference Method 3A or 3B in appendix A of 40 CFR Part 60 to determine oxygen concentration at the location of the carbon dioxide monitor.

(b) Conduct at least three test runs for oxygen. Make sure each test run represents a 1-hour average and that sampling continues for at least 30 minutes in each hour.

(c) The fuel-factor equation in EPA Reference Method 3B in appendix A of 40 CFR Part 60 to determine the relationship between oxygen and carbon dioxide.

(7) The owner or operator must obtain the minimum data requirements as follows:

(a) Where continuous emission monitoring systems are required, obtain 1-hour arithmetic averages. Make sure the averages for sulfur dioxide, nitrogen oxides (Class I municipal waste combustion units only), and carbon monoxide are in parts per million by dry volume at 7 percent oxygen (or the equivalent carbon dioxide level). Use the 1-hour averages of oxygen (or carbon dioxide) data from the continuous emission monitoring system to determine the actual oxygen (or carbon dioxide) level and to calculate emissions at 7 percent oxygen (or the equivalent carbon dioxide level).

(b) Obtain at least two data points per hour in order to calculate a valid 1-hour arithmetic average. 40 CFR 60.13(e)(2) requires the continuous emission monitoring systems to complete at least one cycle of operation (sampling, analyzing, and data recording) for each 15-minute period.

(c) Obtain valid 1-hour averages for 75 percent of the operating hours per day for 90 percent of the operating days per calendar quarter. An operating day is any day the unit combusts any municipal solid waste or refuse-derived fuel.

(d) If the minimum data required in (a) through (c) of this section is not obtained, the owner or operator is in violation of the data collection requirement regardless of the emission level monitored and must notify the Department according to OAR 340-230-0395(4)(b)(E).

(e) If the owner or operator does not obtain the minimum data required in (a) through (c) of this section, all valid data from the continuous emission monitoring systems must be used in calculating emission concentrations and percent reductions in accordance with OAR 340-230-0383(8).

(8) Converting 1-hour arithmetic averages into averaging times. The owner or operator must:

(a) Use equation 1 to calculate emission levels at 7 percent oxygen (or an equivalent carbon dioxide basis), the percent reduction in potential hydrogen chloride emissions, and the reduction efficiency for mercury emissions. [Equation 1:  $C7\% = C_{unc} * (13.9) * (1 / (20.9 - CO_2))$ ], where  $C7\%$  = concentration corrected to 7 percent oxygen;  $C_{unc}$  = uncorrected pollutant concentration; and  $CO_2$  = concentration of oxygen (percent)].

(b) Use EPA Reference Method 19 in appendix A-7 of 40 CFR Part 60, to calculate the daily geometric average concentrations of sulfur dioxide emissions. If monitoring the percent reduction of sulfur dioxide, use EPA Reference Method 19 in appendix A-7 of 40 CFR Part 60, to determine the daily geometric average percent reduction of potential sulfur dioxide emissions.

(c) If operating a Class I municipal waste combustion unit, use EPA Reference Method 19 in appendix A-7 of 40 CFR Part 60, to calculate the daily arithmetic average for concentrations of nitrogen oxides.

(d) Use EPA Reference Method 19 in appendix A-7 of 40 CFR Part 60, to calculate the 4-hour or 24-hour daily block averages (as applicable) for concentrations of carbon monoxide.

(9) Continuous opacity monitoring system. If applicable, the owner or operator must:

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(a) Install, calibrate, maintain, and operate a continuous opacity monitoring system.

(b) Install, evaluate, and operate each continuous opacity monitoring system according to 40 CFR 60.13.

(c) Complete an initial evaluation of the continuous opacity monitoring system according to Performance Specification 1 in appendix B of 40 CFR Part 60. Complete the evaluation by 180 days after the final compliance date.

(d) Complete each annual evaluation of the continuous opacity monitoring system no more than 13 months after the previous evaluation.

(e) Use tests conducted according to EPA Reference Method 9 in appendix A of 40 CFR Part 60, to determine compliance with the opacity limit in OAR 340-230-0380(1) and (2). The data obtained from the continuous opacity monitoring system are not used for determining compliance with the opacity limit.

(f) Use the required span values and applicable performance specifications in OAR 340-230-0383(10).

### (10) Missing data/alternate methods

(a) Dioxins/Furans. The owner or operator must use Method 1 in Appendix A of 40 CFR Part 60 to determine the sampling location and Method 23 in Appendix A of 40 CFR Part 60 to measure pollutant concentration. The owner or operator must simultaneously measure oxygen (or carbon dioxide) using Method 3A or 3B in Appendix A of 40 CFR Part 60. Also, the minimum sampling time must be 4 hours per test run while the municipal waste combustion unit is operating at full load.

(b) Cadmium. The owner or operator must use Method 1 in Appendix A of 40 CFR Part 60 to determine the sampling location and Method 29 in Appendix A of 40 CFR Part 60 to measure pollutant concentration. The owner or operator must simultaneously measure oxygen (or carbon dioxide) using Method 3A or 3B in Appendix A of 40 CFR Part 60. Compliance testing must be performed while the municipal waste combustion unit is operating at full load.

(c) Lead. The owner or operator must use Method 1 in Appendix A of 40 CFR Part 60 to determine the sampling location and Method 29 in Appendix A of 40 CFR Part 60 to measure pollutant concentration. The owner or operator must simultaneously measure oxygen (or carbon dioxide) using Method 3A or 3B in Appendix A of 40 CFR Part 60. Compliance testing must be performed while the municipal waste combustion unit is operating at full load.

(d) Mercury. The owner or operator must use Method 1 in Appendix A of 40 CFR Part 60 to determine the sampling location and Method 29 in Appendix A of 40 CFR Part 60 to measure pollutant concentration. The owner or operator must simultaneously measure oxygen (or carbon dioxide) using Method 3A or 3B in appendix A of 40 CFR Part 60. Compliance testing must be performed while the municipal waste combustion unit is operating at full load.

(e) Opacity. The owner or operator must use Method 9 in Appendix A of 40 CFR Part 60 to determine the sampling location and Method 9 in Appendix A of 40 CFR Part 60 to measure pollutant concentration. Use Method 9 to determine compliance with opacity limits. 3-hour observation period (thirty 6-minute averages).

(f) Particulate Matter. The owner or operator must use Method 1 in Appendix A of 40 CFR Part 60 to determine the sampling location and Method 5 or 29 in Appendix A of 40 CFR Part 60 to measure pollutant concentration. The minimum sample volume must be 1.0 cubic meters. The probe and filter holder heating systems in the sample train must be set to provide a gas temperature no greater than 160 +14 oC. The minimum sampling time is 1 hour.

(g) Hydrogen Chloride. The owner or operator must use Method 1 in Appendix A of 40 CFR Part 60 to determine the sampling location and Method 26 or 26A in Appendix A of 40 CFR Part 60 to measure pollutant concentration. The owner or operator must simultaneously measure oxygen (or carbon dioxide) using Method 3A or 3B in appendix A of 40 CFR Part 60. Test runs must be at least 1 hour long while the municipal waste combustion unit is operating at full load.

(h) Fugitive Ash. The owner or operator must use Method 22 (visible emissions) of Appendix A of 40 CFR Part 60 to measure pollutant concentrations. The three 1-hour observation period must include periods when the facility transfers fugitive ash from the municipal waste combustion unit to the area where the fugitive ash is stored or loaded into containers or trucks.

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

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.025

Hist.: DEQ 4-2003, f. & cert. of. 2-06-03

### 340-230-0385

#### Stack Testing

(1) Test Requirements. The owner or operator must conduct initial and annual stack tests to measure the emission levels of dioxins/furans, cadmium, lead, mercury, particulate matter, opacity, hydrogen chloride, and fugitive ash.

(2) Use of stack test data. The owner or operator must use results of stack tests for dioxins/furans, cadmium, lead, mercury, particulate matter, opacity, hydrogen chloride, and fugitive ash to demonstrate compliance with the applicable emission limits in OAR 340-230-0380(1) and (2). To demonstrate compliance for carbon monoxide, nitrogen oxides, and sulfur dioxide, see OAR 340-230-0383(2)(g).

(3) Schedule. The owner or operator must:

(a) Conduct initial stack tests for the pollutants listed in (1) of this rule by June 19, 2004.

(b) Conduct annual stack tests for the same pollutants after the initial stack test. Conduct each annual stack test no later than 13 months after the previous stack test, and

(c) Conduct each annual stack test no later than 13 months after the previous stack test.

(4) Test methods. The owner or operator must:

(a) Follow OAR 340-230-0383(10) to establish the sampling location and to determine pollutant concentrations, number of traverse points, individual test methods, and other specific testing requirements for the different pollutants.

(b) Make sure that stack tests for all the pollutants consist of at least three test runs, as specified in **40 CFR 60.8**. Use the average of the pollutant emission concentrations from the three test runs to determine compliance with the applicable emission limits in OAR 340-230-0380(1) and (2).

(c) Use the average of the pollutant emission concentrations from the three test runs to determine compliance with the applicable emission limits in OAR 340-230-0380(1) and (2).

(d) Obtain an oxygen (or carbon dioxide) measurement at the same time as the pollutant measurements to determine diluent gas levels, as specified in OAR 340-230-0383(2).

(e) Use the equations in OAR 340-230-0383(8)(a) to calculate emission levels at 7 percent oxygen (or an equivalent carbon dioxide basis), the percent reduction in potential hydrogen chloride emissions, and the reduction efficiency for mercury emissions. See the individual test methods in OAR 340-230-0383(3)(c) for other required equations.

(f) The owner or operator may apply to the Department for approval under **40 CFR Part 60.8(b)** to use a reference method with minor changes in methodology, use an equivalent method, use an alternative method the results of which the Department has determined are adequate for demonstrating compliance, waive the requirement for a performance test because the owner or operator has demonstrated by other means that they are in compliance, or use a shorter sampling time or smaller sampling volume.

(5) Reduced testing frequency:

(a) The owner or operator may test less often if it owns or operates a Class II municipal waste combustion unit and if all stack tests for a given pollutant over 3 consecutive years show that it complies with the emission limit. In that case, the owner or operator is not required to conduct a stack test for that pollutant for the next 2 years. However, another stack test must be conducted within 36 months of the anniversary date of the third consecutive stack test that shows compliance with the emission limit. Thereafter, stack tests must be performed every 3rd year but no later than 36 months following the previous stack tests. If a stack test shows noncompliance with an emission limit, annual stack tests for that pollutant must be conducted until all stack tests over 3 consecutive years show compliance with the emission limit for that pollutant. The provision applies to all pollutants subject to stack testing requirements: dioxins/furans, cadmium, lead, mercury, particulate matter, opacity, hydrogen chloride, and fugitive ash.

(b) The owner or operator may test less often for dioxins/furans emissions, as described in paragraphs (A) through (C), if it owns or operates a municipal waste combustion plant that meets two conditions. First, the owner or operator must have multiple municipal waste combustion units onsite that are subject to this rule. Second, all those municipal waste combustion units have demonstrated levels of dioxins/furans emissions less than or equal to 15 nanograms per dry standard cubic meter (total mass) for Class I units, or 30 nanograms per dry standard cubic meter (total mass) for Class II units, for 2 consecutive years. In that case, the owner or operator may choose to conduct annual stack tests on only one municipal waste combustion unit per year at the plant. This provision applies only to stack testing for dioxins/furans emissions.

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(A) The owner or operator must conduct the stack test no more than 13 months following a stack test on any municipal waste combustion unit at the plant. Each year, the owner or operator must test a different municipal waste combustion unit subject to this rule and test all municipal waste combustion units subject to this rule in a sequence determined by the owner or operator. Once a testing sequence is determined, it must not be changed without the Department's approval.

(B) If each annual stack test shows levels of dioxins/furans emissions less than or equal to 15 nanograms per dry standard cubic meter (total mass) for Class I units, or 30 nanograms per dry standard cubic meter (total mass) for Class II units, the owner or operator may continue stack tests on only one municipal waste combustion unit per year.

(C) If any annual stack test indicates levels of dioxins/furans emissions greater than 15 nanograms per dry standard cubic meter (total mass) for Class I units, or 30 nanograms per dry standard cubic meter (total mass) for Class II units, the owner or operator must conduct subsequent annual stack tests on all municipal waste combustion units subject to this subpart at the plant. The owner or operator may return to testing one municipal waste combustion unit per year if the owner or operator can demonstrate dioxins/furans emissions levels less than or equal to 15 nanograms per dry standard cubic meter (total mass) for Class I units, or 30 nanograms per dry standard cubic meter (total mass) for Class II units, for all municipal waste combustion units at the plant subject to this subpart for 2 consecutive years.

(6) Alternative schedules. The owner or operator may not deviate from the 13-month testing schedules specified in OAR 340-230-0385(3)(b) and OAR 340-230-0385(5)(b)(A) unless the owner or operator applies to the Department for an alternative schedule, and the Department approves the request for alternate scheduling before the date on which the owner or operator would otherwise have been required to conduct the next stack test.

[Publications: Publications referenced are available from the agency.]  
Stat. Auth.: ORS 468.020  
Stats. Implemented: ORS 468A.025  
Hist.: DEQ 4-2003, f. & cert. ef. 2-06-03

### 340-230-0387

#### Other Monitoring Requirements

(1) Operating parameters. The owner or operator must monitor the following operating parameters:

(a) Load level of each municipal waste combustion unit.  
(b) Temperature of flue gases at the inlet of the particulate matter air pollution control device.

(c) Carbon feed rate if activated carbon is used to control dioxins/furans or mercury emissions.

(2) Unit load:

(a) If the municipal waste combustion unit generates steam, the owner or operator must install, calibrate, maintain, and operate a steam flowmeter or a feed water flowmeter and meet five requirements:

(A) Continuously measure and record the measurements of steam (or feed water) in kilograms (or pounds) per hour.

(B) Calculate the steam (or feed water) flow in 4-hour block averages.

(C) Calculate the steam (or feed water) flow rate using the method in "American Society of Mechanical Engineers Power Test Codes: Test Code for Steam Generating Units, Power Test Code 4.1--1964 (R1991)," section 4.

(D) Design, construct, install, calibrate, and use nozzles or orifices for flow rate measurements, using the recommendations in "American Society of Mechanical Engineers Interim Supplement 19.5 on Instruments and Apparatus: Application, Part II of Fluid Meters," 6th Edition (1971), chapter 4.

(E) Before each dioxins/furans stack test, or at least once a year, calibrate all signal conversion elements associated with steam (or feed water) flow measurements according to the manufacturer instructions.

(b) If the municipal waste combustion units do not generate steam, or, if the municipal waste combustion units have shared steam systems and steam load cannot be estimated per unit, the owner or operator must determine, to the Department's satisfaction, one or more operating parameters that can be used to continuously estimate load level (for example, the feed rate of municipal solid waste or refuse-derived fuel). The owner or operator must continuously monitor the selected parameters.

(3) Pollution control device inlet temperature. The owner or operator must install, calibrate, maintain, and operate a device to continuously measure the temperature of the flue gas stream at the inlet of each particulate matter control device.

(4) Carbon injection rate. If the municipal waste combustion unit uses activated carbon to control dioxins/furans or mercury emissions, the owner or operator must meet three requirements:

(a) Select a carbon injection system operating parameter that can be used to calculate carbon feed rate (for example, screw feeder speed).

(b) During each dioxins/furans and mercury stack test, determine the average carbon feed rate in kilograms (or pounds) per hour. Also, determine the average operating parameter level that correlates to the carbon feed rate. Establish a relationship between the operating parameter and the carbon feed rate in order to calculate the carbon feed rate based on the operating parameter level.

(c) Continuously monitor the selected operating parameter during all periods when the municipal waste combustion unit is operating and combusting waste and calculate the 8-hour block average carbon feed rate in kilograms (or pounds) per hour, based on the selected operating parameter. When calculating the 8-hour block average, the owner or operator must do two things: (1) Exclude hours when the municipal waste combustion unit is not operating. (2) Include hours when the municipal waste combustion unit is operating but the carbon feed system is not working correctly.

(5) Minimum data. The owner or operator must obtain the minimum data as prescribed in subsections (a)-(c) below:

(a) Where continuous parameter monitoring systems are used, obtain 1-hour arithmetic averages for the following three parameters:

(A) Load level of the municipal waste combustion unit.

(B) Temperature of the flue gases at the inlet of the particulate matter control device; and

(C) Carbon feed rate if activated carbon is used to control dioxins/furans or mercury emissions.

(b) Obtain at least two data points per hour in order to calculate a valid 1-hour arithmetic average.

(c) Obtain valid 1-hour averages for at least 75 percent of the operating hours per day for 90 percent of the operating days per calendar quarter. An operating day is any day the unit combusts any municipal solid waste or refuse-derived fuel.

(d) If the owner or operator does not obtain the minimum data required in subsections (a) through (c), the owner or operator is in violation of the data collection requirement and must notify the Department according to OAR 340-230-0395(4)(b)(E)

[Publications: Publications referenced are available from the agency.]  
Stat. Auth.: ORS 468.020  
Stats. Implemented: ORS 468A.025  
Hist.: DEQ 4-2003, f. & cert. ef. 2-06-03

### 340-230-0390

#### Recordkeeping

(1) The owner or operator must keep records of the following:

- (a) Operator training and certification;
- (b) Stack tests;
- (c) Continuously monitored pollutants and parameters;
- (d) Carbon feed rate.

(2) Records retention. The owner or operator must retain the required records as follows:

(a) All records must be onsite in paper copy or electronic format unless the Department approves another format;

(b) Retain all records on each municipal waste combustion unit for at least 5 years;

(c) Make all records available for submittal to the Department, or for onsite review by an inspector.

(3) Operator training/certification records. The owner or operator must retain the following records:

(a) Records of provisional certifications. Include three items:

(A) For the municipal waste combustion plant, names of the chief facility operator, shift supervisors, and control room operators who are provisionally certified by the American Society of Mechanical Engineers or an equivalent State-approved certification program.

(B) Dates of the initial provisional certifications.

(C) Documentation showing current provisional certifications.

(b) Records of full certifications. Include three items:

(A) For the municipal waste combustion plant, names of the chief facility operator, shift supervisors, and control room operators who are fully certified by the American Society of Mechanical Engineers or an equivalent State-approved certification program.

(B) Dates of initial and renewal full certifications.

(C) Documentation showing current full certifications.

(c) Records showing completion of the operator training course. Include three items:

(A) For the municipal waste combustion plant, names of the chief facility operator, shift supervisors, and control room operators who have completed the EPA or State municipal waste combustion operator training course.

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(B) Dates of completion of the operator training course.

(C) Documentation showing completion of operator training course.

(d) Records of reviews for plant-specific operating manuals. Include three items:

(A) Names of persons who have reviewed the operating manual.

(B) Date of the initial review.

(C) Dates of subsequent annual reviews.

(e) Records of when a certified operator is temporarily offsite. Include two main items:

(A) If the certified chief facility operator and certified shift supervisor are offsite for more than 12 hours, but for 2 weeks or less, and no other certified operator is onsite, record the dates that the certified chief facility operator and certified shift supervisor were offsite.

(B) When all certified chief facility operators and certified shift supervisors are offsite for more than 2 weeks and no other certified operator is onsite, keep records of four items:

(i) The notice that all certified persons are offsite.

(ii) The conditions that cause those people to be offsite.

(iii) The corrective actions being taken to ensure a certified chief facility operator or certified shift supervisor is onsite.

(iv) Copies of the written reports submitted every 4 weeks that summarize the actions taken to ensure that a certified chief facility operator or certified shift supervisor was onsite.

(v) Records of calendar dates. Include the calendar date on each record.

(4) Stack test records. The owner or operator must keep stack test records as follows:

(a) The results of the stack tests for eight pollutants or parameters recorded in the appropriate units of measure specified in OAR 340-230-0380(1) and (2): Dioxins/furans, cadmium, lead, mercury, opacity, particulate matter, hydrogen chloride, and fugitive ash.

(b) Test reports, including supporting calculations that document the results of all stack tests.

(c) The maximum demonstrated load of the municipal waste combustion units and maximum temperature at the inlet of the particulate matter control device during all stack tests for dioxins/furans emissions.

(d) The calendar date of each record.

(5) Continuous Emissions Monitoring System Records Keep records of eight items:

(a) Records of monitoring data. The owner or operator must document six parameters measured using continuous monitoring systems as follows:

(A) All 6-minute average levels of opacity.

(B) All 1-hour average concentrations of sulfur dioxide emissions.

(C) For Class I municipal waste combustion units only, all 1-hour average concentrations of nitrogen oxides emissions.

(D) All 1-hour average concentrations of carbon monoxide emissions.

(E) All 1-hour average load levels of the municipal waste combustion unit.

(F) All 1-hour average flue gas temperatures at the inlet of the particulate matter control device.

(b) Records of average concentrations and percent reductions. The owner or operator must document five parameters:

(A) All 24-hour daily block geometric average concentrations of sulfur dioxide emissions or average percent reductions of sulfur dioxide emissions.

(B) For Class I municipal waste combustion units only, all 24-hour daily arithmetic average concentrations of nitrogen oxides emissions.

(C) All 4-hour block or 24-hour daily block arithmetic average concentrations of carbon monoxide emissions.

(D) All 4-hour block arithmetic average load levels of the municipal waste combustion unit.

(E) All 4-hour block arithmetic average flue gas temperatures at the inlet of the particulate matter control device.

(c) Records of exceedances. The owner or operator must document three items as follows:

(A) Calendar dates whenever any of the five pollutant or parameter levels recorded in subsection (b) of this section or the opacity level recorded in (a)(1) of this section did not meet the emission limits or operating levels specified in this rule.

(B) Reasons the applicable emission limits or operating levels were exceeded.

(C) Corrective actions undertaken, or are taking, to meet the emission limits or operating levels.

(d) Records of minimum data. The owner or operator must document three items as follows:

(A) Calendar dates for which the owner or operator did not collect the minimum amount of data required under OAR 340-230-0383(7) and 340-230-0387(5). Record those dates for five types of pollutants and parameters:

(i) Sulfur dioxide emissions.

(ii) For Class I municipal waste combustion units only, nitrogen oxides emissions.

(iii) Carbon monoxide emissions.

(iv) Load levels of the municipal waste combustion unit.

(v) Temperatures of the flue gases at the inlet of the particulate matter control device.

(B) Reasons the minimum data was not collected.

(C) Corrective actions the owner or operator took or is taking to obtain the required amount of data.

(e) Records of exclusions. The owner or operator must document each time there is excluded data from the calculation of averages for any of the following five pollutants or parameters and the reasons the data were excluded:

(A) Sulfur dioxide emissions.

(B) For Class I municipal waste combustion units only, nitrogen oxides emissions.

(C) Carbon monoxide emissions.

(D) Load levels of the municipal waste combustion unit.

(E) Temperatures of the flue gases at the inlet of the particulate matter control device.

(f) Records of drift and accuracy. The owner or operator must document the results of the daily drift tests and quarterly accuracy determinations according to Procedure 1 of appendix F of 40 CFR Part 60. Keep those records for the sulfur dioxide, nitrogen oxides (Class I municipal waste combustion units only), and carbon monoxide continuous emissions monitoring systems.

(g) Records of the relationship between oxygen and carbon dioxide. If the owner or operator chooses to monitor carbon dioxide instead of oxygen as a diluent gas, document the relationship between oxygen and carbon dioxide, as specified in OAR 340-230-0383(6).

(h) Records of calendar dates. The owner or operator must include the calendar date on each record.

(6) Activated carbon records

For municipal waste combustion units that use activated carbon to control dioxins/furans or mercury emissions, the owner or operator must keep records of the following five items:

(a) Records of average carbon feed rate as follows.

(A) Average carbon feed rate in kilograms (or pounds) per hour during all stack tests for dioxins/furans and mercury emissions. Include supporting calculations in the records.

(B) For the operating parameter chosen to monitor carbon feed rate, average operating level during all stack tests for dioxins/furans and mercury emissions. Include supporting data that document the relationship between the operating parameter and the carbon feed rate.

(C) All 8-hour block average carbon feed rates in kilograms (or pounds) per hour calculated from the monitored operating parameter.

(D) Total carbon purchased and delivered to the municipal waste combustion plant for each calendar quarter. If the owner or operator chooses to evaluate total carbon purchased and delivered on a municipal waste combustion unit basis, record the total carbon purchased and delivered for each individual municipal waste combustion unit at the plant. Include supporting documentation.

(E) Required quarterly usage of carbon for the municipal waste combustion plant, calculated using equation 4 or 5 in OAR 340-230-0377(4)(a) and (b). If the owner or operator chooses to evaluate required quarterly usage for carbon on a municipal waste combustion unit basis, record the required quarterly usage for each municipal waste combustion unit at the plant. Include supporting calculations.

(b) Records of low carbon feed rates as follows:

(A) The calendar dates when the average carbon feed rate over an 8-hour block was less than the average carbon feed rates determined during the most recent stack test for dioxins/furans or mercury emissions (whichever has a higher feed rate).

(B) Reasons for the low carbon feed rates.

(C) Corrective actions undertaken or are taking to meet the 8-hour average carbon feed rate requirement.

(c) Records of minimum carbon feed rate data as follows:

(A) Calendar dates for which the owner or operator did not collect the minimum amount of carbon feed rate data required under OAR 340-230-0387(5).

(B) Reasons the owner or operator did not collect the minimum data.

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(C) Corrective actions the owner or operator took or are taking to get the required amount of data.

(d) Records of exclusions. Document each time data from the calculation of average carbon feed rates was excluded and the reasons the data were excluded.

(e) Records of calendar dates. Include the calendar date on each record.

[Publications: Publications referenced are available from the agency.]  
Stat. Auth.: ORS 468.020  
Stats. Implemented: ORS 468A.025  
Hist.: DEQ 4-2003, f. & cert. ef. 2-06-03

## 340-230-0395

### Reporting

(1) Reports. The owner or operator must:

(a) Submit to the Department an initial report, semiannual reports, and annual reports, for any emission or parameter level that does not meet the limits specified in this division.

(b) Submit all reports on paper, postmarked on or before the submittal dates in OAR 340-230-0395(3)(a), (4)(a), and (6)(a). If the Department agrees, the owner or operator may submit electronic reports.

(2) The owner or operator must use OAR 340-230-0380(1) and (2) for the appropriate units of measurement for reporting data.

(3) Initial Report. The owner or operator must:

(a) Submit the initial report to the Department by June 19, 2004. The owner or operator must include the following items in the initial report.

(b) The emission levels measured on the date of the initial evaluation of the continuous emission monitoring systems for all of the following five pollutants or parameters as recorded in accordance with OAR 340-230-0390(5)(b).

(A) The 24-hour daily geometric average concentration of sulfur dioxide emissions or the 24-hour daily geometric percent reduction of sulfur dioxide emissions.

(B) For Class I municipal waste combustion units only, the 24-hour daily arithmetic average concentration of nitrogen oxides emissions.

(C) The 4-hour block or 24-hour daily arithmetic average concentration of carbon monoxide emissions.

(D) The 4-hour block arithmetic average load level of the municipal waste combustion unit.

(E) The 4-hour block arithmetic average flue gas temperature at the inlet of the particulate matter control device.

(c) The results of the initial stack tests for eight pollutants or parameters (use appropriate units as specified in OAR 340-230-0380(1) and (2)): Dioxins/furans, cadmium, lead, mercury, opacity, particulate matter, hydrogen chloride, and fugitive ash.

(d) The test report that documents the initial stack tests including supporting calculations.

(e) The initial performance evaluation of the continuous emissions monitoring systems. Use the applicable performance specifications in appendix B of 40 CFR Part 60 in conducting the evaluation.

(f) The maximum demonstrated load of the municipal waste combustion unit and the maximum demonstrated temperature of the flue gases at the inlet of the particulate matter control device. Use values established during the initial stack test for dioxins/furans emissions and include supporting calculations.

(g) If the municipal waste combustion unit uses activated carbon to control dioxins/furans or mercury emissions, the average carbon feed rates that were recorded during the initial stack tests for dioxins/furans and mercury emissions. Include supporting calculations as specified in OAR 340-230-0390(6)(a)(A) and (B).

(h) If the owner or operator chooses to monitor carbon dioxide instead of oxygen as a diluent gas, document the relationship between oxygen and carbon dioxide, as specified in OAR 340-230-0383(6).

(4) Annual Report:

(a) Submission of the annual report. The owner or operator must submit the annual report to the Department by no later than February 1 of each year that follows the calendar year in which the data was collected. This annual report is in addition to any reporting requirement contained in a Title V Operating Permit.

(b) The owner or operator must summarize data collected for all pollutants and parameters and must include the following items:

(A) The results of the annual stack test, using appropriate units, for the following pollutants: Dioxins/furans, cadmium, lead, mercury, opacity, particulate matter, hydrogen chloride, and fugitive ash.

(B) A list of the highest average levels recorded, in the appropriate units. List those values for five pollutants or parameters:

(i) Sulfur dioxide emissions.

(ii) For Class I municipal waste combustion units only, nitrogen oxides emissions.

(iii) Carbon monoxide emissions.

(iv) Load level of the municipal waste combustion unit.

(v) Temperature of the flue gases at the inlet of the particulate matter air pollution control device (4-hour block average).

(C) The highest 6-minute opacity level measured. Base the value on all 6-minute average opacity levels recorded by the continuous opacity monitoring system

(D) For municipal waste combustion units that use activated carbon for controlling dioxins/furans or mercury emissions, include four records:

(i) The average carbon feed rates recorded during the most recent dioxins/furans and mercury stack tests.

(ii) The lowest 8-hour block average carbon feed rate recorded during the year.

(iii) The total carbon purchased and delivered to the municipal waste combustion plant for each calendar quarter. If the owner or operator chooses to evaluate total carbon purchased and delivered on a municipal waste combustion unit basis, record the total carbon purchased and delivered for each individual municipal waste combustion unit at the plant.

(iv) The required quarterly carbon usage of the municipal waste combustion plant calculated using equation 4 or 5 in OAR 340-230-0377(4)(a) and (b). If the owner or operator chooses to evaluate required quarterly usage for carbon on a municipal waste combustion unit basis, record the required quarterly usage for each municipal waste combustion unit at the plant.

(E) The total number of days that the owner or operator did not obtain the minimum number of hours of data for six pollutants or parameters. Include the reasons the data was not obtained and corrective actions taken to obtain the data in the future. Include data on:

(i) Sulfur dioxide emissions.

(ii) For Class I municipal waste combustion units only, nitrogen oxides emissions.

(iii) Carbon monoxide emissions.

(iv) Load level of the municipal waste combustion unit.

(v) Temperature of the flue gases at the inlet of the particulate matter air pollution control device.

(vi) Carbon feed rate.

(F) The number of hours the owner or operator has excluded data from the calculation of average levels (include the reasons for excluding it). Include data for six pollutants or parameters:

(i) Sulfur dioxide emissions.

(ii) For Class I municipal waste combustion units only, nitrogen oxides emissions.

(iii) Carbon monoxide emissions.

(iv) Load level of the municipal waste combustion unit.

(v) Temperature of the flue gases at the inlet of the particulate matter air pollution control device.

(vi) Carbon feed rate.

(G) A notice of the intent to begin a reduced stack testing schedule for dioxins/furans emissions during the following calendar year if eligible for alternative scheduling under OAR 340-230-0385(5)(a) and (b).

(H) A notice of the intent to begin a reduced stack testing schedule for other pollutants during the following calendar year if eligible for alternative scheduling under OAR 340-230-0385(5)(a).

(I) A summary of any emission or parameter level that did not meet the limits specified in this subpart.

(J) A summary of the data in (a) through (d) of this section from the year preceding the reporting year that gives the Department a summary of the performance of the municipal waste combustion unit over a 2-year period.

(K) If the owner or operator chooses to monitor carbon dioxide instead of oxygen as a diluent gas, documentation of the relationship between oxygen and carbon dioxide, as specified in OAR 340-230-0383(6).

(L) Documentation of periods when all certified chief facility operators and certified shift supervisors are offsite for more than 12 hours.

(5) Non-compliance. The owner or operator must submit a semiannual report to the Department on any recorded emission or parameter level that does not meet the requirements specified in OAR 340-230-0375 To 0395

(6) Semi-annual report (if it is required)

(a) Submission of the semi-annual report.

(A) For data collected during the first half of a calendar year, the owner or operator must submit the semiannual report to the Department by August 1 of that year.

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(B) For data collected during the second half of the calendar year, the owner or operator must submit the semiannual report to the Department by February 1 of the following year.

(b) For any of the following six pollutants or parameters that exceeded the limits specified in OAR 340-230-0375 to 0395, the owner or operator must include the calendar date they exceeded the limits, the averaged and recorded data for that date, the reasons for exceeding the limits, and the corrective actions:

(A) Concentration or percent reduction of sulfur dioxide emissions.

(B) For Class I municipal waste combustion units only, concentration of nitrogen oxides emissions.

(C) Concentration of carbon monoxide emissions.

(D) Load level of the municipal waste combustion unit.

(E) Temperature of the flue gases at the inlet of the particulate matter air pollution control device.

(F) Average 6-minute opacity level. The data obtained from the continuous opacity monitoring system are not used to determine compliance with the limit on opacity emissions.

(c) If the results of the annual stack tests show emissions above the limits specified in OAR 340-230-0380(1) and (2) for dioxins/furans, cadmium, lead, mercury, particulate matter, opacity, hydrogen chloride, and fugitive ash, the owner or operator must include a copy of the test report that documents the emission levels and the corrective actions.

(d) For municipal waste combustion units that apply activated carbon to control dioxins/furans or mercury emissions, the owner or operator must include the following two items:

(A) Documentation of all dates when the 8-hour block average carbon feed rate (calculated from the carbon injection system operating parameter) is less than the highest carbon feed rate established during the most recent mercury and dioxins/furans stack test. Include four items:

(i) Eight-hour average carbon feed rate.

(ii) Reasons for occurrences of low carbon feed rates.

(iii) The corrective actions taken to meet the carbon feed rate requirement.

(iv) The calendar date.

(B) Documentation of each quarter when total carbon purchased and delivered to the municipal waste combustion plant is less than the total required quarterly usage of carbon. If choosing to evaluate total carbon purchased and delivered on a municipal waste combustion unit basis, record the total carbon purchased and delivered for each individual municipal waste combustion unit at the plant. Include five items:

(i) Amount of carbon purchased and delivered to the plant.

(ii) Required quarterly usage of carbon.

(iii) Reasons for not meeting the required quarterly usage of carbon.

(iv) The corrective actions taken to meet the required quarterly usage of carbon.

(v) The calendar date.

(7) Changing reporting dates.

(a) If the Department agrees, the owner or operator may change the semiannual or annual reporting dates.

(b) See **40 CFR Part 60.19(c)** for procedures to seek approval to change the reporting date.

(Publications: Publications referenced are available from the agency.)

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.025

Hist.: DEQ 4-2003, f. & cert. ef. 2-06-03

## 340-238-0040

### Definitions

The definitions in OAR 340-200-0020 and this rule apply to this division. If the same term is defined in this rule and OAR 340-200-0020, the definition in this rule applies to this division.

(1) "Administrator" means the Administrator of the EPA or authorized representative.

(2) "Alternative method" means any method of sampling and analyzing for an air pollutant that is not a reference or equivalent method but that has been demonstrated to the Department's satisfaction to, in specific cases, produce results adequate for determination of compliance.

(3) "Capital expenditures" means an expenditure for a physical or operational change to an existing facility that exceeds the product of the applicable "annual asset guideline repair allowance percentage" specified in Internal Revenue Service (IRS) Publication 534 and the existing facility's basis, as defined by section 1012 of the Internal Revenue Code. However, the total expenditure for a physical or operational change to an existing facility must not be reduced by any "excluded additions" as defined in IRS Publication 534, as would be done for tax purposes.

(4) "CFR" means **Code of Federal Regulations** revised as of July 1, 2002.

(5) "Closed municipal solid waste landfill" (closed landfill) means a landfill in which solid waste is no longer being placed, and in which no additional solid wastes will be placed without first filing a notification of modification as prescribed under 40 CFR 60.7(a)(4). Once a notification of modification has been filed, and additional solid waste is placed in the landfill, the landfill is no longer closed. A landfill is considered closed after meeting the criteria of 40 CFR 258.60.

(6) "Commenced", with respect to the definition of "new source" in section 111(a)(2) of the federal Clean Air Act, means that an owner or operator has undertaken a continuous program of construction or modification or that an owner or operator has entered into a contractual obligation to undertake and complete, within a reasonable time, a continuous program of construction or modification.

(7) "Construction" means fabrication, erection, or installation of a facility.

(8) "Department" means the Department of Environmental Quality or, in the case of Lane County, the Lane Regional Air Pollution Authority.

(9) "Environmental Protection Agency" or "EPA" means the United States Environmental Protection Agency.

(10) "Existing municipal solid waste landfill" (existing landfill) means a municipal solid waste landfill that began construction, reconstruction or modification before 5/30/91 and has accepted waste at any time since 11/08/87 or has additional design capacity available for future waste deposition.

(11) "Equivalent method" means any method of sampling and analyzing for an air pollutant that has been demonstrated to the Department's satisfaction to have a consistent and quantitatively known relationship to the reference method, under specified conditions.

(12) "Existing facility", with reference to a stationary source, means any apparatus of the type for which a standard is promulgated in 40 CFR Part 60, and the construction or modification of which commenced before the date of proposal by EPA of that standard; or any apparatus that could be altered in such a way as to be of that type.

(13) "Facility" means all or part of any public or private building, structure, installation, equipment, vehicle or vessel, including, but not limited to, ships.

(14) "Fixed capital cost" means the capital needed to provide all the depreciable components.

(15) "Large municipal solid waste landfill" (large landfill) means a municipal solid waste landfill with a design capacity greater than or equal to 2.5 million megagrams or 2.5 million cubic meters.

(16) "Modification:"

(a) except as provided in subsection (b) of this section, means any physical change in, or change in the method of operation of, an existing facility that increases the amount of any air pollutant (to which a standard applies) emitted into the atmosphere by that facility or that results in the emission of any air pollutant (to which a standard applies) into the atmosphere not previously emitted;

(b) As used in OAR 340-238-0100 means an action that results in an increase in the design capacity of a landfill.

(17) "Municipal solid waste landfill" (landfill) means an entire disposal facility in a contiguous geographical space where household waste is placed in or on land. A municipal solid waste landfill may also receive other types of RCRA Subtitle D wastes such as commercial solid waste, nonhazardous sludge, conditionally exempt small quantity generator waste, and industrial solid waste. Portions of a municipal solid waste landfill may be separated by access roads and may be publicly or privately owned. A municipal solid waste landfill may be a new municipal solid waste landfill, an existing municipal solid waste landfill, or a lateral expansion (modification).

(18) "New municipal solid waste landfill" (new landfill) means a municipal solid waste landfill that began construction, reconstruction or modification or began accepting waste on or after 5/30/91.

(19) "Particulate matter" means any finely divided solid or liquid material, other than uncombined water, as measured by an applicable reference method, or an equivalent or alternative method.

(20) "Reconstruction" means the replacement of components of an existing facility to such an extent that:

(a) The fixed capital cost of the new components exceeds 50 percent of the fixed capital cost that would be required to construct a comparable entirely new facility; and

(b) It is technologically and economically feasible to meet the applicable standards set forth in 40 CFR Part 60.

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(21) "Reference method" means any method of sampling and analyzing for an air pollutant as specified in 40 CFR Part 60.

(22) "Small municipal solid waste landfill" (small landfill) means a municipal solid waste landfill with a design capacity less than 2.5 million megagrams or 2.5 million cubic meters.

(23) "Standard" means a standard of performance proposed or promulgated under 40 CFR Part 60.

(24) "State Plan" means a plan developed for the control of a designated pollutant provided under 40 CFR Part 60.

(25) "Stationary source" means any building, structure, facility, or installation that emits or may emit any air pollutant subject to regulation under the federal Clean Air Act.

(26) "Volatile organic compounds" or "VOC" means any organic compounds that participate in atmospheric photochemical reactions; or that are measured by a reference method, an equivalent method, an alternative method, or that are determined by procedures specified under any applicable rule.

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

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.025

Hist.: DEQ 97, f. 9-2-75, ef. 9-25-75; DEQ 22-1982, f. & ef. 10-21-82; DEQ 17-1983, f. & ef. 10-19-83; DEQ 16-1984, f. & ef. 8-21-84; DEQ 15-1985, f. & ef. 10-21-85; DEQ 19-1986, f. & ef. 11-7-86; DEQ 17-1987, f. & ef. 8-24-87; DEQ 24-1989, f. & cert. ef. 10-26-89; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 17-1993, f. & cert. ef. 11-4-93; DEQ 22-1995, f. & cert. ef. 10-6-95; DEQ 27-1996, f. & cert. ef. 12-11-96; DEQ 8-1997, f. & cert. ef. 5-6-97; DEQ 22-1998, f. & cert. ef. 10-21-98; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-025-0510; DEQ 22-2000, f. & cert. ef. 12-18-00; DEQ 4-2003, f. & cert. ef. 2-06-03

## 340-238-0050

### General Provisions

(1) Except as provided in section (2) of this rule, **40 CFR Part 60, Subpart A** is by this reference adopted and incorporated herein.

(2) Where "Administrator" or "EPA" appears in **40 CFR Part 60, Subpart A**, "Department" is substituted, except in any section of **40 CFR Part 60** for which a federal rule or delegation specifically indicates that authority must not be delegated to the state.

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

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.025

Hist.: DEQ 97, f. 9-2-75, ef. 9-25-75; DEQ 16-1981, f. & ef. 5-6-81; DEQ 22-1982, f. & ef. 10-21-82; DEQ 17-1983, f. & ef. 10-19-83; DEQ 16-1984, f. & ef. 8-21-84; DEQ 15-1985, f. & ef. 10-21-85; DEQ 19-1986, f. & ef. 11-7-86; DEQ 17-1987, f. & ef. 8-24-87; DEQ 24-1989, f. & cert. ef. 10-26-89; DEQ 17-1993, f. & cert. ef. 11-4-93; DEQ 27-1996, f. & cert. ef. 12-11-96; DEQ 8-1997, f. & cert. ef. 5-6-97; DEQ 22-1998, f. & cert. ef. 10-21-98; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-025-0530; DEQ 22-2000, f. & cert. ef. 12-18-00; DEQ 4-2003, f. & cert. ef. 2-06-03

## 340-238-0060

### Federal Regulations Adopted by Reference

(1) Except as provided in section (2) of this rule, **40 CFR Part 60 Subparts D through XX and BBB through NNN and PPP through WWW, AAAA and CCCC** are by this reference adopted and incorporated herein, and **40 CFR Part 60 Subpart OOO** is by this reference adopted and incorporated herein for major sources only.

(2) Where "Administrator" or "EPA" appears in **40 CFR Part 60**, "Department" is substituted, except in any section of **40 CFR Part 60** for which a federal rule or delegation specifically indicates that authority must not be delegated to the state.

(3) **40 CFR Part 60** Subparts adopted by this rule are titled as follows:

(a) Subpart D — Fossil-fuel-fired steam generators for which construction is commenced after August 17, 1971;

(b) Subpart Da — Electric utility steam generating units for which construction is commenced after September 18, 1978;

(c) Subpart Db — Industrial-commercial-institutional steam generating units;

(d) Subpart Dc — Small industrial-commercial-institutional steam generating units;

(e) Subpart E — Incinerators;

(f) Subpart Ea — Municipal waste combustors for which construction is commenced after December 20, 1989 and on or before September 20, 1994;

(g) Subpart Eb — Municipal waste combustors for which construction is commenced after September 20, 1994;

(h) Subpart Ec — Hospital/Medical/Infectious waste incinerators that commenced construction after June 20, 1996, or for which modification is commenced after March 16, 1998;

(i) Subpart F — Portland cement plants; (i) Subpart G — Nitric acid plants;

(j) Subpart G — Nitric acid plants;

(k) Subpart H — Sulfuric acid plants;

(l) Subpart I — Hot mix asphalt facilities;

(m) Subpart J — Petroleum refineries;

(n) Subpart K — Storage vessels for petroleum liquids for which construction, reconstruction, or modification commenced after June 11, 1973, and before May 19, 1978;

(o) Subpart Ka — Storage vessels for petroleum liquids for which construction, reconstruction, or modification commenced after May 18, 1978, and before July 23, 1984;

(p) Subpart Kb — Volatile organic liquid storage vessels (including petroleum liquid storage vessels) for which construction, reconstruction, or modification commenced after July 23, 1984;

(q) Subpart L — Secondary lead smelters;

(r) Subpart M — Secondary brass and bronze production plants;

(s) Subpart N — Primary emissions from basic oxygen process furnaces for which construction is commenced after June 11, 1973;

(t) Subpart Na — Secondary emissions from basic oxygen process steelmaking facilities for which construction is commenced after January 20, 1983;

(u) Subpart O — Sewage treatment plants;

(v) Subpart P — Primary copper smelters;

(w) Subpart Q — Primary Zinc smelters;

(x) Subpart R — Primary lead smelters;

(y) Subpart S — Primary aluminum reduction plants;

(z) Subpart T — Phosphate fertilizer industry: wet-process phosphoric acid plants;

(aa) Subpart U — Phosphate fertilizer industry: superphosphoric acid plants;

(bb) Subpart V — Phosphate fertilizer industry: diammonium phosphate plants;

(cc) Subpart W — Phosphate fertilizer industry: triple superphosphate plants;

(dd) Subpart X — Phosphate fertilizer industry: granular triple superphosphate storage facilities;

(ee) Subpart Y — Coal preparation plants;

(ff) Subpart Z — Ferroalloy production facilities;

(gg) Subpart AA — Steel plants: electric arc furnaces constructed after October 21, 1974 and on or before August 17, 1983;

(hh) Subpart AAa — Steel plants: electric arc furnaces and argon-oxygen decarburization vessels constructed after August 7, 1983;

(ii) Subpart BB — Kraft pulp mills;

(jj) Subpart CC — Glass manufacturing plants;

(kk) Subpart DD — Grain elevators.

(ll) Subpart EE — Surface coating of metal furniture;

(mm) Subpart GG — Stationary gas turbines;

(nn) Subpart HH — Lime manufacturing plants;

(oo) Subpart KK — Lead-acid battery manufacturing plants;

(pp) Subpart LL — Metallic mineral processing plants;

(qq) Subpart MM — Automobile and light-duty truck surface coating operations;

(rr) Subpart NN — Phosphate rock plants;

(ss) Subpart PP — Ammonium sulfate manufacture;

(tt) Subpart QQ — Graphic arts industry: publication rotogravure printing;

(uu) Subpart RR — pressure sensitive tape and label surface coating operations;

(vv) Subpart SS — Industrial surface coating: large appliances;

(ww) Subpart TT — Metal coil surface coating;

(xx) Subpart UU — Asphalt processing and asphalt roofing manufacture;

(yy) Subpart VV — Equipment leaks of VOC in the synthetic organic chemicals manufacturing industry;

(zz) Subpart WW — Beverage can surface coating industry;

(aaa) Subpart XX — Bulk gasoline terminals;

(bbb) Subpart BBB — Rubber tire manufacturing industry;

(ccc) Subpart DDD — Volatile organic compound (VOC) emissions for the polymer manufacture industry;

(ddd) Subpart FFF — Flexible vinyl and urethane coating and printing;

(eee) Subpart GGG — equipment leaks of VOC in petroleum refineries;

(fff) Subpart HHH — Synthetic fiber production facilities;

(ggg) Subpart III — Volatile organic compound (VOC) emissions from the synthetic organic chemical manufacturing industry (SOCMI) air oxidation unit processes;

(hhh) Subpart JJJ — Petroleum dry cleaners;

# ADMINISTRATIVE RULES

(iii) Subpart KKK — Equipment leaks of VOC from onshore natural gas processing plants;

(jij) Subpart LLL — Onshore natural gas processing; SO<sub>2</sub> emissions;

(kkk) Subpart NNN — Volatile organic compound (VOC) emissions from synthetic organic chemical manufacturing industry (SOCMI) distillation operations;

(lll) Subpart OOO — Nonmetallic mineral processing plants (adopted by reference for major sources only);

(mmm) Subpart PPP — Wool fiberglass insulation manufacturing plants;

(nnn) Subpart QQQ — VOC emissions from petroleum refinery wastewater systems;

(ooo) Subpart RRR — Volatile organic compound emissions from synthetic organic chemical manufacturing industry (SOCMI) reactor processes;

(ppp) Subpart SSS — Magnetic tape coating facilities;

(qqq) Subpart TTT — Industrial surface coating; surface coating of plastic parts for business machines;

(rrr) Subpart UUU — Calciners and dryers in mineral industries;

(sss) Subpart VVV — Polymeric coating of supporting substrates facilities;

(ttt) Subpart WWW — Municipal solid waste landfills, as clarified by OAR 340-238-0100;

(uuu) Subpart AAAA — Small waste combustion units;

(vvv) Subpart CCCC — Commercial and Industrial Solid Waste Incineration Units.

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

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.025

Hist.: DEQ 97, f. 9-2-75, ef. 9-25-75; DEQ 16-1981, f. & ef. 5-6-81; sections (1) thru (12) of this rule renumbered to 340-025-0550 thru 340-025-0605; DEQ 22-1982, f. & ef. 10-21-82; DEQ 17-1983, f. & ef. 10-19-83; DEQ 16-1984, f. & ef. 8-21-84; DEQ 15-1985, f. & ef. 10-21-85; DEQ 19-1986, f. & ef. 11-7-86; DEQ 17-1987, f. & ef. 8-24-87; DEQ 24-1989, f. & ef. 10-26-89; DEQ 17-1993, f. & ef. 11-4-93; DEQ 22-1995, f. & ef. 10-6-95; DEQ 27-1996, f. & ef. 12-11-96; DEQ 8-1997, f. & ef. 5-6-97; DEQ 22-1998, f. & ef. 10-21-98; DEQ 14-1999, f. & ef. 10-14-99, Renumbered from 340-025-0535; DEQ 22-2000, f. & ef. 12-18-00; DEQ 4-2003, f. & ef. 2-06-03

## 340-244-0200

### Emissions Limitation for New and Reconstructed Major Sources

(1) Federal MACT. Any person who proposes to construct a major source of HAP after an applicable emissions standard has been proposed by the EPA pursuant to Section 112(d), Section 112(n), or Section 129 of the FCAA must comply with the requirements and emission standard for new sources when promulgated by EPA.

(2) State MACT. Any person who proposes to construct or reconstruct a major source of hazardous air pollutants before MACT requirements applicable to that source have been proposed by the EPA and after the effective date of the program must comply with new and reconstructed source MACT requirements of **40 CFR Part 63, Subpart B**.

(3) Compliance schedule. The owner or operator of a new or reconstructed source must on and after the date of start-up, be in compliance with all applicable requirements specified in the Federal or State MACT.

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

Stat. Auth.: ORS 468.020 & ORS 468A.025

Stats. Implemented: ORS 468A.040

Hist.: DEQ 13-1993, f. & ef. 9-24-93; DEQ 22-1995, f. & ef. 10-6-95; DEQ 20-1997, f. & ef. 9-25-97; DEQ 14-1999, f. & ef. 10-14-99, Renumbered from 340-032-0500; DEQ 4-2003, f. & ef. 2-06-03

## 340-244-0210

### Emissions Limitation for Existing Sources

(1) Federal MACT. Existing major and area sources must comply with the applicable emissions standards for existing sources promulgated by the EPA pursuant to section 112(d), section 112(n), or section 129 of the FCAA and adopted by rule within this Division.

(2) State MACT. If the EPA fails to meet its schedule for promulgating a MACT standard for a source category or subcategory, the Department must approve HAP emissions limitations for existing major sources within that category or subcategory according to **40 CFR Part 63, Subpart B**.

(a) The owner or operator of each existing major source within that category will file permit applications in accordance with OAR 340-218-0040 and **40 CFR Part 63, Subpart B**.

(b) If, after a permit has been issued, the EPA promulgates a MACT standard applicable to a source that is more stringent than the one established pursuant to this section, the Department may revise the permit upon the next renewal to reflect the standard promulgated by the EPA. The source must be given a reasonable time to comply, but no longer than 8 years after the standard is promulgated;

(c) The Department must not establish a case-by-case State MACT:

(A) For existing solid waste incineration units where an emissions standard will be established for these units by the EPA pursuant to section 111 of the FCAA. These sources are subject to applicable emissions standards under OAR chapter 340, division 25; or

(B) For existing major HAP sources where an emissions standard or alternative control strategy will be established by the EPA pursuant to section 112(n) of the FCAA.

(3) Compliance schedule:

(a) The owner or operator of the source must comply with the emission limitation:

(A) Within the time frame established in the applicable Federal MACT standard, but in no case later than three years from the date of federal promulgation of the applicable MACT requirements; or

(B) Within the time frame established by the Department where a State determined MACT has been established or a case-by-case determination has been made.

(b) The owner or operator of the source may apply for, and the Commission may grant, a compliance extension of up to one year if such additional period is necessary for the installation of controls;

(c) Notwithstanding the requirements of this section, no existing source that has installed Best Available Control Technology or been required to meet Lowest Achievable Emission Rate before the promulgation of a federal MACT applicable to that emissions unit is required to comply with such MACT standard until 5 years after the date on which such installation or reduction has been achieved, as determined by the Department.

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.310

Hist.: DEQ 13-1993, f. & ef. 9-24-93; DEQ 7-1998, f. & ef. 5-5-98; DEQ 18-1998, f. & ef. 10-5-98, Renumbered from 340-032-2500; DEQ 14-1999, f. & ef. 10-14-99, Renumbered from 340-032-0505; DEQ 4-2003, f. & ef. 2-06-03

## 340-244-0220

### Federal Regulations Adopted by Reference

(1) Except as provided in sections (2) and (3) of this rule, **40 CFR Part 61, Subparts A through F, I, J, L, N through P, V and Y through FF** (July 1, 2002) and **40 CFR Part 63, Subparts A, F, G, H, I, L, M, N, O, Q, R, S, T, U, W, X, Y, AA, BB, CC, DD, EE, GG, HH, II, JJ, KK, LL, MM, OO, PP, QQ, RR, SS, TT, UU, VV, WW, YY, CCC, DDD, EEE, GGG, HHH, III, JJJ, LLL, MMM, NNN, OOO, PPP, QQQ, RRR, TTT, UUU, VVV, XXX, CCCC, GGGG, HHHH, SSSS, TTTT, UUUU, and VVVV** (July 1, 2002) are adopted by reference and incorporated herein.

(2) Where "Administrator" or "EPA" appears in 40 CFR Part 61 or 63, "Department" is substituted, except in any section of 40 CFR Part 61 or 63, for which a federal rule or delegation specifically indicates that authority will not be delegated to the state.

(3) 40 CFR Part 63 Subpart M — Dry Cleaning Facilities using Perchloroethylene: The exemptions in 40 CFR 63.320(d) and (e) do not apply.

(4) 40 CFR Part 61 Subparts adopted by this rule are titled as follows:

(a) Subpart A — General Provisions;

(b) Subpart B — Radon Emissions from Underground Uranium Mines;

(c) Subpart C — Beryllium;

(d) Subpart D — Beryllium Rocket Motor Firing;

(e) Subpart E — Mercury;

(f) Subpart F — Vinyl Chloride;

(g) Subpart I — Radionuclide Emissions from Federal Facilities Other than Nuclear Regulatory Commission Licensee and Not Covered by Subpart H;

(h) Subpart J — Equipment Leaks of Benzene;

(i) Subpart L — Benzene Emissions from Coke By-Product Recovery Plants;

(j) Subpart N — Inorganic Arsenic Emissions from Glass Manufacturing Plants;

(k) Subpart O — Inorganic Arsenic Emissions from Primary Copper Smelters;

(l) Subpart P — Inorganic Arsenic Emissions from Arsenic Trioxide and Metal Arsenic Facilities;

(m) Subpart V — Equipment Leaks (Fugitive Emission Sources);

(n) Subpart Y — Benzene Emissions from Benzene Storage Vessels;

(o) Subpart BB — Benzene Emissions from Benzene Transfer Operations; and

(p) Subpart FF — Benzene Waste Operations.

(5) 40 CFR Part 63 Subparts adopted by this rule are titled as follows:

(a) Subpart A — General Provisions;

(b) Subpart F — SO<sub>2</sub>MI;



# ADMINISTRATIVE RULES

- (c) Subpart G — SOCOMI — Process Vents, Storage Vessels, Transfer Operations, and Wastewater;
- (d) Subpart H — SOCOMI — Equipment Leaks;
- (e) Subpart I — Certain Processes Subject to the Negotiated Regulation for Equipment Leaks;
- (f) Subpart L — Coke Oven Batteries;
- (g) Subpart M — Dry Cleaning Facilities using Perchloroethylene;
- (h) Subpart N — Hard and Decorative Chromium Electroplating and Chromium Anodizing;
- (i) Subpart O — Ethylene Oxide Sterilization;
- (j) Subpart Q — Industrial Process Cooling Towers;
- (k) Subpart R — Gasoline Distribution (Bulk Gasoline Terminals and Pipeline Breakout Stations);
- (l) Subpart S — Pulp and Paper Industry;
- (m) Subpart T — Halogenated Solvent Cleaning;
- (n) Subpart U — Group I Polymers and Resins;
- (o) Subpart W — Epoxy Resins and Non-Nylon Polyamides Production;
- (p) Subpart X — Secondary Lead Smelting;
- (q) Subpart Y — Marine Tank Vessel Loading Operations;
- (r) Subpart AA — Phosphoric Acid Manufacturing Plants;
- (s) Subpart BB — Phosphate Fertilizer Production Plants;
- (t) Subpart CC — Petroleum Refineries;
- (u) Subpart DD — Off-Site Waste and Recovery Operations;
- (v) Subpart EE — Magnetic Tape Manufacturing Operations;
- (w) Subpart GG — Aerospace Manufacturing and Rework Operations;
- (x) Subpart HH — Oil and Natural Gas Production Facilities;
- (y) Subpart II — Shipbuilding and Ship Repair (Surface Coating);
- (z) Subpart JJ — Wood Furniture Manufacturing Operations;
- (aa) Subpart KK — Printing and Publishing Industry;
- (bb) Subpart LL — Primary Aluminum Reduction Plants;
- (cc) Subpart MM — Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite and Stand-Alone Semi-Chemical Pulp Mills
- (dd) Subpart OO — Tanks — Level 1;
- (ee) Subpart PP — Containers;
- (ff) Subpart QQ — Surface Impoundments;
- (gg) Subpart RR — Individual Drain Systems;
- (hh) Subpart SS — Closed Vent Systems, Control Devices, Recovery Devices and Routing to a Fuel Gas System or a Process;
- (ii) Subpart TT — Equipment Leaks — Control Level 1;
- (jj) Subpart UU — Equipment Leaks — Control Level 2;
- (kk) Subpart VV — Oil-Water Separators and Organic-Water Separators;
- (ll) Subpart WW — Storage Vessels (Tanks) — Control Level 2;
- (mm) Subpart YY — Generic Maximum Achievable Control Technology Standards;
- (nn) Subpart CCC — Steel Pickling — HCl Process Facilities and Hydrochloric Acid Regeneration Plants;
- (oo) Subpart DDD — Mineral Wool Production;
- (pp) Subpart EEE — Hazardous Waste Combustors;
- (qq) Subpart GGG — Pharmaceuticals Production;
- (rr) Subpart HHH — Natural Gas Transmission and Storage Facilities;
- (ss) Subpart III — Flexible Polyurethane Foam Production;
- (tt) Subpart JJJ — Group IV Polymers and Resins;
- (uu) Subpart LLL — Portland Cement Manufacturing Facilities;
- (vv) Subpart MMM — Pesticide Active Ingredient Production;
- (ww) Subpart NNN — Wool Fiberglass Manufacturing;
- (xx) Subpart OOO — Manufacture of Amino/Phenolic Resins;
- (yy) Subpart PPP — Polyether Polyols Production;
- (zz) Subpart QQQ — Primary Copper;
- (aaa) Subpart RRR — Secondary Aluminum Production;
- (bbb) Subpart TTT — Primary Lead Smelting;
- (ccc) Subpart UUU — Petroleum Refineries — Catalytic Cracking, Catalytic Reforming, and Sulfur Plant Units;
- (ddd) Subpart VVV — Publicly Owned Treatment Works;
- (eee) Subpart XXX — Ferroalloys Production: Ferromanganese and silicomanganese;
- (fff) Subpart CCCC — Manufacturing of Nutritional Yeast;
- (ggg) Subpart GGGG — Solvent Extraction for Vegetable Oil Production;
- (hhh) Subpart HHHH — Wet Formed Fiberglass Mat Production;
- (iii) Subpart SSSS — Metal coil (Surface Coating);
- (jjj) Subpart TTTT — Leather Finishing Operations;
- (kkk) Subpart UUUU — Cellulose Production Manufacturing;
- (lll) Subpart VVVV — Boat Manufacturing

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

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.025

Hist.: [DEQ 16-1995, f. & cert. ef. 6-21-95; DEQ 28-1996, f. & cert. ef. 12-19-96; DEQ 18-1998, f. & cert. ef. 10-5-98]; [DEQ 18-1993, f. & cert. ef. 11-4-93; DEQ 32-1994, f. & cert. ef. 12-22-94]; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-032-0510, 340-032-5520; DEQ 11-2000, f. & cert. ef. 7-27-00; DEQ 15-2001, f. & cert. ef. 12-26-01; DEQ 4-2003, f. & cert. ef. 2-06-03

## 340-244-0230

### Accidental Release Prevention

(1) List. For purposes of this rule, the Commission adopts by reference the list of regulated substances and thresholds for accidental release prevention codified at **40 CFR Part 68.130** (July 1, 2002) which includes the Department of Transportation Division 1.1 Explosive Standards List (**49 CFR 172.101**). (Table 3).

(2) Risk Management Plan. The owner or operator of a stationary source at which a substance listed in **Table 3** is present in greater than the threshold quantity must prepare and implement a written risk management plan to detect and prevent or minimize accidental releases, and to provide a prompt emergency response to any such releases in order to protect human health and the environment.

(3) Compliance. The owner or operator of a stationary source required to prepare and implement a risk management plan under section (2) of this rule must:

(a) Register the risk management plan with the EPA;

(b) Submit copies of the risk management plan to the U.S. Chemical Safety and Hazard Identification Board, the Department, and the Oregon Office of Emergency Management; and

(c) Submit as part of the compliance certification required under OAR 340-218-0080, annual certification to the Department that the risk management plan is being properly implemented.

(4) Compliance schedule:

(a) The owner or operator of a stationary source must prepare and implement a risk management plan under section (2) of this rule according to the schedule promulgated by the EPA;

(b) The owner or operator of a stationary source that adds a listed substance or exceeds the threshold must prepare and implement a risk management plan according to the schedule promulgated by the EPA.

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

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

Stat. Auth.: ORS 468.020 & ORS 468A.310

Stats. Implemented: ORS 468A.025

Hist.: DEQ 13-1993, f. & cert. ef. 9-24-93; DEQ 18-1993, f. & cert. ef. 11-4-93; DEQ 24-1994, f. & cert. ef. 10-28-94; DEQ 18-1998, f. & cert. ef. 10-5-98; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-032-5400; DEQ 11-2000, f. & cert. ef. 7-27-00; DEQ 15-2001, f. & cert. ef. 12-26-01; DEQ 4-2003, f. & cert. ef. 2-06-03

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**Adm. Order No.:** DEQ 5-2003

**Filed with Sec. of State:** 2-6-2003

**Certified to be Effective:** 2-6-03

**Notice Publication Date:** 8-1-03

**Rules Amended:** 340-200-0040

**Subject:** Amend 340-200-0040 to adopt Lane County Regional Air Pollution Authority's Title 12 (Definitions), Title 32 (Emission Standards), and Title 50 (Ambient Air Standards) rules as amendments to the SIP.

**Rules Coordinator:** Rachel Sakata—(503) 229-5659

## 340-200-0040

### State of Oregon Clean Air Act Implementation Plan

(1) This implementation plan, consisting of Volumes 2 and 3 of the State of Oregon Air Quality Control Program, contains control strategies, rules and standards prepared by the Department of Environmental Quality and is adopted as the state implementation plan (SIP) of the State of Oregon pursuant to the federal Clean Air Act, **42 U.S.C.A §§ 7401 to 7671g**.

(2) Except as provided in section (3), revisions to the SIP will be made pursuant to the Commission's rulemaking procedures in division 11 of this chapter and any other requirements contained in the SIP and will be submitted to the United States Environmental Protection Agency for approval.

(3) Notwithstanding any other requirement contained in the SIP, the Department may:

(a) Submit to the Environmental Protection Agency any permit condition implementing a rule that is part of the federally-approved SIP as a source-specific SIP revision after the Department has complied with the public hearings provisions of **40 CFR 51.102** (July 1, 2002); and

(b) Approve the standards submitted by a regional authority if the regional authority adopts verbatim any standard that the Commission has adopted, and submit the standards to EPA for approval as a SIP revision.

# ADMINISTRATIVE RULES

**NOTE:** Revisions to the State of Oregon Clean Air Act Implementation Plan become federally enforceable upon approval by the United States Environmental Protection Agency. If any provision of the federally approved Implementation Plan conflicts with any provision adopted by the Commission, the Department shall enforce the more stringent provision.

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.035

Hist.: DEQ 35, f. 2-3-72, ef. 2-15-72; DEQ 54, f. 6-21-73, ef. 7-1-73; DEQ 19-1979, f. & ef. 6-25-79; DEQ 21-1979, f. & ef. 7-2-79; DEQ 22-1980, f. & ef. 9-26-80; DEQ 11-1981, f. & ef. 3-26-81; DEQ 14-1982, f. & ef. 7-21-82; DEQ 21-1982, f. & ef. 10-27-82; DEQ 1-1983, f. & ef. 1-21-83; DEQ 6-1983, f. & ef. 4-18-83; DEQ 18-1984, f. & ef. 10-16-84; DEQ 25-1984, f. & ef. 11-27-84; DEQ 3-1985, f. & ef. 2-1-85; DEQ 12-1985, f. & ef. 9-30-85; DEQ 5-1986, f. & ef. 2-21-86; DEQ 10-1986, f. & ef. 5-9-86; DEQ 20-1986, f. & ef. 11-7-86; DEQ 21-1986, f. & ef. 11-7-86; DEQ 4-1987, f. & ef. 3-2-87; DEQ 5-1987, f. & ef. 3-2-87; DEQ 8-1987, f. & ef. 4-23-87; DEQ 21-1987, f. & ef. 12-16-87; DEQ 31-1988, f. 12-20-88, cert. ef. 12-23-88; DEQ 2-1991, f. & cert. ef. 2-14-91; DEQ 19-1991, f. & cert. ef. 11-13-91; DEQ 20-1991, f. & cert. ef. 11-13-91; DEQ 21-1991, f. & cert. ef. 11-13-91; DEQ 22-1991, f. & cert. ef. 11-13-91; DEQ 23-1991, f. & cert. ef. 11-13-91; DEQ 24-1991, f. & cert. ef. 11-13-91; DEQ 25-1991, f. & cert. ef. 11-13-91; DEQ 1-1992, f. & cert. ef. 2-4-92; DEQ 3-1992, f. & cert. ef. 2-4-92; DEQ 7-1992, f. & cert. ef. 3-30-92; DEQ 19-1992, f. & cert. ef. 8-11-92; DEQ 20-1992, f. & cert. ef. 8-11-92; DEQ 25-1992, f. 10-30-92, cert. ef. 11-1-92; DEQ 26-1992, f. & cert. ef. 11-2-92; DEQ 27-1992, f. & cert. ef. 11-12-92; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 8-1993, f. & cert. ef. 5-11-93; DEQ 12-1993, f. & cert. ef. 9-24-93; DEQ 15-1993, f. & cert. ef. 11-4-93; DEQ 16-1993, f. & cert. ef. 11-4-93; DEQ 17-1993, f. & cert. ef. 11-4-93; DEQ 19-1993, f. & cert. ef. 11-4-93; DEQ 1-1994, f. & cert. ef. 1-3-94; DEQ 5-1994, f. & cert. ef. 3-21-94; DEQ 14-1994, f. & cert. ef. 5-31-94; DEQ 15-1994, f. 6-8-94, cert. ef. 7-1-94; DEQ 25-1994, f. & cert. ef. 11-2-94; DEQ 9-1995, f. & cert. ef. 5-1-95; DEQ 10-1995, f. & cert. ef. 5-1-95; DEQ 14-1995, f. & cert. ef. 5-25-95; DEQ 17-1995, f. & cert. ef. 7-12-95; DEQ 19-1995, f. & cert. ef. 9-1-95; DEQ 20-1995 (Temp), f. & cert. ef. 9-14-95; DEQ 8-1996 (Temp), f. & cert. ef. 6-3-96; DEQ 15-1996, f. & cert. ef. 8-14-96; DEQ 19-1996, f. & cert. ef. 9-24-96; DEQ 22-1996, f. & cert. ef. 10-22-96; DEQ 23-1996, f. & cert. ef. 11-4-96; DEQ 24-1996, f. & cert. ef. 11-26-96; DEQ 10-1998, f. & cert. ef. 6-22-98; DEQ 15-1998, f. & cert. ef. 9-23-98; DEQ 16-1998, f. & cert. ef. 9-23-98; DEQ 17-1998, f. & cert. ef. 9-23-98; DEQ 20-1998, f. & cert. ef. 10-12-98; DEQ 21-1998, f. & cert. ef. 10-12-98; DEQ 1-1999, f. & cert. ef. 1-25-99; DEQ 5-1999, f. & cert. ef. 3-25-99; DEQ 6-1999, f. & cert. ef. 5-21-99; DEQ 10-1999, f. & cert. ef. 7-1-99; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-020-0047; DEQ 15-1999, f. & cert. ef. 10-22-99; DEQ 2-2000, f. 2-17-00, cert. ef. 6-1-01; DEQ 6-2000, f. & cert. ef. 5-22-00; DEQ 8-2000, f. & cert. ef. 6-6-00; DEQ 13-2000, f. & cert. ef. 7-28-00; DEQ 16-2000, f. & cert. ef. 10-25-00; DEQ 17-2000, f. & cert. ef. 10-25-00; DEQ 20-2000 f. & cert. ef. 12-15-00; DEQ 21-2000, f. & cert. ef. 12-15-00; DEQ 2-2001, f. & cert. ef. 2-5-01; DEQ 4-2001, f. & cert. ef. 3-27-01; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 15-2001, f. & cert. ef. 12-26-01; DEQ 16-2001, f. & cert. ef. 12-26-01; DEQ 17-2001, f. & cert. ef. 12-28-01; DEQ 4-2002, f. & cert. ef. 3-14-02; DEQ 5-2002, f. & cert. ef. 5-3-02; DEQ 11-2002, f. & cert. ef. 10-8-02; DEQ 5-2003, f. & cert. ef. 2-6-03

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**Adm. Order No.:** DEQ 6-2003

**Filed with Sec. of State:** 2-14-2003

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**Notice Publication Date:** 9-1-02

**Rules Adopted:** 340-150-0006, 340-150-0008, 340-150-0052, 340-150-0102, 340-150-0135, 340-150-0152, 340-150-0156, 340-150-0167, 340-150-0168, 340-150-0180, 340-150-0200, 340-150-0250, 340-150-0300, 340-150-0302, 340-150-0310, 340-150-0320, 340-150-0325, 340-150-0350, 340-150-0352, 340-150-0354, 340-150-0360, 340-150-0400, 340-150-0410, 340-150-0420, 340-150-0430, 340-150-0435, 340-150-0440, 340-150-0445, 340-150-0450, 340-150-0455, 340-150-0460, 340-150-0465, 340-150-0470, 340-150-0500, 340-150-0510, 340-150-0520, 340-150-0540, 340-150-0550, 340-150-0555, 340-150-0560, 340-151-0001, 340-151-0010, 340-151-0015, 340-151-0020, 340-151-0025

**Rules Amended:** 340-012-0067, 340-122-0210, 340-150-0001, 340-150-0010, 340-150-0020, 340-150-0021, 340-150-0080, 340-150-0110, 340-150-0140, 340-150-0150, 340-150-0160, 340-150-0163, 340-150-0166, 340-160-0005, 340-160-0010, 340-160-0020, 340-160-0025, 340-160-0030, 340-160-0035, 340-160-0040, 340-160-0054, 340-160-0150

**Rules Repealed:** 340-150-0002, 340-150-0003, 340-150-0015, 340-150-0016, 340-150-0019, 340-150-0030, 340-150-0040, 340-150-0050, 340-150-0060, 340-150-0070, 340-150-0090, 340-150-0100, 340-150-0112, 340-150-0130

**Rules Ren. & Amended:** 340-150-0115 to 340-150-0600, 340-150-0125 to 340-150-0620

**Subject:** The proposed amendments to the regulations for underground storage tanks (USTs) would:

- Modify leak detection and prevention requirements for UST system;
- Add mandatory training for UST system operators (must complete training by March 1 2004);
- Provide a new, expedited enforcement process and revise the classification of UST violations used in the process; and
- Reformat and clarify language of federal UST regulations incorporated into proposed OARs.

Note that these proposed rule amendments only apply to regulated USTs; they do not apply to heating oil tanks.

**Rules Coordinator:** Rachel Sakata—(503) 229-5659

**340-012-0067**

## **Underground Storage Tank and Heating Oil Tank Classification of Violations**

Violations pertaining to underground storage tank (UST) systems and heating oil tanks are classified as follows:

- (1) Class One:
  - (a) Violating a requirement or condition of a commission or department order;
  - (b) Failure to report a release or suspected release from an UST system or a heating oil tank;
  - (c) Failure to perform an investigation or confirmation of a suspected release;
  - (d) Failure to establish or maintain the required financial responsibility mechanism;
  - (e) Failure to initiate and complete the investigation or cleanup of a release from an UST system or a heating oil tank;
  - (f) Failure to submit reports from the investigation or cleanup of a release from an UST system or heating oil tank;
  - (g) Failure to provide or allow access to premises or records;
  - (h) Failure to apply for and be issued the appropriate general permit registration certificate before decommissioning, installing or operating an UST, not otherwise classified;
  - (i) Failure to install spill and overflow protection equipment that will prevent a release or to be able to demonstrate to the department that the equipment is properly functioning;
  - (j) Failure to install, operate or maintain a method or combination of methods for release detection for an UST system such that the method can detect a release from any portion of the UST system;
  - (k) Failure to install or use equipment that is properly designed and constructed to protect any portion of the UST or piping from corrosion;
- (l) Failure to operate and maintain corrosion protection such that it continuously provides protection to the UST system;
- (m) Failure to permanently decommission an UST system;
- (n) Failure to obtain approval from the department before installing or operating vapor or groundwater monitoring wells as part of a release detection method;
  - (o) Installing, repairing, replacing or modifying an UST system in violation of any rule adopted by the department, not otherwise classified;
  - (p) Systematic failure to conduct testing, monitoring or to keep records;
  - (q) Failure to initiate and complete free product removal in accordance with OAR 340-122-0235;
  - (r) Providing installation, modification, repair, replacement, decommissioning or testing services on an UST system or providing soil matrix cleanup services at an UST facility without an UST service or soil matrix cleanup service provider license;
  - (s) Using fraud or deceit to obtain an UST service provider, soil matrix cleanup service provider, heating oil tank service provider or supervisor license or demonstrating negligence or incompetence in performing UST or other tank services;
  - (t) Failure to assess the excavation zone of a decommissioned or abandoned UST when directed to do so by the department; and
  - (u) Any other violations related to UST systems or heating oil tanks that cause or pose significant harm to public health or the environment.
- (2) Class Two:
  - (a) Failure to conduct release detection monitoring and testing activities for USTs or piping, not otherwise classified;
  - (b) Failure to conduct corrosion protection monitoring and testing activities for USTs or piping, not otherwise classified;

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(c) Failure to conform to performance standards and requirements and third party evaluation and approval for UST system release detection methods or equipment or corrosion protection equipment, not otherwise classified;

(d) Continuing to use a method or methods of release detection after period allowed by rule has expired;

(e) Failure to use or maintain spill or overflow prevention equipment, not otherwise classified;

(f) Failure to meet all requirements for a financial responsibility mechanism, not otherwise classified;

(g) Failure to have a trained UST system operator for an UST facility after March 1, 2004;

(h) Failure to apply for a modified general permit registration certificate;

(i) Failure to have an operation certificate for all compartments or chambers of a multichambered or multicompartment UST when at least one compartment or chamber has an operation certificate;

(j) Installing, repairing, replacing or modifying an UST or UST equipment or conducting a soil matrix cleanup without providing the required notifications;

(k) Failure to decommission an UST in compliance with the statutes and rules adopted by the department, including, but not limited to, performance standards, procedures, notification, general permit registration and site assessment requirements;

(l) Providing installation, modification, decommissioning or testing services on an UST system or providing soil matrix cleanup services at an UST facility that does not have the appropriate general permit registration certificate;

(m) Failure by a distributor to obtain the identification number for each UST and operation certificate number before depositing a regulated substance into an UST;

(n) Failure by a distributor to maintain a record of all USTs into which it deposited a regulated substance;

(o) Allowing the installation, modification, decommissioning or testing of an UST system or soil matrix cleanup at an UST facility by any person not licensed by the department;

(p) Failure to provide information as required by OAR 340-150-0135(6) or as requested by the department;

(q) Failure to submit checklists or reports for UST installation, modification or suspected release confirmation activities;

(r) Failure to comply with integrity assessment inspection schedules or requirements for internally lined USTs;

(s) Allowing the performance of heating oil tank services or supervision at a heating oil tank by any person not licensed by the department;

(t) Providing heating oil tank services at a heating oil tank without a heating oil tank service provider or supervisor license;

(u) Failure to submit a corrective action plan (CAP) in accordance with the schedule or format established by the department pursuant to OAR 340-122-0250;

(v) Failure by an owner or permittee to pass the appropriate national examination before performing installation, decommissioning or testing services on an UST system;

(w) Supervising the installation, modification, repair, replacement, decommissioning, testing or soil matrix cleanup of an UST system without a supervisor license;

(x) Failure by an owner or permittee to provide the identification number for each UST or operation certificate number to persons depositing a regulated substance into an UST; and

(y) Any other violation related to UST systems or heating oil tanks not otherwise classified.

## (3) Class Three:

(a) Failure by a person who sells an UST to notify the new owner or permittee of the department's general permit registration requirements;

(b) Failure to maintain release detection records for USTs or piping if the failure does not constitute a significant operational compliance violation;

(c) Failure to maintain required manufacturer's information or third party evaluation documents for approved methods or equipment;

(d) Failure to maintain training records for an UST system operator; and

(e) Failure to keep records of UST system repair, modification or replacement work.

Stat. Auth.: ORS 466.746, ORS 466.994 & ORS 468.020

Stats. Implemented: ORS 466.706 - ORS 466.835 & ORS 466.994

Hist.: DEQ 2-1988, f. 1-27-88, cert. ef. 2-1-88; DEQ 22-1988, f. & cert. ef. 9-14-88; DEQ 4-1989, f. & cert. ef. 3-14-89; DEQ 15-1990, f. & cert. ef. 3-30-90; DEQ 15-1991, f. & cert. ef. 8-14-91; DEQ 21-1992, f. & cert. ef. 8-11-92; DEQ 4-1994, f. & cert. ef. 3-14-94; DEQ 19-1998, f. & cert. ef. 10-12-98; DEQ 6-2003, f. & cert. ef. 2-14-03

## 340-122-0210

### Definitions

Terms not defined in this rule have the meanings set forth in ORS 465.200 and 466.706. Additional terms are defined as follows unless the context requires otherwise:

(1) "Above-Ground Release" means any release to the land surface or to surface water. This includes, but is not limited to, releases from the above ground portion of a petroleum UST system and releases associated with overfills and transfer operations during petroleum deliveries to or dispensing from a petroleum UST system.

(2) "Acceptable Risk Level" has the meanings set forth in OAR 340-122-0115(1) through (6).

(3) "Ancillary Equipment" means any device, including but not limited to, piping, fittings, flanges, valves and pumps used to distribute, meter or control the flow of petroleum to and from a petroleum UST system.

(4) "Aquatic Sediments" means any collection of fine-, medium-, and coarse-grained minerals and organic particles that are found within aquatic habitats.

(5) "Below-Ground Release" means any release to the land subsurface having concentrations detected by the Northwest Total Petroleum Hydrocarbon Identification Analytical Method (NWTPH-HCID, DEQ, December 1996) or to groundwater having concentrations detected by any appropriate analytical method specified in OAR 340-122-0218. This includes, but is not limited to, releases from the below ground portion of a petroleum UST system and releases to the land subsurface or groundwater associated with overfills and transfer operations as the petroleum is delivered to or dispensed from a petroleum UST system.

(6) "Buildings" means any structure occupied by residents, workers or visitors, including convenience stores for retailing of food. For purposes of these rules, "buildings" does not include service station kiosks less than 45 square feet in size if the kiosk is exclusively dedicated to services for motor vehicles.

(7) "Certified Drinking Water Protection Area" means an area that has been delineated by the Oregon Health Division in accordance with OAR 333-061-0057 and certified by the department in accordance with OAR 340-040-0180.

[Note: To obtain information about certified drinking water protection areas, contact the Oregon Health Division's Drinking Water Program (503-731-4010).]

(8) "Confirmed Release" means petroleum contamination observed in soil or groundwater as a sheen, stain or petroleum odor, or petroleum contamination detected in soil by the Northwest Total Petroleum Hydrocarbon Identification Analytical Method (NWTPH-HCID, DEQ, December 1996) or detected in groundwater by any appropriate analytical method specified in OAR 340-122-0218.

(9) "Contaminant of Concern" means a hazardous constituent contained in petroleum present at a concentration posing a potentially unacceptable risk to public health, safety or welfare or the environment.

(10) "Engineering Control" means a remedial method used to prevent or minimize exposure to petroleum and hazardous substances, including technologies that reduce the mobility or migration of petroleum and hazardous substances. Engineering controls may include, but are not limited to, capping, horizontal or vertical barriers, hydraulic controls and alternative water supplies.

(11) "Excavation Zone" means an area containing a petroleum UST system and backfill material bounded by the ground surface, walls and floor of the pit and trenches into which the petroleum UST system is placed at the time of installation.

(12) "Free Product" means nonaqueous phase liquid petroleum.

(13) "Gasoline" means any petroleum distillate used primarily for motor fuel of which more than 50 percent of its components have hydrocarbon numbers of C10 or less. For purposes of OAR 340-122-0205 through 340-122-0360, the concentration of gasoline in soil or groundwater is the level determined by the Northwest Total Petroleum Hydrocarbon Method NWTPH-Gx.

(14) "Groundwater" means any water, except capillary moisture, beneath the land surface or beneath the bed of any stream, lake, reservoir, or other body of surface water within the boundaries of the state, whatever may be the geological formation or structure in which such water stands, flows, percolates or otherwise moves.

(15) "Hazardous Substance" has the meaning set forth in OAR 340-122-0115(30).

(16) "Heating Oil" means petroleum that is No. 1, No. 2, No. 4-light, No. 4-heavy, No. 5-light, No. 5-heavy, or No. 6 technical grades of fuel oil; other residual fuel oils (including Navy Special Fuel Oil and Bunker C); or other fuels when used as substitutes for one of these fuel oils.

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(17) "Heating Oil Tank" means any one or combination of underground tanks and above ground or underground pipes connected to the tank, which is used to contain heating oil used for space heating a building with human habitation, or water heating not used for commercial processing.

(18) "Institutional Control" means a remedial method such as a legal or administrative tool or action used to reduce the potential for exposure to petroleum and hazardous substances. Institutional controls may include, but are not limited to, use restrictions and site access and security measures.

(19) "Motor Fuel" means petroleum or a petroleum-based substance that is motor gasoline, aviation gasoline, No. 1 or 2 diesel fuel or any grade of gasohol, typically used in the operation of a motor engine.

(20) "Native Soil" means the soil outside of the immediate boundaries of the pit that was originally excavated for the purpose of installing an underground storage tank.

(21) "NonGasoline Fraction" means diesel and any other petroleum distillate used for motor fuel or heating oil, of which more than 50 percent of its components have hydrocarbon numbers of C11 or greater. For purposes of OAR 340-122-0205 through 340-122-0360, the concentration of nongasoline fraction in soil or groundwater is the level determined by the Northwest Total Petroleum Hydrocarbon Method NWTPH-Dx.

(22) "Petroleum" or "oil" means gasoline, crude oil, fuel oil, diesel oil, lubricating oil, oil sludge, oil refuse and crude oil fractions and refined petroleum fractions, including gasoline, kerosene, heating oils, diesel fuels and any other petroleum-related product or waste or fraction thereof that is liquid at a temperature of 60 degrees Fahrenheit and a pressure of 14.7 pounds per square inch absolute. "Petroleum" does not include any substance identified as a hazardous waste under 40 CFR Part 261.

(23) "Petroleum UST System" has the same meaning as given in OAR 340-150-0010(55).

(24) "Remediation" or "Remedial Measures" include "remedial action" as defined in ORS 465.200(22), "removal" as defined in ORS 465.200(24) and "corrective action" as defined in ORS 466.706(3).

(25) "Remediation Level" means a concentration of petroleum or petroleum constituents in environmental media such as soil and groundwater that alone, or in combination with institutional controls or engineering controls, is determined to be protective of public health, safety and welfare and the environment in accordance with this division.

(26) "Residential Heating Oil Tank" means a heating oil tank used primarily for single family dwelling purposes.

(27) "Responsible Person" includes "owner" as defined in OAR 340-150-0010(51), "permittee" as defined in OAR 340-150-0010(52), "owner or operator" as defined in ORS 465.200(19) and any other person liable for or voluntarily undertaking remediation under ORS 465.200, et seq. or ORS 466.706, et seq.

(28) "Risk-Based Concentration" means a concentration of petroleum or petroleum constituents in environmental media such as soil and groundwater that is determined to be protective of public health, safety and welfare and the environment in accordance with these rules without requiring institutional controls or engineering controls.

(29) "Soil" means any unconsolidated geologic materials including, but not limited to, clay, loam, loess, silt, sand, gravel and tills or any combination of these materials.

(30) "Surface Water" means lakes, bays, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, wetlands, inlets, canals, the Pacific Ocean within the territorial limits of the State of Oregon and all other bodies, natural or artificial, inland or coastal, fresh or salt, public or private (except those private waters which do not combine or effect a junction with natural surface waters), which are wholly or partially within or bordering the state or within its jurisdiction.

(31) "Suspected Release" means those conditions described in OAR 340-150-0500.

(32) "Underground storage tank" or "UST" means any one or combination of tanks (including connected underground pipes) that is used to contain an accumulation of regulated substances and the volume of which (including the volume of connected underground pipes) is 10 percent or more beneath the surface of the ground.

[Note: OAR 340-150-0500 requires owners and permittees of UST systems to report suspected releases to the department. Owners and permittees must refer to OAR chapter 340, division 150 for complete information on requirements for underground storage tanks.]

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

Stat. Auth.: ORS 465.400 & ORS 466.746

Stats. Implemented: ORS 465.200 - ORS 465.455 & ORS 466.706 - ORS 466.83

Hist.: DEQ 29-1988, f. & cert. ef. 11-9-88; DEQ 15-1991, f. & cert. ef. 8-14-91; DEQ 13-1992, f. 6-9-92, cert. ef. 10-1-92; DEQ 23-1998, f. & cert. ef. 11-2-98; DEQ 6-2003, f. & cert. ef. 2-14-03

## 340-150-0001

### Purpose and Scope

(1) The purpose of these rules is:

(a) To provide for the regulation of underground storage tanks (USTs) to protect the public health, safety, welfare and the environment from the potential harmful effects of spills and releases from underground tanks used to store regulated substances;

(b) To prevent releases due to structural failure, system leaks, corrosion, spills and overfills for as long as an UST system is used to store regulated substances;

(c) To promote the proper operation and maintenance of UST systems through training of UST facility personnel and expedited enforcement of violations; and

(d) To obtain state program approval to manage underground storage tanks in Oregon in lieu of the federal program, as required by ORS 466.720.

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

Stat. Auth.: ORS 465.200 - ORS 465.455, ORS 466.706 - ORS 466.835, ORS 466.994, ORS 466.995

Stats. Implemented: ORS 465.205, ORS 465.400, ORS 466.715, ORS 466.720 & ORS 466.746

Hist.: DEQ 20-1990, f. & cert. ef. 6-7-90; DEQ 26-1990, f. & cert. ef. 7-6-90; DEQ 15-1991, f. & cert. ef. 8-14-91; DEQ 24-1998, f. & cert. ef. 11-2-98; DEQ 6-2003, f. & cert. ef. 2-14-03

## 340-150-0006

### Applicability and General Requirements

(1) An owner and permittee of an UST system as defined by OAR 340-150-0010(84) must comply with this division, except to the extent exempted or deferred by OAR 340-150-0008 or limited by 340-150-0135(8).

(2) An owner and permittee of an UST system must apply to the department for a general permit registration certificate under OAR 340-150-0020 if the UST system:

(a) Is in operation on or after May 1, 1988;

(b) Was taken out of operation between January 1, 1974, and May 1, 1988, and not permanently closed by a method that meets the requirements of OAR 340-150-0168(4); or

(c) Was taken out of operation before January 1, 1974, but still contains a regulated substance (i.e., the UST is not empty).

(3) Each chamber or compartment of a multichamber or multicompartiment UST is an individual tank for the purpose of OAR chapter 340, divisions 150 and 151.

[Note: Throughout this division, the term "owner and permittee" is used to denote joint responsibility for compliance. Where the owner and permittee are different, compliance by either will be deemed compliance by both.]

Stat. Auth.: ORS 466.706 - ORS 466.835, ORS 466.994 & ORS 466.995

Stats. Implemented: ORS 466.706, ORS 466.710 & ORS 466.746

Hist.: DEQ 6-2003, f. & cert. ef. 2-14-03

## 340-150-0008

### Exemptions and Deferrals

(1) An owner of an UST located on Indian lands, as defined in 18 U.S.C. Subpart 1151, is exempt from OAR chapter 340, divisions 150 and 151.

(2) Heating oil tanks are exempt from OAR chapter 340, divisions 150 and 151, but the heating oil tank owner must comply with the requirements of ORS 466.858 through 466.882 and OAR chapter 340, division 177.

(3) An owner of the following types of USTs and any connected piping isare exempt from the requirements of OAR chapter 340, divisions 150 and 151:

(a) Farm or residential tanks of 1,100 gallons or less capacity used for storing motor fuel for noncommercial purposes (i.e., not for resale);

(b) Septic tanks;

(c) Pipeline facilities (including gathering lines) that are:

(A) Regulated under the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1671, et seq.);

(B) Regulated under the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2001, et seq.); or

(C) Intrastate pipeline facilities regulated under state laws comparable to the provisions of the law referred to in paragraph (A) or (B) of this subsection;

(d) Surface impoundments, pits, ponds or lagoons;

(e) Storm water or wastewater collection systems;

(f) Flow-through process tanks;

(g) Liquid traps or associated gathering lines directly related to oil or gas production and gathering operations;

(h) Storage tanks situated in an underground area (such as a basement, cellar, mine-working, drift, shaft or tunnel) if the storage tank is situated upon or above the surface of the floor;

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(i) UST systems holding hazardous wastes listed or identified under Subtitle C of the Solid Waste Disposal Act (SWDA) or a mixture of such hazardous waste and other regulated substances;

(j) Wastewater treatment tank systems that are part of a wastewater treatment facility regulated under Section 402 or 307(b) of the Clean Water Act;

(k) Equipment or machinery that contains regulated substances for operational purposes, such as hydraulic lift tanks and electrical equipment tanks;

(l) UST systems with a capacity of 110 gallons or less;

(m) UST systems that have never contained more than a "de minimis" concentration of regulated substances; and

(n) Emergency spill or overflow containment UST systems that are expeditiously (i.e., as soon as practicable after emergency has been abated) emptied after use.

(4) The following UST systems are deferred from the requirements of this division, except owners must comply with the conditions of sections (5) and (6) of this rule:

(a) Wastewater treatment tank systems;

(b) UST systems containing radioactive materials that are regulated under the Atomic Energy Act of 1954 (42 U.S.C. 2011 and following);

(c) UST systems that are part of an emergency generator system at nuclear power generation facilities regulated by the Nuclear Regulatory Commission under 40 CFR 50 Appendix A;

(d) Airport hydrant fuel distribution systems; and

(e) UST systems with field constructed tanks.

(5) A person may not install an UST system listed in section (4) of this rule for the purpose of storing regulated substances unless the UST system (whether of single- or double wall construction):

(a) Will prevent releases due to corrosion or structural failure for the operational life of the UST system;

(b) Is cathodically protected against corrosion, constructed of noncorrodible material, steel clad with a noncorrodible material or designed in a manner to prevent the release or threatened release of any stored substance; and

(c) Is constructed or lined with material that is compatible with the stored substance.

(6) An owner of any UST system listed in section (4) of this rule must conduct corrective action in the event of a release from the system.

(7) An owner may use The National Association of Corrosion Engineers Standard Recommended Practice RP0285, "Control of External Corrosion on Metallic Buried, Partially Buried or Submerged Liquid Storage Systems," (2002) as guidance for complying with sections (4) and (5) of this rule.

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

Stat. Auth.: ORS 465.200 - 465.455, ORS 466.706 - ORS 466.835, ORS 466.994, ORS 466.995

Stats. Implemented: ORS 465.205, ORS 465.400, ORS 466.710 - ORS 466.720, ORS 466.746

Hist.: DEQ 6-2003, f. & cert. ef. 2-14-03

### 340-150-0010

#### Definitions

For the purpose of this division and as applicable for OAR chapter 340, divisions 151 and 160, the following definitions apply:

(1) "Ancillary equipment" means any devices including, but not limited to, connected piping, fittings, flanges, valves and pumps used to distribute, meter or control the flow of regulated substances to and from an UST.

(2) "As built drawing" or "as built" means a line drawing to-scale that accurately illustrates the location of USTs, underground piping and all related equipment in relation to buildings or other structures at an UST facility and provides thorough construction documentation. Other terms used in lieu of "as built" are "record drawing" or "measured drawing", which indicate that the drawing is for an existing structure or UST system.

(3) "Cathodic protection" means a technique to prevent corrosion of a metal surface by making that surface the cathode of an electrochemical cell. For example, an UST system can be cathodically protected through the application of either galvanic anodes or impressed current.

(4) "Cathodic protection tester" means a person who demonstrates an understanding of the principles and measurements of all common types of cathodic protection systems as applied to buried or submerged underground metal piping and tank equipment.

(5) "CERCLA" means the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended.

(6) "Change-in-service" means to transfer an UST system containing a regulated substance from regulated status (i.e., subject to the requirements

of this division) to nonregulated status while the UST remains in its original location.

(7) "Closure" means to permanently decommission an UST (by removal, filling in-place with an inert material or change-in-service) or to temporarily remove an UST from operation.

(8) "Commission" means the Oregon Environmental Quality Commission.

(9) "Compatible" means the ability of two or more substances to maintain their respective physical and chemical properties upon contact with one another for the design life of the UST system under conditions likely to be encountered in the UST.

(10) "Confirmed release" means:

(a) For petroleum. Contamination observed in soil or groundwater as a sheen, stain or petroleum odor or petroleum contamination detected in soil by the Northwest Total Petroleum Hydrocarbon Identification Analytical Method (NWTPH-HCID, DEQ, December 1996) or detected in groundwater by any appropriate analytical method specified in OAR 340-122-0218; or

(b) For hazardous substances other than petroleum. Contamination observed in soil or groundwater as a sheen, stain or identifiable odor or as detected in soil, surface water or groundwater by any appropriate analytical method specified in "Test Methods for Evaluating Solid Waste," SW-846, 3rd Edition, Revised May 1997 (U.S. Environmental Protection Agency EPA).

(11) "Connected piping" means all piping located beneath the surface of the ground including valves, elbows, joints, flanges and flexible connectors attached to an UST system through which regulated substances flow. For the purpose of determining how much piping is connected to any individual UST system, the piping that joins two UST systems should be allocated equally between them.

(12) "Corrective action" means remedial action taken to protect the present or future public health, safety, welfare or the environment from a release of a regulated substance. "Corrective action" includes but is not limited to:

(a) The prevention, elimination, removal, abatement, control, investigation, assessment, evaluation or monitoring of a hazard or potential hazard or threat, including migration of a regulated substance; or

(b) Transportation, storage, treatment or disposal of a regulated substance or contaminated material from a site.

(13) "Corrosion expert" means a person who, by reason of thorough knowledge of the physical sciences and the principles of engineering and mathematics acquired by a professional education and related practical experience, is qualified to engage in the practice of corrosion control on buried or submerged underground metal piping systems and metal tanks. Corrosion experts must be accredited or certified by NACE (National Association of Corrosion Engineers) and licensed by the department under OAR chapter 340, division 160.

(14) "Decommission" means temporary or permanent closure, including temporary or permanent removal from operation, filling in-place, removal from the ground or change-in-service to a nonregulated status.

(15) "Deferred" means an UST system that may be subject to state or federal regulation at some point in the future.

(16) "De minimis" means an insignificant amount of regulated substance (e.g., meets the definition of "empty") or is less than a reportable quantity as defined under CERCLA.

(17) "Department" means the Oregon Department of Environmental Quality.

(18) "Dielectric material" means a material that does not conduct direct electrical current. Dielectric coatings are used to electrically isolate an UST system from the surrounding soils. Dielectric bushings are used to electrically isolate portions of an UST system (e.g., the tank from underground piping).

(19) "Dispenser" means a device that is used for the delivery of a regulated substance from an UST (e.g., fuel from an UST to a motor vehicle). The term includes associated metering, delivery mechanisms and other equipment contained inside a housing unit for the dispenser.

(20) "Distributor" means a person who is engaged in the business of selling regulated substances to an owner or permittee of an UST.

(21) "Electrical equipment" means equipment that is beneath the surface of the ground and contains dielectric fluid that is necessary for the operation of equipment such as transformers and buried electrical cable.

(22) "Emergency generator" means an engine that uses fuel (regulated substance) to produce auxiliary electrical or mechanical energy for use in emergencies.

(23) "Empty" means that all materials have been removed using commonly employed practices so that no more than one inch (2.5 centimeters)

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of residue or 0.3 percent by weight of the total capacity of the tank remain in the UST system.

(24) "Excavation zone" means an area containing an UST system and backfill material bounded by the ground surface, walls and floor of the pit and trenches into which the UST system is placed at the time of installation.

(25) "Farm tank" means a tank located on a tract of land devoted to the production of crops or raising animals, including fish and associated residences and improvements. A farm tank must be located on the farm property. "Farm" includes fish hatcheries, rangeland and nurseries with growing operations.

(26) "Fee" means a fixed charge or service charge.

(27) "Field constructed tank" means an UST that is constructed at the location it will be installed rather than factory-built.

(28) "Field penalty" means a civil penalty amount assessed in a field citation.

(29) "Flow-through process tank" means a tank that forms an integral part of a production process through which there is a steady, variable, recurring or intermittent flow of materials during the operation of the process. Flow-through process tanks do not include tanks used for the storage of materials before their introduction into the production process or for the storage of finished products or by-products from the production process.

(30) "Free product" means a regulated substance that is present as a nonaqueous phase liquid (e.g., liquid not dissolved in water).

(31) "Gathering lines" means any pipeline, equipment, facility or building used in the transportation of oil or gas during oil or gas production or gathering operations.

(32) "General permit" means a permit issued for a category of UST activities (e.g., installing, decommissioning or operating an UST) in lieu of individual permits developed for each UST facility.

(33) "Hazardous substance UST system" means an UST system that contains a hazardous substance defined in section 101(14) of CERCLA or any mixture of such substances and petroleum and which is not a petroleum UST system (but not including any substance regulated as a hazardous waste under Subtitle C of the SWDA).

(34) "Heating oil" means petroleum that is No. 1, No. 2, No. 4--light, No. 4--heavy, No. 5--light, No. 5--heavy and No. 6 technical grades of fuel oil; other residual fuel oils (including Navy Special Fuel Oil and Bunker C); and other fuels when used as substitutes for one of these fuel oils. Heating oil is typically used in the operation of heating equipment, boilers or furnaces.

(35) "Heating oil tank" means a tank used for storing heating oil for consumptive use on the premises where stored (i.e., the tank is located on the same property where the stored heating oil is used).

(36) "Hydraulic lift tank" means a tank holding hydraulic fluid for a closed-loop mechanical system that uses compressed air or hydraulic fluid to operate lifts, elevators and other similar devices.

(37) "Install" or "installation" means the physical construction of an UST system, including, but not limited to, activities such as excavating, backfilling, testing, placement of the tank, underground piping, release detection devices, corrosion protection systems, spill and overflow devices and any associated administrative activities such as notifications, record keeping and record submissions.

(38) "Interstitial" means the space between the primary and secondary containment systems (i.e., the space between the inner and outer walls of a tank or pipe).

(39) "Investigation" means monitoring, surveying, testing, sampling, analyzing or other information gathering techniques.

(40) "Leak" has the same meaning as "release" as defined by OAR 340-150-0010(63).

(41) "Liquid traps" means sumps, well cellars and other traps used in association with oil and gas production, gathering and extraction operations (including gas production plants), for the purpose of collecting oil, water and other liquids. These liquid traps may temporarily collect liquids for subsequent disposition or reinjection into a production or pipeline stream or may collect and separate liquids from a gas stream.

(42) "Maintenance" means the normal operational upkeep to prevent an UST system from releasing a regulated substance or to ensure that a release is detected.

(43) "Modification" means to change an UST system currently in use by the installation of new UST system components. This includes, but is not limited to, the addition of corrosion protection to a previously lined tank, installation of new underground piping or replacement of existing underground piping, changing the primary release detection method to one of the methods listed in OAR 340-150-0450 through 340-150-0470 or adding sec-

ondary containment. "Modification" does not include those activities defined as "repair" or "replacement".

(44) "Motor fuel" means petroleum or a petroleum based substance that is motor gasoline, aviation gasoline, No. 1 or No. 2 diesel fuel or any grade of gasohol and is typically used in the operation of a motor engine.

(45) "Multichamber" or "multicompartment" means an UST that contains two or more chambers or compartments created by the presence of an interior wall so that two or more regulated substances can be stored at the same time within a single tank shell. Even if the same regulated substance is stored in all chambers or compartments, the UST is a multichambered or multicompartmented UST for the purpose of these rules.

(46) "Native soil" means the soil outside of the immediate boundaries of the pit that was originally excavated for the purpose of installing an UST.

(47) "OAR" means Oregon Administrative Rule.

(48) "Operate" or "operation" means depositing a regulated substance into an UST, storing a regulated substance in or dispensing a regulated substance from an UST and such other activities, including, but not limited to, performing release detection, maintaining corrosion protection, preventing spills and overfills, investigating and confirming suspected releases, conducting maintenance, additions, modifications, replacements and repairs of equipment, maintaining a financial responsibility mechanism and keeping and submitting records on the UST and underground pipings' performance.

(49) "Operational life" means the period beginning when installation of the UST system has commenced until the time the UST system is permanently closed.

(50) "ORS" means Oregon Revised Statute.

(51) "Owner" means a person who currently owns an UST or owned an UST during the tank's operational life, including:

(a) In the case of an UST system in use on November 8, 1984, or brought into use after that date, any person who owns an UST system used for storage, use or dispensing of regulated substances; and

(b) In the case of an UST system in use before November 8, 1984, but no longer in use on that date, any person who owned such UST immediately before the discontinuation of its use.

(52) "Permittee" means the owner or person designated by the owner, who is in control of or has responsibility for daily UST system operation and maintenance, financial responsibility and UST operator training requirements under a general permit pursuant to OAR 340-150-0160 through 340-150-0168.

(53) "Person" means an individual, trust, firm, joint stock company, corporation, partnership, joint venture, consortium, association, state, municipality, commission, political subdivision of a state or any interstate body, any commercial entity or the federal government or any agency of the federal government.

(54) "Petroleum" or "oil" means gasoline, crude oil, fuel oil, diesel oil, lubricating oil, oil sludge, oil refuse and crude oil fractions and refined petroleum fractions, including gasoline, kerosene, heating oils, diesel fuels and any other petroleum-related product or waste or fraction thereof that is liquid at a temperature of 60 degrees Fahrenheit and a pressure of 14.7 pounds per square inch absolute. "Petroleum" does not include any substance identified as a hazardous waste under 40 CFR Part 261.

(55) "Petroleum UST system" means an UST system that contains petroleum or a mixture of petroleum with de minimis quantities of other regulated substances. Such systems include those containing motor fuels, jet fuels, distillate fuel oils, residual fuel oils, lubricants, petroleum solvents and used oils.

(56) "Pipe" or "piping" means a hollow cylinder or tubular conduit that is constructed of nonferrous materials.

(57) "Pipeline facilities" (including gathering lines) means new and existing pipe rights-of-way and any associated equipment, facilities or buildings.

(58) "Probability of detection" means the likelihood, expressed as a percentage, that a test method will correctly identify a release from an UST system.

(59) "Probability of false alarm" means the likelihood, expressed as a percentage, that a test method will incorrectly identify an UST system as leaking when a release is not occurring.

(60) "Property owner" means the legal owner of the real property on which an UST is located.

(61) "Registration certificate" means a document issued by the department that authorizes a person to install, operate or decommission an UST system under a general permit pursuant to OAR 340-150-0160 through 340-150-0168.

(62) "Regulated substance" includes, but is not limited to:

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(a) Any substance defined in section 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) of 1980 (but not including any substance regulated as a hazardous waste under Subtitle C of the SWDA);

(b) Petroleum, including crude oil or any fraction thereof that is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute); and

(c) Petroleum based substances comprised of a complex blend of hydrocarbons derived from crude oil through processes of separation, conversion, upgrading and finishing, such as motor fuels, jet fuels, distillate fuel oils, residual fuel oils, lubricants, petroleum solvents and used oils.

(63) "Release" means the discharge, deposit, injection, dumping, spilling, emitting, leaking or placing of a regulated substance from an UST into the air or into or on land or the waters of the state, other than as authorized by a permit issued under state or federal law.

(64) "Release detection" or "leak detection" means determining whether a release of a regulated substance has occurred from the UST system into the environment, into the interstitial space between the UST system and its secondary barrier or into a secondary containment unit or sump around the UST.

(65) "Repair" means to restore any portion of an UST system that has failed, but does not include the activities defined by "modification" or "replacement".

(66) "Replacement" means to effect a change in any part of an UST system by exchanging one unit for a like or similar unit, but does not include activities defined as "repair" or "modification".

(67) "Residential tank" means a tank located on property used primarily for single family dwelling purposes.

(68) "Septic tank" means a watertight covered receptacle designed to receive or process, through liquid separation or biological digestion, the sewage discharged from a building sewer. The effluent from such receptacle is distributed for disposal through the soil and settled solids and scum from the tank are pumped out periodically and hauled to a treatment facility.

(69) "Service provider" means a person licensed by the department to offer to perform or perform UST services on USTs regulated under OAR chapter 340, division 150.

(70) "Storm water" or "wastewater collection system" means piping, pumps, conduits and any other equipment necessary to collect and transport the flow of surface water run off resulting from precipitation or domestic, commercial or industrial wastewater to and from retention areas or any areas where treatment is designated to occur. The collection of storm water and wastewater does not include treatment except where incidental to conveyance.

(71) "Supervisor" means an individual licensed by the department to direct and oversee specific UST services.

(72) "Surface impoundment" means a natural topographic depression, human-made excavation or diked area formed primarily of earthen materials (although it may be lined with human-made materials) that is not an injection well.

(73) "Suspected release" has the same meaning as described in OAR 340-150-0500.

(74) "Tank" means a stationary device designed to contain an accumulation of regulated substances and is constructed of nonearthen materials (e.g., concrete, steel, plastic) that provide structural support.

(75) "Tank tightness testing" means a method used to determine if an UST is leaking and is used to supplement another release detection method (such as inventory control or manual tank gauging) and to verify a suspected release when another method indicates a failure.

(76) "Temporary closure" means a halt in operation activities of an UST system for a limited time where the UST system will be brought back into operation or permanently decommissioned at some future date. For example, an UST may be temporarily closed due to corrective action activities on site, abandonment by the owner and permittee, bankruptcy proceedings, failure to maintain a financial responsibility mechanism, sale in progress or for any other reason that a permittee may choose to stop operating the UST. The term applies to an UST system that meets the definition of "temporary closure" whether or not the department has issued a registration certificate for this activity to the owner and permittee.

(77) "Testing" means applying a method to determine the integrity or operational status of any part of an UST system.

(78) "Third party evaluation" means an evaluation of a method or system including, but not limited to, a release detection system or tank integrity assessment method that is conducted by an independent organization. The evaluation includes certification that the method evaluated will operate as designed and includes information about any limitations of the method. As

used in this definition, "independent" means that the organization that conducted the evaluation may not be owned, controlled by or associated with any client, industry organization or any other institution with a financial interest in the method or system evaluated.

(79) "Underground area" means an underground room, such as a basement, cellar, shaft or vault that provides enough space for physical inspection of the exterior of the tank situated on or above the surface of the floor.

(80) "Underground piping" means connected piping that is located beneath the surface of the ground.

(81) "Underground storage tank" or "UST" means any one or combination of tanks (including connected underground pipes) that is used to contain an accumulation of regulated substances and the volume of which (including the volume of connected underground pipes) is 10 percent or more beneath the surface of the ground.

(82) "UST facility" means the real property on which an UST is installed or will be installed. An UST facility encompasses all contiguous real property owned by the same property owner that is associated with the operation of the UST system.

(83) "UST services" includes without limitation, installation, decommissioning, modification, testing (e.g., cathodic protection and tank tightness) and inspection of UST systems.

(84) "UST system" means an underground storage tank, underground piping, underground ancillary equipment and containment system, if any.

(85) "UST system operator" means the individual designated by the owner and permittee as having control of or responsibility for the operation of an UST system, including the on-site operation and maintenance of the system in a manner to ensure that the UST system is in compliance with applicable state and federal regulations and industry standards.

(86) "Wastewater treatment tank" means a tank that is designed to receive and treat influent wastewater through physical, chemical or biological methods.

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

Stat. Auth.: ORS 466.706 - ORS 466.835, ORS 466.994 & ORS 466.995

Stats. Implemented: ORS 466.706, ORS 466.746

Hist.: DEQ 2-1988, f. 1-27-88, cert. ef. 2-1-88; DEQ 3-1989, f. & cert. ef. 3-10-89; DEQ 21-1989(Temp), f. & cert. ef. 9-18-89; DEQ 10-1990, f. & cert. ef. 3-13-90; DEQ 20-1990, f. & cert. ef. 6-7-90; DEQ 24-1998, f. & cert. ef. 11-2-98; DEQ 6-2003, f. & cert. ef. 2-14-03; DEQ 6-2003, f. & cert. ef. 2-14-03; DEQ 6-2003, f. & cert. ef. 2-14-03

### 340-150-0020

#### UST General Permit Registration Certificate Required

(1) A person may not install, operate or decommission an UST without applying for and being issued a registration certificate from the department for one of the following UST general permit registration categories:

(a) Installation;

(b) Operation; or

(c) Decommissioning, including temporary and permanent closure by change-in-service, removal or filling in-place.

(2) An owner or proposed permittee must submit an application to the department at least 30 days before installing, operating or decommissioning an UST. The application must include, but is not limited to, the following information and attachments:

(a) The legal name, signature and mailing address of the owner of the UST;

(b) The legal name, signature and mailing address of the owner of the real property on which the UST system is located;

(c) The legal name, signature and mailing address of the permittee.

(A) The owner must designate a specific person as the permittee. If the person designated is a corporation, a contact person must be identified; or

(B) If a permittee is not designated, the owner is the permittee.

(d) A completed EPA Notification for Underground Storage Tanks or equivalent form developed by the department; and

(e) A signed statement by the owner or proposed permittee that the owner or permittee (must identify which one) will comply with the financial responsibility requirements of OAR chapter 340, division 151 before operation of the UST system.

(3) The owner or proposed permittee must include the appropriate registration fee with the application in accordance with OAR 340-150-0110(1) and (6) for an installation certificate for new USTs to be installed or 340-150-0110(5) for an operation or decommissioning certificate for USTs that should have been registered previously.

(4) An application that is incomplete, unsigned or that does not include the required attachments or fees will be returned to the owner or proposed permittee for completion. The application will be considered to be withdrawn if the required information is not submitted within 90 days of the date that the application was returned by the department.

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(5) If the department determines that a general permit is not required, the owner and proposed permittee will be notified in writing and any fees submitted will be refunded. This notification constitutes final action by the department on the application.

(6) When an application is determined to be complete, the UST facility and each individual UST will be assigned a unique identification number (i.e., UST facility ID number and tank permit number) by the department.

(7) A general permit registration certificate is issued to the permittee for each UST facility. In all cases, the permittee must comply with the general permit requirements whether or not an actual registration certificate is issued.

(8) For the purpose of this rule only, the term "legal name" means the business name registered with the Oregon Secretary of State's Office, Corporation Division (if registered) or full name of an individual.

Stat. Auth.: ORS 466.706 - ORS 466.835, ORS 466.994 & ORS 466.995

Stats. Implemented: ORS 466.746 & ORS 466.760

Hist.: DEQ 2-1988, f. 1-27-88, cert. ef. 2-1-88; DEQ 20-1990, f. & cert. ef. 6-7-90; DEQ 15-1991, f. & cert. ef. 8-14-91; DEQ 24-1998, f. & cert. ef. 11-2-98; DEQ 6-2003, f. & cert. ef. 2-14-03

## 340-150-0021

### Termination of Temporary Permits

Any owner or permittee holding a temporary permit to operate an UST on or before December 22, 1998, who was not issued an operation certificate by the department by December 23, 1998, must decommission the UST under a general permit for temporary closure, permanent closure or change-in-service pursuant to OAR 340-150-0166 through 340-150-0168.

Stat. Auth.: ORS 466.706 - ORS 466.835, ORS 466.994 & ORS 466.995

Stats. Implemented: ORS 466.746, ORS 466.750, ORS 466.760 & ORS 466.765

Hist.: DEQ 24-1998, f. & cert. ef. 11-2-98; DEQ 6-2003, f. & cert. ef. 2-14-03

## 340-150-0052

### Modification of Registration Certificates

(1) A new owner or proposed new permittee must submit an UST general permit registration modification application to the department if any of the following occur:

(a) Change of ownership of property on which an UST system is located;

(b) Change in UST ownership; or

(c) Change in the designated permittee.

(2) The modification application must be signed by the owner, permittee and property owner. The new owner or permittee must submit an application to the department promptly upon confirmation that the change has been legally documented (i.e., property sale is complete). Failure to submit the required modification application will result in termination of the *operation certificate* in accordance with OAR 340-150-0102(1).

(3) The modification application must include a copy of the financial assistance mechanism (e.g., insurance certificate or endorsement, trust fund, etc.) that demonstrates compliance with the requirements of OAR chapter 340, division 151.

(4) A \$75 general permit modification fee must accompany the modification application. Checks or money orders must be payable to the Department of Environmental Quality.

(5) A new *operation certificate* will be issued to the permittee upon receipt of all required information and payment of the fee.

Stat. Auth.: ORS 466.706 - ORS 466.835, ORS 466.994 & ORS 466.995

Stats. Implemented: ORS 466.746, ORS 466.760, ORS 466.765 & ORS 466.783

Hist.: DEQ 6-2003, f. & cert. ef. 2-14-03

## 340-150-0080

### Denial, Suspension or Revocation of General Permit Registration Certificates

(1) An UST general permit registration certificate may be denied, suspended or revoked:

(a) If there was a material misrepresentation or false statement in the application; or

(b) If the UST system operation, maintenance, installation or decommissioning does not comply with the provisions of OAR chapter 340, divisions 150 or 151, applicable statutes, rules or department order.

(2) The provisions of ORS 183.310 to 183.550 for a contested case proceeding apply to the denial, suspension or revocation of a general permit registration certificate.

Stat. Auth.: ORS 466.706 - 466.835, ORS 466.994 & ORS 466.995

Stats. Implemented: ORS 466.775

Hist.: DEQ 2-1988, f. 1-27-88, cert. ef. 2-1-88; DEQ 20-1990, f. & cert. ef. 6-7-90; DEQ 24-1998, f. & cert. ef. 11-2-98; DEQ 6-2003, f. & cert. ef. 2-14-03

## 340-150-0102

### Termination of Registration Certificates

(1) A general permit registration certificate will automatically terminate 120 days after any of the changes set forth in OAR 340-150-0052 have occurred, unless the department has received an application for modification.

(2) An installation certificate will automatically terminate when the department issues an operation certificate.

(3) An operation certificate will automatically terminate:

(a) When the department issues a temporary closure certificate;

(b) On the date that temporary closure occurred or is discovered by the department if a temporary closure certificate has not been issued; or

(c) On the date change-in-service or permanent closure begins.

(4) A temporary closure certificate will automatically terminate upon completion of all change-in-service or permanent closure requirements or if the UST system is returned to operational status (OAR 340-150-0167(1)(b)).

Stat. Auth.: ORS 466.706 - ORS 466.835, ORS 466.994 & ORS 466.995

Stats. Implemented: ORS 466.746 & ORS 466.760

Hist.: DEQ 6-2003, f. & cert. ef. 2-14-03

## 340-150-0110

### UST General Permit Registration, Annual Compliance and Other Fees

(1) An owner and permittee must pay a general permit registration fee for each tank. This fee must accompany the UST general permit registration application. The registration fee is the same amount as the annual compliance fee listed in section (2) of this rule.

(2) Each calendar year (January 1 to December 31) following installation, the owner and permittee must pay an annual compliance fee for each UST that has not been permanently decommissioned, for any portion of the year, according to the following schedule:

(a) \$25 per tank for the years 1988, 1989, 1990, 1991, 1992 and 1993;

(b) \$35 per tank for the years 1994, 1995, 1996 and 1997;

(c) \$60 per tank for the years 1998, 1999, 2000 and 2001, except that for 1998 and 1999 the fee is \$35 for any permittee that self-certifies its compliance with 1998 technical standards to the department;

(d) \$105 per tank for 2002, which includes a \$20 surcharge per tank;

and

(e) \$85 per tank for the years 2003, 2004 and 2005.

(3) For multichambered or multicompartimented USTs, the general permit registration fee and annual compliance fee must be paid for each chamber or compartment.

(4) The department will issue an invoice to each permittee for the annual compliance fees due for each UST facility for each calendar year. The permittee must pay fees by the due date listed on the invoice. A \$35 late fee will be added to the total amount due for each invoice for which payment is not received by the due date. At its discretion, the department may allow the permittee to make alternative arrangements for payment.

(5) For any UST that was not permitted by May 1, 1988, or that was not permitted before installation during any year thereafter, the owner and permittee must pay the annual compliance fee for each calendar year or part of a calendar year since installation, except that the total amount of fees owed will not be more than \$500 per tank. These fees must be paid before the department will approve a 30-day or 3-day notice to decommission the UST.

(6) In addition to the general permit registration fee, an owner and permittee must pay a \$400 installation fee for each UST installed. This fee must be included with the general permit registration application.

(7) All checks or money orders for fees must be made payable to the Department of Environmental Quality.

Stat. Auth.: ORS 466.706 - ORS 466.835, ORS 466.994, ORS 466.995 & Ch. 767, OL 1997

Stats. Implemented: ORS 466.783, ORS 466.785

Hist.: DEQ 2-1988, f. 1-27-88, cert. ef. 2-1-88; DEQ 20-1989(Temp), f. & cert. ef. 8-1-89 (and corrected 8-3-89); DEQ 34-1989, f. & cert. ef. 12-14-89; DEQ 20-1990, f. & cert. ef. 6-7-90; DEQ 7-1994, f. & cert. ef. 3-22-94; DEQ 24-1998, f. & cert. ef. 11-2-98; DEQ 6-2003, f. & cert. ef. 2-14-03

## 340-150-0135

### General Requirements for Owners, Permittees and UST System Operators

(1) The permittee must designate a specific person as the UST system operator. If an UST system operator is not designated, the permittee is the UST system operator.

(2) The property owner, UST owner and permittee must allow any department employee or authorized representative of the department access to property where an UST is located at any reasonable time to interview per-



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sons, inspect equipment and site conditions, collect samples, take still or video pictures, conduct an investigation or review and copy records.

(3) An owner and permittee of a petroleum UST system subject to this division must continuously comply with the financial responsibility requirements of OAR chapter 340, division 151.

(4) An owner and permittee must provide information regarding an UST system, UST facility or, UST system operator or UST facility attendant to the department upon request.

(5) An owner and permittee must notify the department in writing within 30 days of any of the following:

(a) A change in contents of an UST as listed on the *operation certificate* from one regulated substance to another (e.g., gasoline to diesel);

(b) A change in the name of the contact person for the permittee, if the permittee has not changed;

(c) A change in the mailing address or phone number of the property owner, owner or permittee; and

(d) A decision by the owner and permittee to place any UST system into temporary closure status.

(6) Upon receipt of any information submitted in accordance with section (5) of this rule, the department may issue a modified *operation certificate* or a *temporary closure certificate*. The \$75 registration certificate modification fee is not applicable unless these changes are reported to the department at the same time as a change specified under OAR 340-150-0052.

(7) An owner and permittee of an UST system subject to this division must also comply with the following release reporting, site investigation and corrective action requirements:

(a) OAR 340-122-0205 through 340-122-0360 for petroleum USTs.

(b) OAR 340-122-0010 through 340-122-0115 for USTs containing nonpetroleum regulated substances, except that any releases must be reported in accordance with the requirements of OAR chapter 340, division 142.

(8) An owner and permittee of any UST system used solely to contain fuel for emergency power generators must comply with all provisions of this division, except for the release detection requirements of OAR 340-150-0400 through 340-150-0470 and the training and emergency response information requirements of 340-150-0200.

(9) In addition to any other requirements of this division, an owner and permittee must decommission any UST system that does not meet the requirements of this division in accordance with the general permit registration requirements for permanent closure (OAR 340-150-0166 or 340-150-0168).

(10) Any notification made to the department by an owner and permittee may be made in writing sent by U.S. mail, electronic mail, facsimile or verbally by telephone provided it is received by the department by the required due date, unless otherwise specified by rule.

Stat. Auth.: ORS 466.706 - ORS 466.835, ORS 466.994 & ORS 466.995  
Stats. Implemented: ORS 466.746, ORS 466.765, ORS 466.805 & ORS 466.815  
Hist.: DEQ 6-2003, f. & cert. ef. 2-14-03

## 340-150-0140

### Requirements for Sellers of USTs

(1) Any person who sells an UST must notify a proposed new owner and permittee in writing of the requirements for applying for a modified general permit operation certificate (OAR 340-150-0052) or a general permit installation certificate (340-150-0020).

(2) A former owner and permittee must transfer all documentation pertaining to the UST system to a new owner and permittee.

Stat. Auth.: ORS 466.706 - ORS 466.835, ORS 466.994 & ORS 466.995  
Stats. Implemented: ORS 466.746, ORS 466.760 & ORS 466.765  
Hist.: DEQ 2-1988, f. 1-27-88, cert. ef. 2-1-88; DEQ 24-1998, f. & cert. ef. 11-2-98; DEQ 6-2003, f. & cert. ef. 2-14-03

## 340-150-0150

### Depositing Regulated Substances in USTs

(1) A person may not deposit or cause to be deposited a regulated substance into an UST unless the owner and permittee of the UST facility have a current operation certificate for the tank.

(2) Before arranging delivery of a regulated substance, an owner and permittee must provide the operation certificate number and the identification number for each UST to any person depositing a regulated substance into the UST.

(3) If a general permit registration certificate is revoked, suspended or terminated, an owner and permittee must provide written notice of the change in status to any person who previously deposited a regulated substance into the UST. A copy of the notice must be provided to the department.

Stat. Auth.: ORS 466.706 - ORS 466.835, ORS 466.994 & ORS 466.995  
Stats. Implemented: ORS 466.746 & ORS 466.760

Hist.: DEQ 2-1988, f. 1-27-88, cert. ef. 2-1-88; DEQ 3-1989, f. & cert. ef. 3-10-89; DEQ 24-1998, f. & cert. ef. 11-2-98; DEQ 6-2003, f. & cert. ef. 2-14-03

## 340-150-0152

### Requirements for Distributors of Regulated Substances for Deposit into USTs

(1) In addition to the requirements of OAR 340-150-0150(1), a distributor must obtain and maintain a written record of operation certificate numbers for every UST facility and the identification number for each UST into which it delivers a regulated substance.

(2) Upon request by the department, a distributor must provide a written record of all USTs into which it deposited a regulated substance during the past three years, regardless of whether the UST is regulated by the department. The list must include, but is not limited to, customer name, delivery address, operation certificate number (as applicable), UST identification number and the type of regulated substance delivered.

Stat. Auth.: ORS 466.706 - 466.835, 466.994 & 466.995  
Stats. Implemented: ORS 466.746  
Hist.: DEQ 6-2003, f. & cert. ef. 2-14-03

## 340-150-0156

### Performance of UST Services by Owners or Permittees

(1) An owner and permittee may perform UST services on their own UST if the following conditions are met:

(a) Before starting any UST services, an owner and permittee must complete the appropriate UST supervisor examination administered by a national service with a passing score for the specific UST service they propose to provide; except

(b) If the UST system equipment for corrosion protection, release detection or tightness testing has been specifically designed by the manufacturer to allow testing to be performed by a tank owner, permittee or UST system operator, an owner and permittee is not required to complete the UST supervisor test for cathodic protection or tank tightness testing.

(2) Before conducting any UST services allowed under section (1) of this rule, an owner and permittee must:

(a) Notify the department of their intent to perform UST services; and

(b) Submit a copy of the examination documentation provided by the national service company to the department for any UST services requiring examination under subsection (1)(a) of this rule.

(3) In addition to the requirements of this division, an owner and permittee performing work on their own UST must comply with all applicable requirements for service providers and supervisors in accordance with OAR chapter 340, division 160, except the department will waive the requirement to obtain a license and pay license fees.

Stat. Auth.: ORS 466.706 - ORS 466.835, ORS 466.994 & ORS 466.995  
Stats. Implemented: ORS 466.746  
Hist.: DEQ 6-2003, f. & cert. ef. 2-14-03

## 340-150-0160

### General Permit Requirements for Installing an UST System

(1) Notwithstanding OAR 340-150-0150(1), the department may, at its discretion, approve the deposit of a regulated substance into the UST before the issuance of an operation certificate on a case by case basis. Dispensing of a regulated substance from the UST is strictly prohibited. Following approval by the department, the permittee must:

(a) Provide the distributor of the regulated substance with the installation certificate number and UST identification number for each tank, including an explanation that the certificate number will be superseded by an operation certificate number (OAR 340-150-0150(2));

(b) Report, investigate and perform corrective action for any confirmed release that may occur after delivery of a regulated substance (OAR 340-150-0135(7)); and

(c) Provide proof of compliance with the financial responsibility requirements of OAR chapter 340, division 151 to the department before accepting delivery of petroleum (OAR 340-150-0135(3)).

(2) To maintain compliance with a general permit installation certificate, the permittee must:

(a) Install all UST system components and ancillary equipment in accordance with the following performance standards and requirements:

(A) For installation of USTs and underground piping, OAR 340-150-0300 and 340-150-0302;

(B) For spill and overfill protection, OAR 340-150-0310;

(C) For corrosion protection, OAR 340-150-0320 and 340-150-0325;

and

(D) For release detection, OAR 340-150-0400 through 340-150-0470.

(b) Allow the department access to the UST facility and records (OAR 340-150-0135(2));

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(c) Provide information to the department upon request and submit information regarding UST system or UST facility changes (OAR 340-150-0135(4) and (5));

(d) Comply with all installation notification and written report requirements (OAR 340-150-0300); and

(e) Not allow any person other than a service provider or supervisor licensed by the department to perform UST installation services, except as provided by OAR 340-150-0156.

(2) Notwithstanding OAR 340-150-0150(1), the department may, at its discretion, approve the deposit of a regulated substance into the UST before the issuance of an operation certificate on a case by case basis. Dispensing of a regulated substance from the UST is strictly prohibited. Following approval by the department, the permittee must:

(a) Provide the distributor of the regulated substance with the installation certificate number and UST identification number for each tank, including an explanation that the certificate number will be superseded by an operation certificate number (OAR 340-150-0150(2));

(b) Report, investigate and perform corrective action for any confirmed release that may occur after delivery of a regulated substance (OAR 340-150-0135(7)); and

(c) Provide proof of compliance with the financial responsibility requirements of OAR chapter 340, division 151 to the department before accepting delivery of petroleum (OAR 340-150-0135(3)).

(3) The UST system installation will be considered complete upon final review and approval by the department of the completed installation checklist and certification of compliance signed by the owner, permittee and service provider (i.e., the tank installer) as required by OAR 340-150-0300(8). An operation certificate will be issued to the permittee once the installation has been approved by the department.

(4) The installation certificate automatically expires upon issuance of an operation certificate (OAR 340-150-0102(2)).

Stat. Auth.: ORS 466.706 - ORS 466.995

Stats Implemented: ORS 466.706, ORS 466.740, ORS 466.746, ORS 466.750, ORS 466.760, ORS 466.765, ORS 466.770, ORS 466.783, ORS 466.775, ORS 466.785, ORS 466.800, ORS 466.805, ORS 466.810 & ORS 466.815

Hist.: DEQ 24-1998, f. & cert. ef. 11-2-98; DEQ 6-2003, f. & cert. ef. 2-14-03

## 340-150-0163

### General Permit Requirements for Operating an UST System

(1) An operation certificate will be issued to the permittee upon approval by the department of the UST installation and receipt of proof of compliance with the financial responsibility requirements of OAR chapter 340, division 151 for petroleum USTs. Delivery and deposit of a regulated substance is allowed under the operation certificate, once the permittee has provided the distributor with the operation certificate number and UST identification number for each tank.

(2) To maintain compliance with the general permit operation certificate, the permittee must operate and maintain the UST system in accordance with the following performance standards and requirements:

(a) Prevent spills and overfills (OAR 340-150-0310);

(b) Maintain corrosion protection, including testing, record keeping and reporting of test failures (OAR 340-150-0320 and 340-150-0325);

(c) Perform release detection for USTs and underground piping, including monitoring, testing and record keeping (OAR 340-150-0400 through 340-150-0470);

(d) Periodically inspect internally lined USTs and report to the department any inspection failures (OAR 340-150-0360);

(e) Report to the department any suspected release of regulated substances within 24 hours (OAR 340-150-0500) and investigate suspected releases within seven days (340-150-0510);

(f) Report to the department any spills, overfills or confirmed releases within 24 hours and investigate or take corrective action as required by:

(A) OAR 340-122-0205 through 340-122-0360 for petroleum USTs.

(B) OAR 340-122-0010 through 340-122-0115 for USTs containing nonpetroleum regulated substances, except that releases must be reported in accordance with the requirements of OAR chapter 340, division 142.

(g) Repair, modify or replace UST system components as necessary to correct, detect or prevent releases (OAR 340-150-0350 through 340-150-0354);

(h) Continuously maintain a financial responsibility mechanism for petroleum UST systems (OAR chapter 340, division 151);

(i) Allow the department access to the UST facility and records (OAR 340-150-0135(2));

(j) Provide information to the department upon request and submit information regarding UST system or UST facility changes (OAR 340-150-0135(4) and (5));

(k) Pay all annual compliance fee invoices by the specified due date or be subject to late fees (OAR 340-150-0110);

(l) Report to the department any change in ownership of the property, tank or designated permittee (OAR 340-150-0052). Failure to submit a request for modification is cause for automatic termination of the operation certificate (OAR 340-150-0102(1)); and

(m) Not allow any person other than a service provider or supervisor licensed by the department to perform UST services, except as provided by OAR 340-150-0156.

(3) The permittee must have a designated UST system operator and comply with the training requirements of OAR 340-150-0200 after the required date.

(4) The permittee may not operate an UST that does not meet the conditions and requirements of the operation certificate and all other applicable rules and statutes. The permittee must:

(a) Immediately take all actions necessary to bring the UST system into compliance; or

(b) Submit a 30-day notice of permanent closure to the department and immediately begin to manage the UST system in compliance with the conditions and requirements of a general permit for permanent closure in accordance with OAR 340-150-0166 or 340-150-0168.

(5) When an UST system will no longer be operated due to proposed change-in-service, temporary or permanent closure, the permittee must notify the department of the proposal in writing 30 days in advance of the change.

(6) The operation certificate for an UST will terminate upon issuance of a temporary closure certificate or when temporary closure, change-in-service or permanent closure begins (OAR 340-150-0102(3)).

Stat. Auth.: ORS 466.706 - ORS 466.835, ORS 466.994 & ORS 466.995

Stats Implemented: ORS 466.706, ORS 466.740, ORS 466.746, ORS 466.750, ORS 466.760, ORS 466.765, ORS 466.770, ORS 466.775, ORS 466.783, ORS 466.785, ORS 466.805, ORS 466.810 & ORS 466.815

Hist.: DEQ 24-1998, f. & cert. ef. 11-2-98; DEQ 6-2003, f. & cert. ef. 2-14-03

## 340-150-0166

### General Permit Requirements for Closure of an UST System by Change-in-Service

(1) A permittee may continue to use an UST system to store a nonregulated substance without removal of the tank (i.e., change-in-service). An UST or any underground piping that has held a regulated substance may not be used under any circumstances to store water for consumption by humans or livestock or for the watering of feed crops.

(2) At least 30 days before beginning the change-in-service, the permittee must submit an application for a change-in-service general permit to the department. The department may allow a shorter notice period on a case by case basis. In addition to general information about the UST facility, tank ownership and UST system, the application must include:

(a) Information about the proposed use of the UST system;

(b) A written site assessment plan that meets the requirements of OAR 340-150-0180; and

(c) Any other information the department may require.

(3) After approval of the site assessment plan by the department and at least three working days before beginning the change-in-service, the permittee must notify the department of the confirmed date and time the change-in-service will begin to allow observation by the department.

(4) A general permit registration certificate will not be issued. The permittee must, however, comply with the requirements of the general permit for decommissioning by change-in-service. In addition to all other requirements of this rule, the permittee must:

(a) Report to the department any spills, overfills or confirmed releases within 24 hours and investigate or take corrective action as required by:

(A) OAR 340-122-0205 through 340-122-0360 for petroleum USTs.

(B) OAR 340-122-0010 through 340-122-0115 for USTs containing nonpetroleum regulated substances, except that releases must be reported in accordance with the requirements of OAR chapter 340, division 142.

(b) Continuously maintain a financial responsibility mechanism for petroleum UST systems required by OAR chapter 340, division 151, until the department has determined that the change-in-service is complete;

(c) Allow the department access to the UST facility and records (OAR 340-150-0135(2));

(d) Provide information to the department upon request and submit information regarding UST system or UST facility changes (OAR 340-150-0135(4) and (5));

(e) Pay all annual compliance fee invoices by the specified due date or be subject to late fees (OAR 340-150-0110); and

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(f) Not allow any person other than a service provider and supervisor licensed by the department to perform UST services, except as provided by OAR 340-150-0156.

(5) The permittee must empty the UST system and clean it by removing all liquids and accumulated sludge. The removed materials must be recycled or disposed of in accordance with all federal, state and local requirements. One or more of the following cleaning and closure procedures must be used:

(a) American Petroleum Institute RP 1604, "Closure of Underground Petroleum Storage Tanks" (1996);

(b) American Petroleum Institute Publication 2015, "Cleaning Petroleum Storage Tanks" (2001);

(c) American Petroleum Institute RP 1631 (2001), "Interior Lining of Underground Storage Tanks" (contains guidance information); or

(d) The National Institute for Occupational Safety and Health "Criteria for a Recommended Standard: Working in Confined Space" (Publication No. 80-106, December 1979) (guidance for conducting safe closure procedures at some hazardous substance USTs).

(6) Within 30 days of completion of the field work or other period approved by the department, the permittee must complete and submit a change-in-service checklist and site assessment report (OAR 340-150-0180(7)) signed by the owner, permittee and service provider to the department.

(7) The UST system change-in-service will be considered complete upon final review and approval by the department of the completed change-in-service checklist and site assessment report. The department will provide a letter to the permittee indicating that the change-in-service has been completed.

(8) The permittee must maintain records of change-in-service, including the site assessment report and associated documents, for three years after the change-in-service checklist and report have been approved by the department. If the UST facility is sold within this time period the permittee must provide these records to the new property owner (OAR 340-150-0140).

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

Stat. Auth.: ORS 466.706 - ORS 466.995 & ORS 465.200 - ORS 465.990

Stats Implemented: ORS 465.200, ORS 465.210, ORS 465.255, ORS 465.260, ORS 466.706, ORS 466.710, ORS 466.740, ORS 466.746, ORS 466.750, ORS 466.760, ORS 466.765, ORS 466.770, ORS 466.775, ORS 466.785, ORS 466.800, ORS 466.805, ORS 466.810 & ORS 466.815

Hist.: DEQ 24-1998, f. & cert. ef. 11-2-98; DEQ 6-2003, f. & cert. ef. 2-14-03

### 340-150-0167

#### General Permit Requirements for Temporary Closure of an UST System

(1) The department will issue a temporary closure certificate to the permittee upon receipt of the required notice in accordance with OAR 340-150-0135(5)(d). This certificate will expire one year from the date of issuance. Thirty days before the expiration date, the permittee must submit one of the following to the department:

(a) An application for a change-in-service (OAR 340-150-0166) or permanent closure (340-150-0168) general permit;

(b) A written request to return the UST system to operational status; or

(c) A request for an extension of the expiration date of the temporary closure certificate.

(A) If the department approves the request for extension, the expiration period will be extended to a date determined by the department and a revised temporary closure certificate will be issued to the permittee.

(B) If the department denies the request, the permittee must decommission the UST system by permanent closure or change-in-service by the date established by the department. The department will notify the permittee of the denial in writing and include the reasons the request was denied.

(2) To maintain compliance with the general permit temporary closure certificate, the permittee must:

(a) Cap and secure all lines, pumps, access-ways and ancillary equipment, except the vent lines, if the UST system is temporarily closed for three months or more;

(b) Report suspected releases of regulated substances to the department within 24 hours (OAR 340-150-0500) and investigate suspected releases within seven days (340-150-0510);

(c) Report to the department any confirmed releases within 24 hours and investigate or take corrective action as required by:

(A) OAR 340-122-0205 through 340-122-0360 for petroleum USTs.

(B) OAR 340-122-0010 through 340-122-0115 for USTs containing nonpetroleum regulated substances, except that releases must be reported in accordance with the requirements of OAR chapter 340, division 142.

(d) Continuously maintain a financial responsibility mechanism for petroleum UST systems (OAR chapter 340, division 151);

(e) Allow the department access to the UST facility and records (OAR 340-150-0135(2));

(f) Provide information to the department upon request and submit information regarding UST system or UST facility changes (OAR 340-150-0135(4) and (5));

(g) Pay all annual compliance fee invoices by the specified due date or be subject to late fees (OAR 340-150-0110);

(h) Report to the department any change in ownership of property or tank or designated permittee (OAR 340-150-0052); and

(i) Not allow any person other than a service provider or supervisor licensed by the department to perform UST services, except as provided by OAR 340-150-0156.

(3) If the UST is empty of all regulated substances, the permittee must comply with the requirements of section (2) of this rule and must submit documentation to the department that the tank was emptied and that the removed regulated substance and sludge was recycled or disposed of in accordance with state, federal and local regulations. This documentation must be submitted with the notice provided to the department (OAR 340-150-0135(5)(d)) or within 30 days after the tank has been emptied.

(4) If the UST is not empty, the permittee must comply with the requirements of section (2) of this rule and perform release detection for USTs and underground piping, including monitoring, testing and record keeping in accordance with OAR 340-150-0400 through 340-150-0470.

(a) If the UST and underground piping are metal, the permittee must operate, test and maintain equipment and keep records for corrosion protection in accordance with OAR 340-150-0320 and 340-150-0325.

(b) If the UST is lined, the permittee must periodically inspect the lining in accordance with OAR 340-150-0360.

(c) When necessary to correct, detect or prevent releases, the permittee must repair, modify or replace UST system components (OAR 340-150-0350 through 340-150-0354).

(5) The permittee must maintain all records related to the temporary closure for three years after a change-in-service or permanent closure checklist and site assessment report have been approved by the department. If the UST facility is sold within this time period, the permittee must provide these records to the new property owner (OAR 340-150-0140).

Stat. Auth.: ORS 465.200 - ORS 465.455 & ORS 466.706 - ORS 466.835, ORS 466.994 & ORS 466.995

Stats. Implemented: ORS 465.205, ORS 465.400, ORS 466.706, ORS 466.740, ORS 466.746, ORS 466.750, ORS 466.760, ORS 466.765, ORS 466.770, ORS 466.775, ORS 466.783, ORS 466.785, ORS 466.805, ORS 466.810 & ORS 466.815

Hist.: DEQ 6-2003, f. & cert. ef. 2-14-03

### 340-150-0168

#### General Permit Requirements for Decommissioning an UST System by Permanent Closure

(1) At least 30 days before beginning permanent closure, the permittee must submit an application for a permanent closure general permit to the department. The department may allow a shorter notice period on a case by case basis.

(2) If the permittee is proposing to permanently close the UST in-place and fill it with an inert material or if the UST contains a hazardous substance other than petroleum, the application must include a written site assessment plan that meets the requirements of OAR 340-150-0180. Permanent closure cannot begin until the department approves the site assessment plan.

(3) At least three working days before beginning permanent closure, the permittee must notify the department of the confirmed date and time permanent closure will begin to allow observation by the department.

(4) The permittee must empty the UST system and clean it by removing all liquids and accumulated sludge. The removed materials must be recycled or disposed of in accordance with all federal, state and local requirements. One or more of the following cleaning and closure procedures must be used:

(a) American Petroleum Institute RP 1604, "Closure of Underground Petroleum Storage Tanks" (1996);

(b) American Petroleum Institute Publication 2015, "Cleaning Petroleum Storage Tanks" (2001);

(c) American Petroleum Institute RP 1631 (2001), "Interior Lining of Underground Storage Tanks" (2001) (contains guidance information); or

(d) The National Institute for Occupational Safety and Health (NIOSH) "Criteria for a Recommended Standard: . . . Working in Confined Space" (Publication No. 80-106, December 1979) (guidance for conducting safe closure procedures at some hazardous substance USTs).

(5) The permittee must perform a site assessment that meets the requirements of OAR 340-150-0180 after the UST system and all ancillary equipment have been removed from the tank pit. If the UST is closed in-place, the site assessment must be conducted in accordance with the

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approved site assessment plan. If any equipment (i.e., tanks or piping) are to be disposed of instead of recycled, the permittee must first have the disposal location approved by the department.

(6) Within 30 days of completion of the field work or other period approved by the department, the permittee must complete and submit to the department a permanent closure checklist and site assessment report (OAR 340-150-0180) signed by the owner, permittee and service provider to the department.

(7) A general permit registration certificate will not be issued to the permittee. However, the permittee must comply with the requirements of this general permit for permanent closure. In addition to all other requirements of this rule, the permittee must:

(a) Report to the department any spills or confirmed releases within 24 hours and investigate or take corrective action as required by:

(A) OAR 340-122-0205 through 340-122-0360 for petroleum USTs.

(B) OAR 340-122-0010 through 340-122-0115 for USTs containing nonpetroleum regulated substances, except that releases must be reported in accordance with the requirements of OAR chapter 340, division 142.

(b) Continuously maintain a financial responsibility mechanism for petroleum UST systems (OAR chapter 340, division 151);

(c) Allow the department access to the UST facility and records (OAR 340-150-0135(2));

(d) Provide information to the department upon request and submit information regarding UST system or UST facility changes (OAR 340-150-0135(4) and (5));

(e) Pay all annual compliance fee invoices by the specified due date or be subject to late fees (OAR 340-150-0110); and

(f) Not allow any person other than a service provider and supervisor licensed by the department to perform UST services, except as provided by OAR 340-150-0156.

(8) The UST system permanent closure will be considered complete upon approval by the department of the completed permanent closure checklist and site assessment report (OAR 340-150-0180). The department will provide a letter to the permittee indicating that the permanent closure has been completed.

(9) The permittee must maintain records of permanent closure, including the site assessment report and associated documents, for three years after the permanent closure checklist and report have been approved. If the UST facility is sold within this time period the permittee must provide these records to the new property owner (OAR 340-150-0140).

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

Stat. Auth.: ORS 465.200 - ORS 465.455 & ORS 466.706 - ORS 466.835, ORS 466.994 & ORS 466.995

Stats. Implemented: ORS 465.205, ORS 465.400, ORS 466.706, ORS 466.740, ORS 466.746, ORS 466.750, ORS 466.760, ORS 466.765, ORS 466.770, ORS 466.775, ORS 466.783, ORS 466.785, ORS 466.805, ORS 466.810 & ORS 466.815

Hist.: DEQ 6-2003, f. & cert. ef. 2-14-03

### 340-150-0180

#### Site Assessment Requirements for Permanent Closure or Change-In-Service

(1) Before a change-in-service (OAR 340-150-0166) or permanent closure (340-150-0168) is completed, an owner and permittee must complete a site assessment to measure for the presence of a release where contamination is most likely to be present at the UST facility and submit results of the assessment to the department. In selecting sample types, sample locations and measurement methods, an owner and permittee must consider the method of closure, the nature of the stored substance, the type of backfill, the depth to groundwater and other factors appropriate for identifying the presence of a release.

(2) For USTs containing petroleum, the owner and permittee must measure for the presence of a release by following the sampling and analytical procedures specified in OAR 340-122-0205 through 340-122-0360 and section (4) of this rule.

(3) For USTs containing regulated substances other than petroleum (including waste oil tanks), petroleum USTs to be closed in-place and USTs to undergo a change-in-service, an owner and permittee must submit a written site assessment plan (i.e., sampling plan) to the department and receive department approval before beginning permanent closure or change-in-service. The plan must include the following information:

(a) A site diagram, drawn to scale, that identifies:

(A) The location of all USTs and underground piping, dispenser islands, buildings and nearby properties;

(B) All surface water bodies within 1/4 mile of the UST facility;

(C) Any potential conduits for spreading contamination that may exist (e.g., water or sewer lines); and

(D) All proposed sample locations, clearly marked.

(b) A list of analytical procedures and sample collection methods to be used;

(c) General information about the sample collector and UST facility;

(d) The location of all proposed sampling points that meet the requirements of section (4) of this rule; and

(e) Any other information as specified by the department.

(4) Unless otherwise directed or approved by the department, an owner and permittee must meet the following requirements for sampling and analysis:

(a) Soil samples must be collected from the native soils located no more than two feet beneath the bottom of the tank pit in areas where contamination is most likely to be found;

(b) For in-place closure or change-in-service of an UST, a minimum of four soil samples must be collected, one each from beneath both ends of the tank and on each side;

(c) For the removal of a single tank, two to four soil samples must be collected as appropriate based on site conditions, including the condition of the removed tank;

(d) For the removal of multiple USTs from the same pit, in addition to subsection (c) of this section, one soil sample must be collected for each 100 square feet of area in the pit from areas where contamination is most likely to be found;

(e) For underground piping or where piping runs were located in the past:

(A) A minimum of two soil samples must be collected from the native soils directly beneath the areas where contamination is most likely to be found; and

(B) For piping runs of more than 20 feet in length, beginning at the dispensers, at least one additional soil sample must be collected at each 20-foot interval;

(f) For dispensers, at least one soil sample must be collected from the native soils directly beneath each dispenser;

(g) For UST components (e.g., underground piping or dispensers) located directly above an area to be excavated, the area must be visually assessed before excavation work is conducted and soil samples collected if contamination is observed or suspected;

(h) All soil samples must be analyzed by the Northwest Total petroleum Hydrocarbon Identification Analytical Method (NWTPH-HCID, DEQ, December 1996) test specified in OAR 340-122-0218(1)(d)(A) to determine if a confirmed petroleum release exists; and

(i) If water is present in the UST pit, regardless of whether obvious contamination is present, the department must be notified within 24 hours of discovery.

(5) The guidance contained in Appendix K of this division may be used to comply with sections (3) and (4) of this rule.

(6) An owner and permittee must report a confirmed release to the department within 24 hours of observance or receipt of analytical results. Upon discovery of a release, an owner and permittee must:

(a) Immediately initiate corrective action. An owner and permittee may request and the department may approve a specific time schedule to initiate corrective action on a case by case basis depending on the severity of the contamination or other relevant factors; and

(b) Follow the requirements of OAR 340-122-0225 for "Initial Abatement and Site Check" and 340-122-0235 for "Free Product Removal" as appropriate.

(7) An owner and permittee must submit a written report of the results of the site assessment to the department within 30 days of completion of the field work or other period approved by the department.

Stat. Auth.: ORS 466.706 - ORS 466.835, ORS 466.994 & ORS 466.995

Stats. Implemented: ORS 466.746 & ORS 466.765

Hist.: DEQ 6-2003, f. & cert. ef. 2-14-03

### 340-150-0200

#### Training Requirements for UST System Operators and Emergency Response Information

(1) The owner and permittee of each UST facility issued an operation certificate by the department that dispenses a regulated substance from an UST to a motor vehicle or container must employ trained personnel who can properly operate and maintain the UST system and must provide emergency response information to any person that dispenses a regulated substance from the UST system.

(2) UST system operator. An owner and permittee must require that the designated UST system operator complete training that meets the following requirements:

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(a) An individual designated as the UST system operator before February 1, 2004, must complete one of the training options in section (4) of this rule by before that date.

(b) An individual designated as the UST system operator after February 1, 2004, must complete training within 90 days of designation, unless the individual has previously completed a training option and a copy of the training documentation is maintained at the UST facility.

(c) The department may extend the initial training compliance date beyond February 1, 2004, if the department determines that there are an insufficient number of training options available.

(3) Elements of required training.

(a) All training options must include the essential training elements listed in Appendix L of this division and as further described in an UST system operator training manual developed by the department; and

(b) The department may periodically audit or review any of the training options to verify that the training follows the department's training manual.

(4) Training options. The UST system operator must either:

(a) Attend a training session sponsored by a training vendor listed by the department. A training vendor is a person, company or organization listed by the department that has agreed to present UST system operator training using the training manual developed by the department;

(b) Successfully pass an examination designed for UST system operators offered by a national service and approved by the department;

(c) Complete an internet or computer software training or examination program approved by the department; or

(d) Complete any other equivalent training method approved by the department.

(5) Documentation and record keeping. An owner and permittee must submit verification of UST system operator training completion to the department by before March 1, 2004.

(a) Verification may include a copy of the certificate of training completion signed by the UST system operator along with any examination results or a list of persons who attend a training session as submitted by the training vendor. The list must include: the UST system operator's name and signature; the date training was completed; and the name, site address and the department's UST facility identification number for the UST facility that the UST system operator serves. The list must also include a confirmation statement by the training vendor that the training session was conducted using the department's UST system operator training manual.

(b) An owner and permittee must permanently retain each certificate of completion signed by the UST system operator on file at the UST facility, including a copy of any examination results. If training records are not kept at the UST facility, an owner and permittee must have the records available for review by the department upon request.

(6) Exemption or deferral from training. The department may exempt an owner and permittee from the training requirements for an UST system operator if an owner and permittee demonstrates to the department's satisfaction that a hardship condition exists. Additionally, the department may defer the compliance date for UST system operator training to an alternate date on a case-by-case basis for an owner and permittee who meets the requirements of this section.

(a) To be considered for an UST system operator hardship exemption or deferral, an owner and permittee must demonstrate that the following conditions exist:

(A) The owner and permittee are the same person and owns only one UST facility;

(B) The permittee is both the UST system operator and the only person regularly on site who can operate the UST system equipment; and

(C) The permittee has been unable to locate another person to operate the UST facility for the permittee for a scheduled training session date or for the amount of time needed to complete a training option.

(b) The permittee must submit a written request for a hardship exemption or deferral to the department. The request must include the following information:

(A) A brief description of how the permittee meets the requirements under subsection (a) of this section; and

(B) A list of available training options and other possible solutions explored by the permittee together with an explanation why none of these alternatives are feasible.

(c) The department will review exemption and deferral requests within 60 days of receipt of the completed request. Upon approval by the department, the permittee must review the training manual developed by the department and sign an affidavit stating that the permittee has read and understands the UST operation and maintenance requirements. The permit-

tee must submit the affidavit to the department by March 1, 2004, or other date designated by the department.

(d) The permittee must keep a copy of all records pertaining to approval of a hardship exemption or deferral, including the signed affidavit; records must be kept permanently at the UST facility. If records are not kept at the UST facility, the permittee must have the records available for review by the department upon request; and

(e) UST facilities where the permittee has been granted a hardship exemption will be placed on a priority list for technical assistance and inspection by the department.

(7) Emergency response information. In addition to the requirements of sections (1) through (6) of this rule, an owner and permittee must provide information about emergency response procedures, including, but not limited to, procedures for overfill protection during delivery of regulated substances, operation of emergency shut off system and alarm response, release reporting and any site specific emergency procedures. The information must include any emergency response requirements made necessary by site specific human health and safety issues or the presence of environmentally sensitive areas, such as nearby streams, wetlands or potential conduits for spreading contamination. The emergency response information must be provided by:

(a) Written instructions that are provided to any person who dispenses a regulated substance at the UST facility;

(b) Signage posted in prominent areas of the UST facility that is easily visible to any person dispensing a regulated substance; or

(c) A combination of both subsections (a) and (b) of this section.

Stat. Auth.: ORS 466.706 - ORS 466.835, ORS 466.994 & ORS 466.995

Stats. Implemented: ORS 466.743 & ORS 466.746

Hist.: DEQ 6-2003, f. & cert. cf. 2-14-03

### 340-150-0250

#### Expedited Enforcement Process

(1) Nothing in this rule shall affect the department's use of OAR chapter 340, division 12 "Enforcement Procedures and Civil Penalties" for compliance with the UST regulations, except as specifically noted. The field penalty amounts assigned in section (4) of this rule are only applicable to actions taken by the department under this rule. Nothing in this rule requires the department to assess any particular penalty amount for any particular violation.

(2) An owner and permittee is excluded from participation in the expedited enforcement process if:

(a) The total field penalty amount for all violations identified during a single inspection or file review would exceed \$300;

(b) The department documents one or more class I violation, as defined in OAR 340-012-0067(1);

(c) The department has issued a field penalty or civil penalty to the owner or permittee for the same violation at the same UST facility within the previous three years; or

(d) At its discretion, the department determines that an owner and permittee is not eligible for the expedited process. This determination will be done on a case by case basis. (One example may be when an owner and permittee of multiple UST facilities has received multiple field citations for the same or similar violations, but has not made corrections at all facilities.)

(3) For any owner and permittee with documented violations or conditions that exclude participation in the expedited enforcement process of this rule, the department will take appropriate enforcement action in accordance with OAR chapter 340, division 12.

(4) Each class II UST violation listed in OAR 340-012-0067(2) is assigned a field penalty amount of \$50, except for class II violations meeting the following circumstances, which are assigned a field penalty amount of \$75:

(a) Failure to conform to performance standards and requirements and third party evaluation and approval for UST system release detection methods by using a release detection method that does not have third party evaluation and approval;

(b) Use of a method or methods of release detection as the primary release detection method after the period allowed for such use by rule has expired;

(c) Failure to conduct required release detection monitoring and testing activities for USTs or piping by not monitoring or testing for the presence of a release every 30 days or daily as required;

(d) Failure to conduct the required release detection monitoring and testing activities for USTs by not performing a tank tightness test in accordance with required schedule for a release detection method or as necessary for confirmation of a suspected release;

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(e) Failure to conduct required release detection monitoring and testing activities for USTs or piping by failing to ensure that groundwater and vapor monitoring release detection systems are functioning properly to detect a release from all portions of the system that contain a regulated substance;

(f) Failure to conform to performance standards and requirements and third party evaluation and approval for UST system release detection methods or equipment by using the manual tank gauging release detection method for an UST larger than 2,000 gallons capacity;

(g) Failure to conform to performance standards and requirements and third party evaluation and approval for UST system release detection methods or equipment by not having a line leak detection device that is operational or able to detect a leak in underground piping;

(h) Failure to conduct required corrosion protection monitoring and testing activities for USTs or piping, by not conducting an inspection after the first six months of operation or subsequent tests according to schedule;

(i) Failure to conduct required corrosion protection monitoring and testing activities for USTs or piping by not conducting an initial tank integrity inspection or periodic internal lining inspections;

(j) Failure to have an operating certificate for all compartments or chambers of a multichambered or multicompartment UST when at least one compartment or chamber has an operating certificate;

(k) Failure to apply for a modified operation certificate when a change in tank ownership, permittee or property owner has occurred;

(l) Failure to provide complete documentation to demonstrate financial responsibility coverage; and

(m) Failure to have a trained UST system operator for an UST facility by February/March 1, 2004.

(5) Each class III violation listed in OAR 340-012-0067(3) is assigned a field penalty amount of \$50 when an owner or permittee has received prior notice of the violation through a field citation and has not corrected the violation. Any violation of UST rules that also violates a final order incorporated into a field citation may be excluded from the expedited process at the department's discretion.

(6) An owner or permittee issued a field citation has 30 calendar days from the date of issuance to submit payment for the total field penalty amount. Payment is deemed submitted when received by the department. A check or money order in the amount of the field penalty must be submitted to: Department of Environmental Quality — Business Office, 811 SW Sixth Avenue, Portland, OR 97204. Participation in the expedited enforcement process is voluntary — by submitting payment, the owner and permittee agree to accept the field citation as the final order by the commission and to waive any right to an appeal or any other judicial review of the determination of violation, compliance schedule or assessment of the field penalty in the field citation.

Stat. Auth.: ORS 466.706 - ORS 466.835, ORS 466.994 & ORS 466.995

Stats. Implemented: ORS 466.746 & ORS 466.835

Hist.: DEQ 6-2003, f. & cert. ef. 2-14-03

### 340-150-0300

#### Installation of USTs and Piping

(1) An owner and permittee must have an installation certificate issued by the department before beginning installation of the UST (OAR 340-150-0160). The requirements and procedures for applying for an UST installation certificate are described in OAR 340-150-0020.

(2) An owner and permittee must install USTs and underground piping in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory and in accordance with the manufacturer's instructions. The codes and standards listed in Appendix A of this division may be used to comply with the requirements of this rule.

(3) An owner and permittee must install USTs and underground piping that are made of or lined with materials that are compatible with the substance stored in the UST system. An owner and permittee storing alcohol blends may use the codes listed in Appendix B of this division to comply with the requirements of this section of the rule.

(4) An owner and permittee may only install UST systems that meet the following performance standards:

(a) Spill and overflow prevention equipment and requirements (OAR 340-150-0310);

(b) Corrosion protection performance standards for USTs and underground piping (OAR 340-150-0320); and

(c) Release detection performance standards (OAR 340-150-0400 through 340-150-0470).

(5) The person installing the UST system must be licensed by the department to perform UST services (OAR chapter 340, division 160), except as provided by OAR 340-150-0156.

(6) At least 30 days before beginning the UST system installation, an owner and permittee must provide notice to the department on an application provided by the department. The department may allow a shorter notice period on a case by case basis.

(7) At least three working days before beginning UST installation, an owner and permittee must notify the department of the confirmed date and time the installation will begin. The department may request additional prior notifications of the start date and time of specific installation or related testing activities.

(8) An owner and permittee must complete an installation checklist on a form provided by the department and submit the checklist to the department before an installation certificate can be issued. The checklist requires information about installation procedures and standards used, including any observations made by a service provider during the installation of the UST system. The checklist must include:

(a) A certification of compliance signed by the owner, permittee and service provider (i.e., the tank installer) that certifies the UST system was installed in accordance with required methods and standards and in compliance with requirements for cathodic protection, release detection and spill and overflow protection and that the owner and permittee will meet requirements for financial responsibility;

(b) One copy of the as-built drawing for the UST facility that includes the locations of all USTs, underground piping and ancillary equipment;

(c) A list of major UST components installed;

(d) All manufacturer specifications, completed checklist or other installation documents for USTs and components, including warranties;

(e) A copy of third party evaluation approval summaries, as applicable to any release detection equipment or methods;

(f) A copy of approval documents (sign-off or pressure test results) provided by the state fire marshal or local fire department, if available; and

(g) Photographs (or color copies of photographs) of key phases of the installation, including, but not limited to, major equipment (i.e., USTs and underground piping) and materials to be used in the installation, the excavation area before placement of USTs or underground piping, installation area after the placement of USTs and underground piping, but before backfilling and any other items of interest that document the installation process. Videos, negatives, floppy disks, undeveloped film, etc. are not acceptable substitutes for standard color photographs.

(9) An operation certificate will be issued to the permittee in accordance with OAR 340-150-0163(1) after department review and approval of the completed installation checklist and all required documentation.

[Note 1: USTs and underground piping must be installed to meet all requirements of the Oregon Uniform Fire Code pertaining to USTs in accordance with OAR chapter 837, division 40 "Fire and Life Safety Regulations" (Department of Oregon State Police, Office of State Fire Marshal).]

[Note 2: Appendix J of this division includes a list of additional guidance documents that owners and permittees may find useful.]

[ED. NOTE: Appendix & Publications referenced are available from the agency.]

Stat. Auth.: ORS 466.706 - ORS 466.835, ORS 466.994 & ORS 466.995

Stats. Implemented: ORS 466.746 & ORS 466.765

Hist.: DEQ 6-2003, f. & cert. ef. 2-14-03

### 340-150-0302

#### Installation of Used USTs

(1) An owner and permittee may not reuse an UST that has been installed in the ground and subsequently removed unless the UST was decommissioned in accordance with all requirements of OAR 340-150-0168.

(2) The original manufacturer must certify that the used UST meets the UST performance requirements of OAR 340-150-0300. If the original manufacturer is not available (e.g., no longer in business, unknown, etc.) another manufacturer of the same tank brand or type must certify in writing that the UST meets the current UST performance requirements.

(3) Before reinstalling the UST, an owner and permittee must have the manufacturer's recertification documented in writing and available to the department upon request.

(4) An owner and permittee must install the UST in accordance with OAR 340-150-0300 and follow all recommendations made by the manufacturer for reinstalling the used UST.

(5) An owner and permittee must submit documents showing compliance with all manufacturer recommendations including, but not limited to, warranty cards or manufacturers' checklists to the department as an attachment to the installation checklist required by OAR 340-150-0300(8)(d).

Stat. Auth.: ORS 466.706 - ORS 466.835, ORS 466.994 & ORS 466.995

Stats. Implemented: ORS 466.746 & ORS 466.765

Hist.: DEQ 6-2003, f. & cert. ef. 2-14-03

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## 340-150-0310

### Spill and Overfill Prevention Equipment and Requirements

(1) An owner and permittee must install, operate and maintain spill prevention equipment, such as a spill catchment basin or spill bucket, that will prevent the release of a regulated substance to the environment when the transfer hose is detached from the fill pipe.

(2) An owner and permittee must install, operate and maintain overfill prevention equipment and follow fill procedures that prevent any of the fittings located on top of the UST from being exposed to a regulated substance due to overfilling; and

(a) Automatically shuts off flow into the UST when the UST is no more than 95 percent full; or

(b) Alerts the person depositing the regulated substance into the UST when the UST is no more than 90 percent full by restricting the flow into the tank or by triggering a high level alarm.

(3) For all UST systems installed or overfill equipment replaced on or after March 1, 2003, an owner and permittee must be able to provide visual verification that the overfill equipment functions as required by section (2) of this rule. For overfill equipment installed before March 1, 2003, an owner and permittee must be able to demonstrate to the department that the equipment is functions properly by any method deemed acceptable by the department.

(4) In addition to the overfill requirements of section (2) of this rule, an owner and permittee must:

(a) Measure the volume of regulated substance in each UST to confirm that the volume available is greater than the volume of the regulated substance to be deposited into the UST before each deposit is made; and

(b) Develop and implement procedures to ensure that each deposit of a regulated substance into the UST is monitored constantly to prevent overfilling and spilling.

(5) An owner and permittee may use the codes and procedures listed in Appendix C of this division to comply with the requirements of this rule.

(6) Spill and overfill prevention equipment is not required if the UST system is filled by deposits of a regulated substance of no more than 25 gallons at one time (a waste oil tank may be one example).

Stat. Auth.: ORS 466.706 - ORS 466.835, ORS 466.994 & ORS 466.995

Stats. Implemented: ORS 466.746 & ORS 466.765

Hist.: DEQ 6-2003, f. & cert. ef. 2-14-03

## 340-150-0320

### Corrosion Protection Performance Standards for USTs and Piping

(1) An owner and permittee must protect all USTs (whether of single wall or multiwall construction) and underground piping that routinely contains a regulated substance from corrosion by one of the methods listed in sections (2) through (4) of this rule.

(2) For USTs and underground piping constructed of fiberglass-reinforced plastic or other nonmetallic materials, an owner and permittee must use one of the codes and standards listed in Appendices D1-USTs and D2-Piping of this division to comply with this section of the rule.

(3) An owner and permittee must provide cathodic protection for USTs and underground piping constructed of steel or other metal to prevent corrosion by using the codes and standards listed in Appendices E1-USTs and E2-Piping of this division to comply with this section of the rule. In addition, an owner and permittee must comply with subsections (a) through (c) and either (d) or (e) of this section:

(a) The UST and underground piping must be coated with a suitable dielectric material;

(b) Field-installed cathodic protection systems must be designed by a corrosion expert;

(c) Impressed current systems must be designed to allow the testing of current operating status as required by OAR 340-150-0325(3); and

(d) A permanent cathodic protection test station must be installed. The test station:

(A) Can be separate or combined with an existing box and must be located near the protected structure (e.g., UST, piping, etc.) and away from an anode;

(B) Must provide, at a minimum, an electrical connection to the structure and access for placing a reference cell in contact with the soil or back-fill; and

(C) When located below the surface of the ground, the test station design must prevent run off of surface water into the soil; or

(e) If a permanent cathodic protection test station is not installed, an owner and permittee must have a written cathodic protection test procedure that has been developed in accordance with a nationally accepted code of practice. The written test procedure must:

(A) Meet each of the minimum requirements established by subsection (d) of this section;

(B) Contain sufficient detail to ensure that initial test conditions can be replicated during each test (i.e., electrical connections are made at the same points and the reference electrode contacts the soil at the same location);

(C) Be followed for all cathodic protection tests at the UST facility; and

(D) Be provided to the department upon request.

(4) For USTs constructed of a steel-fiberglass reinforced plastic composite, an owner and permittee must use one of the codes and standards listed in Appendix F of this division to comply with this section of the rule.

Stat. Auth.: ORS 466.706 - ORS 466.835, ORS 466.994 & ORS 466.995

Stats. Implemented: ORS 466.746 & ORS 466.765

Hist.: DEQ 6-2003, f. & cert. ef. 2-14-03

## 340-150-0325

### Operation and Maintenance of Corrosion Protection

(1) An owner and permittee of an UST system described in OAR 340-150-0320 must operate and maintain the corrosion protection system to provide continuous protection to the metal components of any portion of the UST and underground piping that routinely contains a regulated substance.

(2) An owner and permittee must have the corrosion protection system inspected and tested for proper operation by a qualified cathodic protection tester licensed by the department (OAR chapter 340, division 160), except as provided by OAR 340-150-0156, in accordance with the following schedule:

(a) Within six months of installation; and

(b) At least once every three years thereafter.

(3) An owner and permittee of an UST system with impressed current cathodic protection systems must have the system inspected every 60 days to ensure the equipment is running properly.

(4) An owner and permittee must report all corrosion protection test failures to the department within 24 hours and submit a copy of the test results as requested by the department.

(5) An owner and permittee must conduct any repair, modification and replacement of a corrosion protection system or equipment in accordance with OAR 340-150-0350 through 340-150-0354.

(6) An owner and permittee must maintain records of the operation of the cathodic protection system to demonstrate compliance with the performance standards of this rule, including:

(a) The results of the last three impressed current cathodic protection tests required in section (3) of this rule; and

(b) The results of the last two cathodic protection inspections required in section (2) of this rule.

(7) The testing criteria used to determine that corrosion protection is effective must be performed in accordance with a code of practice developed by a nationally recognized association. An owner and permittee may use the codes listed in Appendix G of this division to comply with the requirements of this rule.

Stat. Auth.: ORS 466.706 - ORS 466.835, ORS 466.994 & ORS 466.995

Stats. Implemented: ORS 466.746 & ORS 466.765

Hist.: DEQ 6-2003, f. & cert. ef. 2-14-03

## 340-150-0350

### UST System Repairs

(1) An owner and permittee of an UST system requiring repair must effect the repair such that the repair will prevent and detect releases due to structural failure or corrosion as long as the UST system is used to store a regulated substances.

(2) Metal pipe sections and fittings that have released a regulated substance as a result of corrosion or other damage cannot be repaired and must be replaced as a modification to an UST system in accordance with OAR 340-150-0352(4).

(3) Repair methods. An owner and permittee must repair UST system components according to the manufacturer's specifications and perform repairs in accordance with a code of practice developed by a nationally recognized association or an independent testing laboratory. The codes and standards listed in Appendix H of this division may be used to comply with this section. A manufacturer's authorized representative may make repairs to fiberglass or other nonmetallic USTs.

(4) Lined tanks. An owner and permittee of an UST that has been previously repaired or upgraded using the interior lining method may repair the UST by restoring or adding additional lining to the UST if the metal portion of the UST has been determined to be structurally sound by use of the integrity assessment (inspection) method by American Petroleum Institute Publication 1631 (2001), "Recommended Practice for the Interior Lining of Existing Steel Underground Storage Tanks". An owner and permittee must

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refer to OAR 340-150-0352 and 340-150-0360 for additional requirements for internally lined tanks. An owner and permittee must permanently decommission an UST if the integrity assessment determines that the UST is no longer structurally sound.

(5) Tanks. Before operating a repaired UST, an owner and permittee must:

(a) Have the UST tightness tested after completion of the repair and report to the department any test failures (OAR 340-150-0445); and

(b) For all repaired tanks except those repaired by lining, obtain written documentation that the original manufacturer has recertified the repaired UST as meeting current UST performance requirements (OAR 340-150-0300). If the original manufacturer is not available (e.g., no longer in business, unknown, etc.) another manufacturer of the same tank brand or type must certify in writing that the UST meets the current UST performance requirements.

(6) Piping. Before operating repaired piping, an owner and permittee must have the underground piping tightness tested after completion of the repair and report to the department any test failure (OAR 340-150-0410).

(7) Corrosion protection. An owner and permittee must have a cathodic protection system tested within six months following a repair to ensure proper operation and report to the department any test failure (OAR 340-150-0325).

(8) Spill and overflow. An owner and permittee must repair spill and overflow equipment when necessary; following repair, the spill and overflow equipment must meet the requirements of OAR 340-150-0310.

(9) Record keeping. An owner and permittee must maintain records that demonstrate compliance with the requirements of this rule for the remaining operating life of the UST system. Records must include information such as a description of the work, date performed, name and address of the company that performed the work, equipment model number (as appropriate), test results and any other related data. An owner and permittee must make all repair records available for review by the department upon request.

[Publications: Publications referenced are available from the agency.]  
Stat. Auth.: ORS 466.706 - ORS 466.835, ORS 466.994 & ORS 466.995  
Stats. Implemented: ORS 466.746 & ORS 466.765  
Hist.: DEQ 6-2003, f. & cert. ef. 2-14-03

## 340-150-0352

### UST System Modifications and Additions

(1) An owner and permittee must follow the requirements of this rule when making UST system modifications. For any other modifications not specifically listed, an owner and permittee must follow sections (5) through (7) of this rule.

(2) An owner and permittee of a metal UST previously protected with cathodic protection may modify the UST by the addition of internal lining if all of the following requirements are met:

(a) Before the addition of a lining, the integrity of the tank is assessed by a method that has been third party evaluated and approved on a national level (e.g., the method is on a list of approved alternative integrity assessment methods published by the Environmental Protection Agency);

(b) The lining is installed in accordance with a code of practice developed by a nationally recognized association or an independent testing laboratory; and

(c) The modifications comply with all requirements of OAR 340-150-0360(2) for internally lined tanks.

(3) An owner and permittee of an UST that has been internally lined may modify the UST by the addition of corrosion protection if all of the following requirements are met:

(a) Before the addition of corrosion protection, the integrity of the UST is assessed using the method by **American Petroleum Institute Publication 1631 (2001)**, "Recommended Practice for the Interior Lining of Existing Steel Underground Storage Tanks" to ensure that the tank is structurally sound and free of corrosion holes and that the lining is still performing according to manufacturer requirements;

(b) The corrosion protection system meets the performance standards of OAR 340-150-0320(3); and

(c) The modifications comply with all requirements of OAR 340-150-0360(2) for internally lined USTs.

(4) For modification of an UST system by the addition of new piping or replacement of damaged piping, an owner and permittee must comply with the installation requirements for new UST systems (OAR 340-150-0300) and this rule.

(5) An owner and permittee may use the codes and standards listed in Appendix H of this division to comply with this rule.

(6) An owner and permittee must notify the department of their intent to modify an UST system at least 30 days before any modification work is

scheduled to start by submitting an application for UST system modification to the department.

(a) At least three working days before beginning the modification, an owner or permittee must notify the department of the confirmed date and time the modification will begin to allow observation by the department.

(b) The owner or permittee must submit a completed UST system modification checklist to the department within 30 days after completion of the modification.

(7) An owner and permittee must maintain records that demonstrate compliance with the requirements of this rule for the remaining operating life of the UST system. Records must include a description of the work, date performed, name and address of the company that performed the work, equipment model number (as appropriate), test results, modification application and checklist and any other related data. An owner and permittee must make all records for UST system modifications and additions available for review by the department upon request.

[Publications: Publications referenced are available from the agency.]  
Stat. Auth.: ORS 466.706 - ORS 466.835, ORS 466.994 & ORS 466.995  
Stats. Implemented: ORS 466.746 & ORS 466.765  
Hist.: DEQ 6-2003, f. & cert. ef. 2-14-03

## 340-150-0354

### UST System Replacements

(1) An owner and permittee must replace any part of an UST system as necessary for the UST system to meet the following performance standards:

(a) Spill and overflow protection (OAR 340-150-0310);

(b) Corrosion protection (OAR 340-150-0320 and 340-150-0325); and

(c) Release detection (OAR 340-150-0400 through 340-150-0470).

(2) For the purpose of these rules, the replacement of metal pipe sections and fittings that have released a regulated substance as a result of corrosion or other damage is considered a modification and the owner and permittee must comply with OAR 340-150-0352(4) and 340-150-0300 instead of this rule.

(3) An owner and permittee must maintain records that demonstrate compliance with the requirements of this rule for the remaining operating life of the UST system. Records must include information such as a description of the work, date performed, name and address of the company that performed the work, equipment model number (as appropriate), test results and any other related data. An owner and permittee must make all records for UST system replacements available for review by the department upon request.

Stat. Auth.: ORS 466.706 - ORS 466.835, ORS 466.994 & ORS 466.995  
Stats. Implemented: ORS 466.746 & ORS 466.765  
Hist.: DEQ 6-2003, f. & cert. ef. 2-14-03

## 340-150-0360

### Requirements for Internally Lined USTs

(1) Internally lined USTs without corrosion protection. An owner and permitteeoperator of an internally lined UST that does not have corrosion protection must have the UST internally inspected or assessed in accordance with a method that has been evaluated and approved by a third party to ensure the tank is structurally sound and the lining is still performing in accordance with all original design specifications. An owner and permittee must have the internal lining inspections or assessments conducted:

(a) Within ten years after lining; and

(b) Every five years thereafter.

(2) Internally lined USTs with corrosion protection. An owner and permittee of an internally lined UST tank that has corrosion protection must conduct internal lining inspections or assessments of the UST as required by section (1) of this rule. However, internal inspections are not required if the owner and permittee meet each of the following conditions:

(a) The integrity of the UST is was inspected or assessed before the addition of corrosion protection; and

(b) Written documentation of the inspection results and the internal inspection or assessment is provided to the department that demonstrate the work was conducted in accordance with a code of practice developed by a nationally recognized association, an independent testing laboratory or by a method that has been third party evaluated and approved. If the original integrity inspection or assessment was not conducted, documentation is not available or the documentation is not sufficient as determined by the department, an owner and permittee must complete at least one internal inspection of the tank lining using the method by **American Petroleum Institute Publication 1631 (2001)**, "Recommended Practice for the Interior Lining of Existing Steel Underground Storage Tanks".



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(3) The owner and permittee must permanently decommission an UST system if any internal inspection determines that the UST is no longer structurally sound.

[Publications: Publications referenced are available from the agency.]  
Stat. Auth.: ORS 466.706 - ORS 466.835, ORS 466.994 & ORS 466.995  
Stats. Implemented: ORS 466.746 & ORS 466.765  
Hist.: DEQ 6-2003, f. & cert. ef. 2-14-03

## 340-150-0400

### General Release Detection Requirements for Petroleum UST Systems

(1) An owner and permittee of petroleum UST systems must provide a method of release detection that:

(a) Can detect a release from any portion of the UST and the underground piping that routinely contains a regulated substance;

(b) Is an approved leak detection method or equipment as listed by a national organization (e.g., the National Work Group on Leak Detection);

(c) Is installed, calibrated, operated and maintained in accordance with the manufacturer's instructions, including routine maintenance and service checks for operability or running condition;

(d) Meets the performance requirements of this rule and the requirements of 340-150-0410 for underground piping, including any manufacturer performance claims (with the method for determining compliance with performance claims described in writing by the equipment manufacturer or installer); and

(e) Is capable of detecting the leak rate or quantity specified for that method in OAR 340-150-0450 through 340-150-0470 or 340-150-0410 for piping, with a probability of detection of at least 95 percent and a probability of false alarm of no more than 5 percent. Release detection methods permanently installed before December 22, 1990, are exempt from the requirements of this subsection.

(2) An owner and permittee must select an appropriate primary release detection method for the UST system (OAR 340-150-0420 through 340-150-0470). More than one method may be in use at an UST facility, but only one can be the primary method. The primary method must be reported to the department when an UST is installed or during an inspection by the department. The primary release detection method cannot be switched from month to month depending on which method passes daily or monthly monitoring requirements. The primary method of release detection can be changed to another method as necessary as part of a repair, modification or replacement or if the period of use for a method has expired by rule.

(3) When a release detection method indicates a release may have occurred, an owner and permittee must notify the department of a suspected release in accordance with OAR 340-150-0500.

(4) An owner and permittee must maintain records demonstrating compliance with all applicable requirements of this rule and retain the following records for as long as the release detection equipment is in use:

(a) All written performance claims pertaining to any release detection system used and the third party evaluation and approval;

(b) The results of any sampling, equipment testing or monitoring; and

(c) Written documentation of all calibration, maintenance and repair of release detection equipment permanently located on site, including any schedules of required calibration and maintenance provided by the release detection equipment manufacturer.

(5) An owner and permittee must keep release detection records either:

(a) At the UST facility and immediately available for inspection by the department; or

(b) At a readily available alternative site and provide the records for inspection by the department upon request.

(6) An owner and permittee may use the codes and standards listed in Appendix I of this division to comply with this rule.

Stat. Auth.: ORS 466.706 - ORS 466.835, ORS 466.994 & ORS 466.995  
Stats. Implemented: ORS 466.746 & ORS 466.765  
Hist.: DEQ 6-2003, f. & cert. ef. 2-14-03

## 340-150-0410

### Release Detection Requirements and Methods for Underground Piping

(1) For underground piping that routinely contains a regulated substances, an owner and permittee of a petroleum UST system must provide release detection which meets the requirements of this rule.

(2) Pressurized piping. For underground piping that conveys regulated substances under pressure, an owner and permittee must insure that the piping is equipped with an automatic line leak detector that alerts an owner and permittee to the presence of a leak by restricting or shutting off the flow of regulated substances through underground piping or by triggering an audible or visual alarm. Interstitial monitoring sensor systems or stand alone

"sump" sensors are not an acceptable alternative for a line leak detector. In addition,

(a) The line leak detector must be approved by a national organization (e.g., the National Work Group on Leak Detection);

(b) The line leak detector must be capable of detecting a leak of three gallons per hour at ten pounds per square inch line pressure within one hour; and

(c) An annual test of the operation of the line leak detector must be conducted in accordance with the manufacturer's requirements.

(3) In addition to the requirements of section (2) of this rule, an owner and permittee with pressurized piping must conduct an annual line tightness test that can detect a 0.1 gallon per hour leak rate at one and one-half times the operating pressure. Interstitial monitoring sensors may replace the annual line tightness test if:

(a) The equipment is designed, constructed and installed to monitor all portions of the underground piping that routinely contains a regulated substance; and

(b) The requirements for interstitial monitoring (OAR 340-150-0465) are met.

(4) Suction piping. For underground piping that conveys a regulated substance under suction (i.e., piping that operates at less than atmospheric pressure), an owner and permittee must check the piping for the presence of air in the pipeline in accordance with the **National Fire Protection Association standard NFPA, 329 (1999)** "Recommended Practices for Handling Releases of Flammable and Combustible Liquids and Gases" Chapter 5, Release Detection of Tanks and Piping, subsection 5-2.3.2(b), if any of the following indicator conditions are observed by any person dispensing a regulated substance:

(a) If there are indications of air in the pipeline or other unusual operating conditions are observed (refer to NFPA 329 subsection 5-2.3.2(a) for specific indicators), the pipeline check valve should be inspected to determine if it is seated tightly. The check valve must be repaired, replaced or sealed off as appropriate depending on the results of the inspection; and

(b) The requirements of OAR 340-150-0350 through 340-150-0354 must be met for any repair, modification or replacement actions taken to correct a problem.

(5) In addition to the requirements of section (4) of this rule, an owner and permittee of suction piping must conduct a line tightness test at least once every three years that can detect a 0.1 gallon per hour leak rate at one and one-half times the operating pressure.

(6) Release detection is not required for suction piping that is designed and constructed to meet the following standards:

(a) The below grade underground piping operates at less than atmospheric pressure;

(b) The below grade underground piping is sloped so that the contents of the pipe will drain back into the UST if the suction is released;

(c) Only one check valve is present in each suction line;

(d) The check valve is located directly below and as close as practical to the suction pump; and

(e) A method is provided that allows the department to readily determine compliance with this section of the rule.

(7) In lieu of conducting annual line tightness tests on either pressurized or suction piping, an owner and permittee may conduct monthly monitoring by one of the applicable release detection methods described in OAR 340-150-0450 through 340-150-0470, if the method is designed to detect a release from any portion of the underground piping that routinely contains a regulated substance.

(8) An owner and permittee must retain at a minimum the most current 12 consecutive months of release detection records.

(9) An owner and permittee must report to the department any leak test results or other observations or results indicating the possibility of a release within 24 hours as a suspected release (OAR 340-150-0500) and immediately begin investigation in accordance with 340-150-0510.

[Publications: Publications referenced are available from the agency.]  
Stat. Auth.: ORS 466.706 - ORS 466.835, ORS 466.994 & ORS 466.995  
Stats. Implemented: ORS 466.746 & ORS 466.765  
Hist.: DEQ 6-2003, f. & cert. ef. 2-14-03

## 340-150-0420

### Release Detection Requirements for Hazardous Substance UST Systems

(1) An owner and permittee of an UST system containing a hazardous substance other than petroleum must provide release detection that meets the requirements of this rule.

(2) Secondary containment systems. An owner and permittee may use the provisions of **40 CFR § 265.193**, "Containment and Detection of

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Releases" to comply with this section of the rule. Secondary containment systems must be designed, constructed and installed to:

(a) Contain regulated substances released from the UST system until they are detected and removed; and

(b) Prevent the release of regulated substances to the environment at any time during the operational life of the UST system.

(3) Multiwalled USTs must be designed, constructed and installed to:

(a) Contain a release from any portion of the inner tank within the outer wall; and

(b) Detect the failure of the inner wall.

(4) External liners (including vaults) must be designed, constructed and installed to:

(a) Contain 100 percent of the capacity of the largest tank within its boundary;

(b) Prevent the interference of precipitation or groundwater intrusion with the ability to contain or detect a release of regulated substances; and

(c) Surround the tank completely (i.e., it is capable of preventing lateral as well as vertical migration of regulated substances).

(5) Underground piping must be equipped with secondary containment that satisfies the requirements of section (2) of this rule (e.g., trench liners, jacketing of double walled pipe). In addition, underground piping that conveys regulated substances under pressure must be equipped with an automatic line leak detector in accordance with OAR 340-150-0410(2).

(6) An owner and permittee must monitor the UST system for releases every 30 days and record the results for each month.

(7) An owner and permittee must retain at a minimum the most current 12 consecutive months of release detection records.

(8) An owner and permittee must report to the department any release detection failure indicating the possibility of a release within 24 hours as a suspected release (OAR 340-150-0500) and immediately begin investigation in accordance with 340-150-0510.

(9) An owner and permittee may use an alternative method of release detection if the proposed method is approved by the department in writing before installation of the UST system or addition of the release detection method. To obtain approval from the department, an owner and permittee must submit the following information for review:

(a) Technical, scientific data and reports that demonstrate that the proposed alternate method can detect a release of the stored hazardous substance as effectively as any of the methods allowed in OAR 340-150-0450 through 340-150-0470 can detect a release of petroleum; and

(b) Information on the effective corrective action technologies, health and environmental risks and chemical and physical properties of the stored substance and the geologic characteristics of the UST facility.

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

Stat. Auth.: ORS 466.706 - ORS 466.835, ORS 466.994 & ORS 466.995

Stats. Implemented: ORS 466.746 & ORS 466.765

Hist.: DEQ 6-2003, f. & cert. ef. 2-14-03

## 340-150-0430

### Inventory Control Method of Release Detection

(1) An owner and permittee using inventory control as a release detection method must meet the requirements of this rule. Inventory control cannot be used as a release detection method for underground piping.

(2) Use of inventory control as a release detection method is allowed for a period of:

(a) Ten years after the installation of the UST system; or

(b) Ten years after the UST system achieved compliance with corrosion protection requirements; except that

(c) In no case may inventory control be used as a primary release detection method after December 22, 2008; and

(d) After the period of use has expired as listed in subsections (a) through (c) of this section, an owner and permittee must use one of the release detection methods in OAR 340-150-0450 through 340-150-0470.

(3) Regulated substance (i.e., product) inventory control must be recorded daily and reconciled monthly to detect a release of at least 1.0 percent of flow-through plus 130 gallons on a monthly basis.

(4) Inventory volume measurements for regulated substance inputs (deliveries), withdrawals and the amount still remaining in the UST must be recorded each operating day.

(5) The equipment used to measure the level of regulated substance in the UST (e.g., stick or automatic tank gauge) must be capable of measuring the level of the regulated substance over the full range of the tank's height to the nearest one-eighth of an inch.

(6) Regulated substance inputs must be reconciled with delivery receipts by measurement of the tank inventory volume before and after each delivery.

(7) Regulated substance deliveries must be made through a drop tube that extends to within one foot of the tank bottom.

Note: To meet Stage I air quality vapor control requirements, drop tubes must be within six inches of the tank bottom.

(8) Regulated substance dispensing must be metered and recorded within the local standards for meter calibration or an accuracy of six cubic inches for every five gallons of the regulated substance withdrawn.

(9) The measurement of any water level in the bottom of the tank must be made to the nearest one-eighth of an inch at least once a month.

(10) Any monthly inventory reconciliation (positive or negative) that exceeds the comparison number of 1.0 percent of flow-through plus 130 gallons or greater leak rate in any single month is considered to be a release detection failure.

(a) An owner and permittee must:

(a) Report to the department report a release detection failure that occurs for two consecutive months within 24 hours as a suspected release to the department within 24 hours (OAR 340-150-0500) and immediately begin investigation in accordance with 340-150-0510; and

(b) Immediately An owner and permittee must immediately investigate all larger-than-normal or reoccurring variations in results, including widely fluctuating water levels in the UST and report such variations to the department as a suspected release if the variation cannot be accounted for, without waiting to obtain a second month of data.

(11) An owner and permittee must have USTs tightness tested (OAR 340-150-0445) at least once every five years when inventory control is used as the sole or primary release detection method.

(12) An owner and permittee must retain at a minimum the most current 12 consecutive months of release detection records and the last two tightness test results.

(13) An owner and permittee may use the practices described in the **American Petroleum Institute Publication 1621**, "Recommended Practice for Bulk Liquid Stock Control at Retail Outlets" (1993), where applicable, as guidance in meeting the requirements of this rule.

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

Stat. Auth.: ORS 466.706 - ORS 466.835, ORS 466.994 & ORS 466.995

Stats. Implemented: ORS 466.746 & ORS 466.765

Hist.: DEQ 6-2003, f. & cert. ef. 2-14-03

## 340-150-0435

### Statistical Inventory Reconciliation Method of Release Detection

(1) An owner and permittee using statistical inventory reconciliation (SIR) as a release detection method must meet the requirements of this rule. SIR cannot be used as a release detection method for pressurized underground piping.

(2) The method must be capable of detecting a least a 0.2 gallon per hour leak rate from any portion of the UST that routinely contains a regulated substance with a probability of detection of at least 95 percent and a probability of false alarm of no more than 5 percent.

(3) The SIR method used must be an approved leak detection method that meets the requirements of section (2) of this rule as listed by a national organization (e.g., the National Work Group on Leak Detection).

(4) Daily inventory control regulated substance measurements and data gathering must be performed in accordance with OAR 340-150-0430(4) through (9).

(5) An UST system must be monitored for releases on a monthly basis when the SIR method is used. To meet the monthly monitoring requirements, an owner and permittee must, within 22 days after each calendar month or 30-day period, submit the daily inventory records to and receive the SIR results back from the SIR vendor they have hired to perform the statistical analysis. An owner and permittee must follow up with the SIR vendor if there are delays and make any changes necessary to their service agreement or contract to prevent late report submittals.

(6) The results of a SIR analysis that shows a 0.2 gallon per hour or greater leak rate in any single month is considered to be a release detection failure.

(7) An owner and permittee must report to the department any single release detection failure and any two inconclusive results (as reported by the SIR vendor) obtained within a consecutive two-month period within 24 hours as a suspected release (OAR 340-150-0500) and immediately begin investigation in accordance with OAR 340-150-0510; additionally,

(a) An owner and permittee must investigate and attempt to remedy or repair the cause of inconclusive results; and

(b) SIR must be discontinued as the release detection method and immediately substituted with one of the release detection methods listed in OAR 340-150-0450 through 340-150-0470 if:

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(A) An owner and permittee is unable to correct the cause of the inconclusive results after tank and piping tightness testing results or other investigation methods confirm that the UST system is not leaking; and

(B) More than four inconclusive results are recorded within a consecutive 12-month period.

(c) An owner and permittee must immediately investigate all larger-than-normal, unusual or reoccurring variations in results, including widely fluctuating water levels in the tank and report such variations as a suspected release if the variation cannot be accounted for, without waiting to obtain a second month of data.

(8) An owner and permittee must retain at a minimum the most current 12 consecutive months of release detection records, including SIR vendor results and inventory control records.

Stat. Auth.: ORS 466.706 - ORS 466.835, ORS 466.994 & ORS 466.995

Stats. Implemented: ORS 466.746 & ORS 466.765

Hist.: DEQ 6-2003, f. & cert. ef. 2-14-03

## 340-150-0440

### Manual Tank Gauging Release Detection Method

(1) An owner and permittee may use manual tank gauging as a release detection method for USTs that are less than 2,001 gallons in size.:

(a) For USTs of 1,000 gallons or less in size, this method may be used as the sole method of release detection.

(b) For USTs of 1,001 to 2,000 gallons in size, this method may be used instead of manual inventory control (OAR 340-150-0430). This method is allowed for a period of:

(A) Ten years after the installation of the UST system; or

(B) Ten years after the UST system achieved compliance with corrosion protection requirements; except

(C) In no case may manual tank gauging be used as a primary release detection method after December 22, 2008.

(c) After the period of use has expired as listed in paragraph (1)(b)(C) of this section, an owner and permittee of an UST between 1,001 and 2,000 gallons in size must use one of the release detection methods in OAR 340-150-0450 through 340-150-0470.

(2) An owner and permittee must use the following procedures for the manual tank gauging release detection method:

(a) Tank liquid level measurements must be taken at the beginning and ending of a minimum 36-hour test period, during which time no liquid (i.e., regulated substance) may be added to or removed from the UST;

(b) Level measurements must be based on an average of two consecutive measuring stick or automatic tank gauge readings at both the beginning and ending of the period in which the UST is tested; and

(c) The equipment used to measure the level of regulated substance in the UST (e.g., stick or automatic tank gauge) must be capable of measuring the level of the regulated substance over the full range of the UST's height to the nearest one-eighth of an inch.

(3) An owner and permittee must monitor the UST system for releases at least weekly and record and reconcile the results of each week's readings for each month.

(4) In addition to any other requirements of this rule, an owner and permittee must conduct tightness testing (OAR 340-150-0445) of USTs of 1,001 to 2,000 gallons in size at least once every five years.

(5) An owner and permittee must report to the department any variation between beginning and ending measurements that exceeds either the weekly or monthly standards in subsections (a) through (c) of this section within 24 hours as a suspected release (OAR 340-150-0500) and immediately begin investigation in accordance with 340-150-0510:

(a) For USTs of 550 gallons or less in size:

(A) Weekly standard (one test) is ten gallons.

(B) Monthly standard (average of four tests) is five gallons.

(b) For USTs of 551 to 1,000 gallons in size:

(A) Weekly standard (one test) is 13 gallons.

(B) Monthly standard (average of four tests) is seven gallons.

(c) For USTs of 1,001 to 2,000 gallons in size:

(A) Weekly standard (one test) is 26 gallons.

(B) Monthly standard (average of four tests) is 13 gallons.

(d) An owner and permittee must immediately investigate all larger-than-normal or reoccurring variations in results and report such variations to the department as a suspected release if the variation cannot be accounted for, without waiting to obtain a second week of data.

(6) An owner and permittee must retain at a minimum the most current 12 consecutive months of release detection records and the last two tightness test results.

Stat. Auth.: ORS 466.706 - ORS 466.835, ORS 466.994 & ORS 466.995

Stats. Implemented: ORS 466.746 & ORS 466.765

Hist.: DEQ 6-2003, f. & cert. ef. 2-14-03

## 340-150-0445

### Tank Tightness Testing for Release Detection and Investigation

(1) An owner and permittee using tank tightness testing in combination with a primary release detection method or as a method for investigating a suspected release must use a test method or procedure that:

(a) Is able to detect a 0.1 gallon per hour leak rate from any portion of the UST that routinely contains a regulated substance, while accounting for the effects of thermal expansion or contraction of the regulated substance, vapor pockets, tank deformation, evaporation or condensation and the location of the water table;

(b) Meets a probability of detection of at least 95 percent and a probability of false results (or false alarm, depending on method used) of no more than 5 percent;

(c) Is an approved leak detection method or equipment as listed by a national organization (e.g., the National Work Group on Leak Detection); and

(d) Is performed by a service provider or supervisor licensed by the department, except as provided by OAR 340-150-0156.

(2) Some automatic tank gauge equipment may meet the leak rate and probability requirements and may be used in place of a separate tank tightness test. To qualify as a tank tightness test, the automatic tank gauge must meet the requirements of subsections (1)(a), (b) and (c) of this rule.

(3) If an UST system fails a tank tightness test (after the tank tester has ensured that all test protocols were properly performed), an owner and permittee must report the failure to the department within 24 hours of receipt of the results as a suspected release (OAR 340-150-0500) and immediately begin investigation in accordance with 340-150-0510.

Stat. Auth.: ORS 466.706 - ORS 466.835, ORS 466.994 & ORS 466.995

Stats. Implemented: ORS 466.746 & ORS 466.765

Hist.: DEQ 6-2003, f. & cert. ef. 2-14-03

## 340-150-0450

### Automatic Tank Gauging Release Detection Method

(1) An owner and permittee using equipment for automatic tank gauging (ATG) that tests for the loss of a regulated substance and conducts inventory control as a release detection method must use equipment that meets the requirements of this section.

(a) The ATG system must:

(a) Be able to detect a 0.2 gallon per hour leak rate with a probability of detection of at least 95 percent and a probability of false alarm of no more than 5 percent for all portions of the UST that routinely contain a regulated substance; and

(b) Be the ATG system must be an approved leak detection method or equipment as listed by a national organization (e.g., the National Work Group on Leak Detection).

(2) For USTs, an owner and permittee must monitor and test for releases at least once every 30 days and record results for each month.

(3) For underground piping, an owner and permittee must monitor and test for releases if the ATG system is designed to detect a release from any portion of the underground piping that routinely contains a regulated substance and record results for each month as follows:

(a) Daily for pressurized piping.

(b) Once every 30 days for suction piping.

(4) An owner and permittee must:

(a) Report to the department any leak test results indicating the possibility of a release (i.e., test failure) within 24 hours as a suspected release (OAR 340-150-0500) and immediately begin investigation in accordance with OAR 340-150-0510; and

(b) Immediately investigate all larger-than-normal or reoccurring variations in results, including widely fluctuating water levels in the tank and report such variations as a suspected release if the variation cannot be accounted for, without waiting to obtain a second month of data.

(5) An owner and permittee must retain at a minimum the most current 12 consecutive months of release detection records.

(6) ATG systems installed before December 22, 1990, are exempt from the leak rate quantities, probability limits and third party evaluation requirements of this rule, except:

(a) The ATG system must be able to detect a 0.2 gallon per hour leak rate from any portion of the UST that routinely contains a regulated substance; and

(b) An owner and permittee can only use the ATG system to obtain daily regulated substance volumes for the inventory control release detection method (OAR 340-150-0430) if the ATG does not meet the requirements of section (1) of this rule.

Stat. Auth.: ORS 466.706 - ORS 466.835, ORS 466.994 & ORS 466.995

Stats. Implemented: ORS 466.746 & ORS 466.765

Hist.: DEQ 6-2003, f. & cert. ef. 2-14-03

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## 340-150-0455

### Vapor Monitoring Release Detection Method

(1) An owner and permittee may use testing or monitoring for vapors within the soil gas of the excavation zone as a release detection method for an UST or underground piping if the method is approved by the department in writing before installing or operating any portion of the vapor monitoring system, including wells.

(2) An owner and permittee must submit to the department, at least 30 days before installing any portion of the vapor monitoring system, a written design plan (including all technical data and design information) prepared and signed by a registered professional engineer or a registered geologist specially qualified by education and experience to design release detection systems. The design plan must meet the following minimum requirements:

(a) The materials used as backfill must be sufficiently porous (e.g., gravel, sand, crushed rock) to readily allow diffusion of vapors from releases into the excavation area;

(b) The stored regulated substance or a tracer compound placed in the UST system, must be sufficiently volatile (e.g., gasoline) to result in a vapor level that is detectable by the monitoring devices located in the excavation zone in the event of a release from the tank;

(c) The measurement of vapors by the monitoring device must not be rendered inoperative by groundwater, rainfall or soil moisture or other known interferences so that a release could go undetected for more than 30 days;

(d) The level of background contamination in the excavation zone must not interfere with the method used to detect releases from the tank; and

(e) The vapor monitors must be designed and operated to detect any significant increase in concentration above background of the regulated substance stored in the UST system, a component or components of that substance or a tracer compound placed in the UST system.

(3) Before installation of monitoring wells, an owner and permittee must have the site assessed to demonstrate compliance with the requirements of this rulesection and to establish the number and positioning of monitoring wells that will detect releases within the excavation zone from any portion of the UST or underground piping that routinely contains a regulated substance.

(4) The department will approve the installation if, after reviewing the design plan, it determines that the vapor monitoring system proposed is capable of detecting a release from any portion of the UST or underground piping that routinely contains a regulated substance.

(5) An owner and permittee must mark and secure monitoring wells at all times to prevent unauthorized access and tampering.

(6) Release detection observation, documentation and reporting requirements. An owner and permittee must:

(a) Operate and maintain the continuous monitoring device or manual method so the equipment will detect the presence of vapors as noted in subsection (2)(e) of this rule;

(b) Perform an alarm test at least once each month;

(c) Check the excavation zone for releases and record the observation results for each month. At a minimum, records must include documentation that the system is properly operated and maintained and include results of alarm tests made, according to the following schedule:

(A) On a daily basis for USTs and pressurized piping.

(B) Once every 30 days for suction piping.

(d) Report to the department any observations or alarms indicating the possibility of a release within 24 hours as a suspected release (OAR 340-150-500) and immediately begin investigation in accordance with OAR 340-150-0510.

(7) An owner and permittee must retain at a minimum the most current 12 consecutive months of release detection records and vapor well installation approval documents must be available for department review upon request.

Stat. Auth.: ORS 466.706 - ORS 466.835, ORS 466.994 & ORS 466.995

Stats. Implemented: ORS 466.746 & ORS 466.765

Hist.: DEQ 6-2003, f. & cert. ef. 2-14-03

## 340-150-0460

### Groundwater Monitoring Release Detection Method

(1) An owner and permittee may use testing or monitoring for liquid regulated substances on or in the groundwater as a release detection method for an UST or underground piping if the method is designed to detect a release from any portion of the UST or underground piping that routinely contains a regulated substance.

(2) An owner and permittee must submit to the department, at least 30 days before installing or operating any portion of the groundwater monitoring system, a written design plan (including all technical data and design

information) prepared and signed by a registered professional engineer or a registered geologist specially qualified by education and experience to design release detection systems. The design plan must meet the following minimum requirements:

(a) The regulated substance stored must be immiscible in water and have a specific gravity of less than one;

(b) Sufficient data must be included, and periodically checked, to demonstrate that groundwater will never be more than 20 feet from the ground surface and the hydraulic conductivity of the soil between the UST system and the monitoring wells or devices is not less than 0.01 cm/sec (e.g., the soil should consist of gravels, coarse to medium sands, coarse silts or other permeable materials);

(c) The slotted portion of the monitoring well casing must be designed to prevent migration of natural soils or filter pack into the well and to allow entry of regulated substance on the water table into the well under both high and low groundwater conditions;

(d) Monitoring wells must be sealed from the ground surface to the top of the filter pack; and

(e) Monitoring wells or devices must intercept the excavation zone or are as close to it as is technically feasible.

(3) Before installation of monitoring wells, an owner and permittee must have the site assessed to demonstrate compliance with the requirements of this rulesection and to establish the number and positioning of monitoring wells that will detect releases within the excavation zone from any portion of the UST or piping that routinely contains a regulated substance.

(4) The department will approve the installation if, after reviewing the design plan, it determines that the groundwater monitoring system proposed is capable of detecting a release from any portion of the UST or underground piping that routinely contains a regulated substance.

(5) An owner and permittee must mark and secure monitoring wells at all times to prevent unauthorized access and tampering.

(6) Release detection observation, documentation and reporting requirements. An owner and permittee must:

(a) Operate and maintain the continuous monitoring device or manual method so the equipment will detect the presence of at least one-eighth of an inch of free product on top of the groundwater in the monitoring wells;

(b) Perform an alarm test at least once each month;

(c) Check the excavation zone for releases and record the observation results for each month. At a minimum, records must include documentation that the system is properly operated and maintained and include results of alarm tests made, according to the following schedule:

(A) On a daily basis for USTs and pressurized piping.

(B) Once every 30 days for suction piping.

(d) Report to the department any observations or alarms indicating the possibility of a release within 24 hours as a suspected release (OAR 340-150-500) and immediately begin investigation in accordance with OAR 340-150-0510.

(7) An owner and permittee must retain at a minimum the most current 12 consecutive months of release detection records and groundwater well installation approval documents must be available for department review upon request.

Stat. Auth.: ORS 466.706 - ORS 466.835, ORS 466.994 & ORS 466.995

Stats. Implemented: ORS 466.746 & ORS 466.765

Hist.: DEQ 6-2003, f. & cert. ef. 2-14-03

## 340-150-0465

### Interstitial Monitoring Release Detection Method

(1) An owner and permittee may use an interstitial monitoring system as a release detection method if:

(a) The system is designed, constructed and installed in accordance with a national code of practice or industry standard and the interstitial monitoring system is an approved leak detection system (method and equipment) as listed by a national organization (e.g., the National Work Group on Leak Detection); and

(b) The system is able to detect a leak from any portion of an UST or underground piping that routinely contains a regulated substance.

(2) An owner and permittee must meet the following requirements for the specific type of UST system or piping:

(a) Multiwalled UST systems. The sampling or testing method must be able to detect a release through the inner wall in any portion of the UST. The provisions outlined in the Steel Tank Institute's "Standard for Dual Wall Underground Storage Tanks" (2001) may be used as guidance for aspects of the design and construction of underground metal double walled tanks.

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(b) UST systems with a secondary barrier within the excavation zone. The sampling or testing method used must be able to detect a release between the UST system and the secondary barrier.

(A) The secondary barrier around or beneath the UST system must consist of artificially constructed material that is sufficiently thick and impermeable (at least 10 -6 cm/sec for the regulated substance stored) to direct a release to the monitoring point and permit its detection;

(B) The secondary barrier must be compatible with the regulated substance stored so that a release from the UST system will not cause a deterioration of the barrier or allow a release to pass through the barrier;

(C) For USTs with corrosion protection, the secondary barrier must be installed so that it does not interfere with the proper operation of the corrosion protection system;

(D) Groundwater, soil moisture or rainfall cannot render the testing or sampling method used inoperative so that a release could go undetected for more than 30 days or one day if used for pressurized underground piping;

(E) Before installation, an owner and permittee must have the site assessed to demonstrate that the secondary barrier is always above the seasonal high groundwater level and not in a 25-year flood plain, unless the barrier and monitoring system are designed for use under such conditions; and

(F) An owner and permittee must mark and secure monitoring wells at all times to prevent unauthorized access and tampering.

(c) USTs with an internally fitted liner. An automated device must be able to detect a release between the inner wall of the UST and the liner and the liner must be compatible with the regulated substance stored.

(d) Double walled pressurized piping. Interstitial monitoring sensors must be installed in any transition sump which houses a noncontinuous junction of the interstitial space (e.g., any and all points along the piping run where the interstitial space is no longer continuous).

(3) An owner and permittee must monitor the UST and underground suction piping for a release at least every 30 days and record the results for each month.

(4) An owner and permittee must monitor pressurized underground piping for a release daily and record the results for each month.

(5) An owner and permittee must retain at a minimum the most current 12 consecutive months of release detection records. Records must include, at a minimum, the date the system was checked, observations made and the name or initials of the person conducting the monitoring. In addition, records for electronic systems must include: power status (on or off), alarm indication status (yes or no) and sensor malfunction noted (yes or no).

(6) An owner and permittee must report to the department any leak test observations, alarms or results indicating the possibility of a release to the interstitial area within 24 hours as a suspected release (OAR 340-150-0500) and immediately begin investigation in accordance with 340-150-0510.

(Publications: Publications referenced are available from the agency.)

Stat. Auth.: ORS 466.706 - ORS 466.835, ORS 466.994 & ORS 466.995

Stats. Implemented: ORS 466.746 & ORS 466.765

Hist.: DEQ 6-2003, f. & cert. ef. 2-14-03

## 340-150-0470

### Other Methods of Release Detection

(1) An owner and permittee may use a release detection method for an UST or underground piping not otherwise specified in OAR 340-150-0410 through 340-150-0465 if the device is able to detect a 0.2 gallon per hour leak rate with a probability of detection of at least 95 percent and a probability of false alarm of no more than 5 percent for all portions of the UST or underground piping that routinely contains a regulated substance and is an approved leak detection method or equipment as listed by a national organization (e.g., the National Work Group on Leak Detection).

(2) An owner and permittee must monitor the UST and underground suction piping for a release at least every 30 days and record the results for each month.

(3) An owner and permittee must monitor pressurized underground piping for a release daily and record the results for each month.

(4) An owner and permittee must:

(a) Report to the department any release detection test results indicating the possibility of a release (i.e., test failure or alarm) within 24 hours as a suspected release (OAR 340-150-0500) and immediately begin investigation in accordance with OAR 340-150-0510; and

(b) Immediately investigate all larger-than-normal or reoccurring variations in results and report such variations as a suspected release if the variation cannot be accounted for, without waiting to obtain a second confirmation of data.

(5) An owner and permittee must retain at a minimum the most current 12 consecutive months of release detection records.

Stat. Auth.: ORS 466.706 - ORS 466.835, ORS 466.994 & ORS 466.995

Stats. Implemented: ORS 466.746 & ORS 466.765

Hist.: DEQ 6-2003, f. & cert. ef. 2-14-03

## 340-150-0500

### Reporting Suspected Releases

(1) An owner and permittee of an UST system must notify the department within 24 hours and follow the procedures in OAR 340-150-0510 for any of the following conditions:

(a) The discovery by any means of a regulated substance at the UST facility or in the surrounding off site area such as, but not limited to, the presence of free product or vapors in soils, basements, sewer or utility lines or nearby surface water or release into a secondary containment area. Additionally, an owner and permittee must identify and mitigate any fire, explosion or vapor hazards at the UST facility in accordance with OAR 340-122-0220(3);

(b) Unusual operating conditions (such as, but not limited to, the erratic behavior of dispensing equipment, the sudden loss of product from the UST system, differences or widely fluctuating water levels or an unexplained presence of water in the tank) observed by the owner, permittee, employee or other knowledgeable personnel, unless system equipment is immediately tested and found to be defective, but not leaking, and is immediately repaired or replaced; or

(c) Monitoring results or alarms from any release detection method that indicates a release may have occurred, unless the monitoring device is found to be defective and is immediately repaired, recalibrated or replaced and subsequent monitoring events as required by the specific release detection method do not confirm the initial result. The specific release detection requirements are found in OAR 340-150-0420 through 340-150-0470.

(2) Upon receipt of a notice of a suspected release, a confirmation number will be provided to the owner and permittee that serves as proof that timely notice was received. This confirmation number should be referenced by an owner and permittee when reporting the results of actions taken to comply with OAR 340-150-0510.

Stat. Auth.: ORS 466.706 - ORS 466.835, ORS 466.994 & ORS 466.995

Stats. Implemented: ORS 466.746 & ORS 466.765

Hist.: DEQ 6-2003, f. & cert. ef. 2-14-03

## 340-150-0510

### Suspected Release Investigation and Confirmation Steps

(1) Following the discovery of a suspected release, an owner and permittee must immediately initiate investigation and confirmation of a suspected release of a regulated substance as required by this rule. This investigation must be completed within seven days or as otherwise approved or directed by the department.

(2) Upon expiration of the 7-day period or other period approved by the department, an owner and permittee must notify the department of the investigation results by submitting to the department:

(a) A written description of the system test conducted confirming that a release did not occur, including any test results; or

(b) A written plan of action to complete the suspected release investigation system test or site assessment. Any plan of action must include a firm schedule for completion.

(3) System test. An owner and permittee must conduct tightness testing to determine whether a leak exists in any portion of the UST that routinely contains a regulated substance (OAR 340-150-0445) or the underground piping (340-150-0410) or both. An owner and permittee must investigate the cause of a release into any secondary containment unit including, but not limited to, underground piping, turbine sumps, transition sumps and dispenser pans by conducting tests in accordance with manufacturer requirements or as directed by the department. All regulated substances (product) or product and water mixture must be removed from the containment system and properly disposed in accordance with all state, federal and local requirements.

(a) If the suspected release was not reported due to any of the conditions described in OAR 340-150-0500(1)(a) and the system test results do not indicate that a release has occurred, further investigation is not required, unless otherwise directed by the department.

(b) If the suspected release was reported due to any of the conditions described in OAR 340-150-0500(1)(a) or the system test results indicate that a release exists, an owner and permittee must assess and repair, replace or modify the UST system and begin corrective action in accordance with sections (4) and (5) of this rule.

(4) Site assessment. If the test results for the UST, piping or secondary containment units do not indicate that a release exists, but the suspected release was reported due to any of the conditions described in OAR 340-150-0500(1)(a) or if directed by the department, an owner and permittee must conduct a site assessment for contaminated soil or groundwater. An owner and permittee must measure for the presence of a release where contamination is most likely to be present based on all information available. In

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selecting sample types, sample locations and measurement methods, an owner and permittee must consider the nature of the stored substance, the type of initial alarm or cause for suspicion, the type of backfill, the depth to groundwater and other factors appropriate for identifying the presence and source of the release. The requirements for sample collection, analytical tests and methods contained in OAR 340-122-0205 through 340-122-0360 must be used as appropriate. The department may require that a sampling plan be submitted for approval before conducting any sampling on a case by case basis. In addition:

(a) If the site assessment results do not indicate that a release has occurred, further investigation is not required unless specifically directed by the department.

(b) If the site assessment results indicate that a release has occurred, an owner and permittee must begin corrective action in accordance with section (5) of this rule.

(5) If the suspected release investigation confirms that a release has occurred, an owner and permittee must report the confirmed release to the department within 24 hours of confirmation and comply with the following release reporting, site investigation and corrective action requirements:

(a) For petroleum USTs; OAR 340-122-0205 through 340-122-0360.

(b) For USTs containing nonnon petroleum regulated substances; OAR 340-122-0010 through 340-122-0115, except that releases must be reported in accordance with the requirements of OAR chapter 340, division 142.

(6) The department may require that an owner and permittee perform additional actions not specifically listed in this rule on a case by case basis to address actual or potential threat to human health or the environment.

Stat. Auth.: ORS 466.706 - ORS 466.835, ORS 466.994 & ORS 466.995

Stats. Implemented: ORS 466.746 & ORS 466.765

Hist.: DEQ 6-2003, f. & cert. ef. 2-14-03

## 340-150-0520

### Investigation Due to Off Site Impacts

When required by the department, an owner and permittee of an UST system must follow the procedures in OAR 340-150-0510 to determine if their UST system is the source of off site impacts. These impacts include, but are not limited to, the presence of a regulated substance (such as the presence of free product or vapors in soils, basements, sewer and utility lines and nearby surface and drinking waters) that has been observed by the department or brought to its attention by another person.

Stat. Auth.: ORS 466.706 - ORS 466.835, ORS 466.994 & ORS 466.995

Stats. Implemented: ORS 466.746 & ORS 466.765

Hist.: DEQ 6-2003, f. & cert. ef. 2-14-03

## 340-150-0540

### Applicability to Previously Closed UST Systems

When directed by the department, an owner of an UST system permanently closed or abandoned (e.g., left unused without being substantially emptied, decommissioned or permanently altered structurally to prevent reuse) before December 22, 1988, or an owner and permittee for any UST facility for which inadequate decommissioning records are available for review by the department, must assess the excavation zone and close the UST system in accordance with this division if a release from the UST poses, in the judgment of the department, a current or potential threat to human health or the environment.

Stat. Auth.: ORS 466.706 - ORS 466.835, ORS 466.994 & ORS 466.995

Stats. Implemented: ORS 466.746 & ORS 466.765

Hist.: DEQ 6-2003, f. & cert. ef. 2-14-03

## 340-150-0550

### Definitions for OAR 340-150-0555 and 340-150-0560

As used in OAR 340-150-0555 and 340-150-0560, the following terms are defined as follows:

(1) "Existing UST system" means an UST system used to contain an accumulation of regulated substances where installation commenced on or before December 22, 1988.

(2) "New UST system" means an UST system used to contain a regulated substance and for which installation commenced after December 22, 1988.

(3) "Upgrade" means the addition to or retrofit of an UST system to meet technical requirements for cathodic protection, lining, release detection or spill and overflow protection before December 22, 1998.

Stat. Auth.: ORS 466.706 - ORS 466.835, ORS 466.994 & ORS 466.995

Stats. Implemented: ORS 466.746 & ORS 466.765

Hist.: DEQ 6-2003, f. & cert. ef. 2-14-03

## 340-150-0555

### Compliance Dates for USTs and Piping

(1) An owner and permittee must comply with all release detection requirements for a new or existing UST system or permanently close the UST system by the following schedule:

(a) For UST systems installed before 1965 and for UST systems where the installation date is unknown:

(A) December 22, 1989, for tanks and suction piping.

(B) December 22, 1990, for pressurized piping.

(b) For UST systems installed between 1965 and 1969 - December 22, 1990, for tanks, suction piping and pressurized piping.

(c) For UST systems installed between 1970 and 1974:

(A) December 22, 1990, for pressurized piping.

(B) December 22, 1991, for tanks and suction piping.

(d) For UST systems installed between 1975 and 1979:

(A) December 22, 1990, for pressurized piping.

(B) December 22, 1992, for tanks and suction piping.

(e) For UST systems installed between 1980 and December 22, 1988:

(A) December 22, 1990, for pressurized piping.

(B) December 22, 1993, for tanks and suction piping.

(f) For tanks, suction piping and pressurized piping, release detection requirements must be met upon date of installation for all new UST systems installed after December 22, 1988.

(2) An owner and permittee of a new UST system installed after December 22, 1988, must comply with the corrosion protection performance standards for tanks and piping (OAR 340-150-0320 and 340-150-0325) by no later than December 22, 1998.

(3) An owner and permittee of an existing UST system installed on or before December 22, 1988, must comply with the requirements for upgrading USTs and piping (OAR 340-150-0560) by no later than December 22, 1998.

(4) In lieu of complying with section (2) or (3) of this rule, an owner and permittee must decommission the UST system in compliance with the requirements of OAR 340-150-0166 through 340-150-0168 by no later than December 22, 1998.

(5) An owner and permittee of a hazardous substance UST system (e.g., an UST containing any nonpetroleum regulated substance) installed on or before December 22, 1988, must comply with the release detection requirements of OAR 340-150-0400 and 340-150-0410 until December 22, 1998. After December 22, 1998, an owner and permittee of all hazardous substance UST systems must comply with the requirements of OAR 340-150-0420.

(6) An owner and permittee of a new or existing UST system that does not meet the performance standards in OAR 340-150-0300 or 340-150-0560 may use monthly inventory control and annual tank tightness testing as a release detection method until December 22, 1998. After that date, an owner and permittee must upgrade or permanently close the UST system.

Stat. Auth.: ORS 466.706 - ORS 466.835, ORS 466.994 & ORS 466.995

Stats. Implemented: ORS 466.746 & ORS 466.765

Hist.: DEQ 6-2003, f. & cert. ef. 2-14-03

## 340-150-0560

### Upgrading Requirements for Existing UST Systems

This rule describes the technical requirements for UST systems that an owner and permittee was required to meet by December 22, 1998, in accordance with OAR 340-150-0555(3). The equivalent federal rule citation has been included for reference.

(1) Tank upgrading requirements. An owner and permittee of a steel UST must upgrade the UST system to meet one of the following requirements in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory (40 § CFR 280.21(b)):

(a) Interior lining. An UST may be upgraded by internal lining (40 CFR § 280.21(b)(1) if:

(A) The lining is installed in accordance with the requirements of 40 CFR § 280.33 (OAR 340-150-0352); and

(B) Within ten years after lining and every five years thereafter, the lined UST is internally inspected and found to be structurally sound with the lining still performing in accordance with original design specifications (OAR 340-150-0360).

(b) Cathodic protection (40 CFR § 280.21(b)(2)). An UST may be upgraded by the addition of cathodic protection if the cathodic protection system meets the requirements of 40 CFR § 280.20(a)(2)(ii), (iii) and (iv) (OAR 340-150-0320(3)) and the integrity of the UST is ensured using one of the following methods:

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(A) The UST is internally inspected and assessed to ensure that the tank is structurally sound and free of corrosion holes before installing the cathodic protection system;

(B) The UST has been installed for less than ten years and is monitored monthly (or daily as required by the specific method) for releases in accordance with 40 CFR § 280.43(d) through (h) (OAR 340-150-0450 through 340-150-0470);

(C) The UST has been installed for less than ten years and is assessed for corrosion holes by conducting two tightness tests that meet the requirements of 40 CFR § 280.43(c) (OAR 340-150-0445). The first tightness test must be conducted before installing the cathodic protection system. The second tightness test must be conducted between three and six months following the first operation of the cathodic protection system; or

(D) The UST is assessed for corrosion holes by a method that is determined by the department to prevent releases in a manner that is no less protective of human health and the environment than paragraphs (A) through (C) of this subsection.

(c) Internal lining combined with cathodic protection (40 CFR § 280.21(b)(3)). An UST may be upgraded by both internal lining and cathodic protection if:

(A) The lining is installed in accordance with the requirements 40 CFR § 280.33 (OAR 340-150-0352); and

(B) The cathodic protection system meets the requirements of 40 CFR § 280.20(a)(2)(ii), (iii) and (iv) (OAR 340-150-0320(3)).

(2) An owner and permittee may use the following codes and standards to comply with section (1) of this rule:

(a) American Petroleum Institute Publication 1631 (2001), "Recommended Practice for the Interior Lining of Existing Steel Underground Storage Tanks";

(b) National Leak Prevention Association Standard 631, "Spill Prevention, Minimum 10 Year Life Extension of Existing Steel Underground Tanks by Lining Without the Addition of Cathodic Protection";

(c) National Association of Corrosion Engineers Standard RP-02-85, "Control of External Corrosion on Metallic Buried, Partially Buried or Submerged Liquid Storage Systems"; and

(d) American Petroleum Institute Publication 1632, "Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems."

(3) Piping upgrading requirements (40 CFR 280.21(c)). An owner and permittee of steel underground piping that routinely contains a regulated substance must cathodically protect the piping in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory and meet the requirements of 40 CFR § 280.20(b)(2)(ii) (iii) and (iv) (OAR 340-150-0320(2) through (4)). An owner and permittee may use the following codes and standards to comply with this requirement (40 CFR § 280.20(b)):

(a) Underwriters Laboratories Subject 971, "UL Listed Non-Metal Pipe";

(b) Underwriters Laboratories Standard 567, "Pipe Connectors for Flammable and Combustible and LP Gas";

(c) Underwriters Laboratories of Canada Guide ULC-107, "Glass Fiber Reinforced Plastic Pipe and Fittings for Flammable Liquids"; and

(d) Underwriters Laboratories of Canada Standard CAN 4-S633-M81, "Flexible Underground Hose Connectors."

(4) Spill and overflow prevention equipment (40 CFR § 280.21(d)). To prevent spilling and overflowing associated with transfer of a regulated substance to the UST system, an owner and permittee of an existing UST system must comply with new UST system spill and overflow prevention equipment requirements specified in 40 CFR § 280.20(c) (OAR 340-150-0310).

(5) Reporting requirements (40 CFR § 280.21(e) as previously modified by OAR 340-150-0003(41)). At least 30 days before beginning the upgrading of an existing UST system under sections (1) and (2) of this rule, an owner and permittee must notify the department, on a form provided by the department, of their intent to upgrade an existing UST system. Unless the department agrees to waive the requirement, at least three working days before beginning the upgrade, an owner, permittee or licensed service provider performing the work must notify the department of the confirmed date and time the upgrade will begin to allow observation by the department. An owner, permittee or licensed service provider must submit a completed installation checklist to the department within 30 days after completion of the upgrade.

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

Stat. Auth.: ORS 466.706 - ORS 466.835, ORS 466.994 & ORS 466.995

Stats. Implemented: ORS 466.746 & ORS 466.765

Hist.: DEQ 6-2003, f. & cert. ef. 2-14-03

## 340-150-0600

### Delegation of Program Administration

(1) Any agency of the state or a unit of local government that seeks the authority to administer all or part of the UST program covered by OAR chapter 340, divisions 150 and 151 must submit to the department a written application that describes the portions of the UST program it proposes to administer. The application must contain the following:

(a) A description in narrative form of the scope, structure, coverage and procedures of the proposed program; and

(b) A description, including organization charts, of the organization and structure of applicant, including:

(A) The number of employees, occupation and general duties of each employee who will carry out the activities of the program;

(B) An itemized estimate of the cost of establishing and administering the program, including the cost of personnel listed in paragraph (A) of this subsection, administrative and technical support;

(C) An itemization of the source and amount of funding available to meet the costs listed in paragraph (B) of this subsection, including any restrictions or limitations upon this funding;

(D) A description of applicable procedures, including permit procedures;

(E) Copies of the permit form, application form and reporting form that will be used in the program;

(F) A complete description of the methods to be used to assure compliance and for enforcement of the program;

(G) A description of the procedures to be used to coordinate information with the department, including the frequency of reporting and report content; and

(H) A description of the procedures the applicant will use to comply with trade secret laws under ORS 192.500 and 468.910.

(2) Within 60 days after receiving the application, the department will review the application for completeness and request any additional information needed. The department will notify the applicant in writing when the application is complete.

(3) Within 120 days after the application is complete, the department will:

(a) Approve the proposal by submitting a signed agreement or contract to the applicant that outlines the terms and conditions under which the department agrees to delegate all or a portion of the UST program described in section (1) of this rule; or

(b) Deny the application if the department finds the program described by the applicant is not equivalent to the department's UST program.

(4) The agreement or contract may be terminated by either party by providing 30 days prior notice in writing.

Stat. Auth.: ORS 466.706 - 466.835, 466.994 & 466.995

Stats. Implemented: ORS 466.730

Hist.: DEQ 20-1990, f. & cert. ef. 6-7-90; DEQ 6-2003, f. & cert. ef. 2-14-03, Renumbered from 340-150-0115

## 340-150-0620

### Approval of More Stringent Performance Standards

(1) Any unit of local government may petition the department for more stringent UST performance standards for UST systems in the vicinity of an underground water source. Administrative rules for more stringent performance standards may be proposed for adoption by the commission where the department finds that it is necessary to protect the underground water resource through more stringent UST performance standards.

(2) The petition must be made to the department in writing and must include the following information:

(a) A description of the underground water resource including, but not limited to:

(A) The geographical limits of the area where more stringent UST performance standards are required;

(B) The geographical limits of the groundwater recharge zone;

(C) The geographical limits of the underground water resource;

(D) The geology within both the recharge zone and the underground water resource;

(E) The location, size and present use of wells within the limits of the underground water resource; and

(F) The estimated capacity of the underground water resource.

(b) A description of the existing threats to the groundwater resource including, but not limited to:

(A) Location, type and number of USTs;

(B) Agricultural effluent and rainwater runoff;

(C) Industrial effluent and rainwater runoff; and

(D) Rainwater runoff from roads and parking lots.

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(c) A description of the UST performance standards required, including UST technical standards, operating standards and administrative procedures; and

(d) A description of the emergency conditions, if the petitioner requests adoption of emergency rules.

(3) Within 60 days after receiving the petition, the department will review the petition for completeness and request any additional information needed. The department will notify the petitioner in writing when the petition is complete.

(4) Within 120 days after the petition is complete, the department will recommend to the commission that:

(a) The department initiate rulemaking to implement the performance standards requested; or

(b) The petition be denied if the department finds that more stringent UST performance standards are not necessary to protect the underground water resource.

Stat. Auth.: ORS 466.706 - 466.835, 466.994 & 466.995

Stats. Implemented: ORS 466.746

Hist.: DEQ 20-1990, f. & cert. ef. 6-7-90; DEQ 6-2003, f. & cert. ef. 2-14-03, Renumbered from 340-150-0125

## 340-151-0001

### Purpose

The purpose of these rules is to protect public health, safety, welfare and the environment from the potential harmful effects of spills and releases of petroleum from USTs by requiring UST owners and permittees to maintain sufficient financial resources in the event that corrective action or compensation for bodily injury or property damage is required.

Stat. Auth.: ORS 466.746 & ORS 466.815

Stats. Implemented: ORS 466.815

Hist.: DEQ 6-2003, f. & cert. ef. 2-14-03

## 340-151-0010

### Scope and Applicability

(1) Except as provided in section (2), an owner and permittee of a petroleum UST system that meets the requirements of OAR 340-150-0006 and that is not exempted or deferred by 340-150-0008, must comply with this division.

(2) State and federal government entities the debts and liabilities of which are the debts and liabilities of a state or the United States are exempt from the requirements of this division.

(3) If the owner and permittee of a petroleum UST are separate persons, only one of them is required to demonstrate financial responsibility. Both are, however, jointly liable in the event of noncompliance. Regardless of which person complies, the date set for compliance at a particular UST facility is determined by the characteristics of the owner as set forth in **40 CFR § 280.91**.

(4) Each chamber or compartment of a multichamber or multicompart UST is an individual tank for the purpose of OAR chapter 340, divisions 150 and 151.

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

Stat. Auth.: ORS 466.746 & ORS 466.815

Stats. Implemented: ORS 466.815

Hist.: DEQ 6-2003, f. & cert. ef. 2-14-03

## 340-151-0015

### Adoption and Applicability of United States Environmental Protection Agency Regulations

Except as otherwise modified or specified in this division, the rules of the United States Environmental Protection Agency governing the financial responsibility requirements for owners and operators of underground storage tanks in **Title 40 CFR, Part 280, Subpart H** in effect as of February 1, 2003 are adopted by the commission, incorporated by reference into this division, and applicable to all persons subject to this division. In addition to the Oregon-specific requirements in this division (OAR 340-151-0025), persons subject to this division must consult **40 CFR §§ 280.90** through 280.115 to determine applicable financial responsibility requirements.

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

Stat. Auth.: ORS 466.746 & ORS 466.815

Stats. Implemented: ORS 466.815

Hist.: DEQ 6-2003, f. & cert. ef. 2-14-03

## 340-151-0020

### Definitions

The definitions and terms used in OAR 340-150-0010 and **40 CFR § 280.92** apply to this division.

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

Stat. Auth.: ORS 466.746 & ORS 466.815

Stats. Implemented: ORS 466.815

Hist.: DEQ 6-2003, f. & cert. ef. 2-14-03

## 340-151-0025

### Oregon-Specific Financial Responsibility Requirements

The following rules in bold type substitute new language in lieu of or insert new language in addition to that in 40 CFR §§ 280.90 through 280.115:

(1) The term "owner and permittee" is substituted in lieu of the term "owner or operator" as that term is used throughout 40 CFR Part 280, Subpart H.

(2) The following terms are in addition to the definitions in 40 CFR § 280.92: "Owner" means a person who currently owns an UST or owned an UST during the tank's operational life, including:

(a) In the case of an UST system in use on November 8, 1984, or brought into use after that date, any person who owns an UST system used for storage, use or dispensing of regulated substances; and

(b) In the case of an UST system in use before November 8, 1984, but no longer in use on that date, any person who owned such UST immediately before the discontinuation of its use. "Permittee" means the owner or person designated by the owner, who is in control of or has responsibility for daily UST system operation and maintenance, financial responsibility and UST operator training requirements under a general permit pursuant to OAR 340-150-0160 through 340-150-0168.

(3) The following requirement is in addition to 40 CFR § 280.97 (a) through (c):

(a) Each insurance policy or cover page must include the UST facility identification number issued by the department for each UST facility at which petroleum USTs are located.

(4) The following language is substituted in lieu of 40 CFR § 280.108 (b):

(a) After obtaining alternate financial assurance as specified in this subpart, an owner or operator may cancel a financial assurance mechanism by providing notice to the provider of financial assurance. Within 30 days after a substitution is made, the owner and permittee must:

(A) Provide notice of cancellation of the previous financial assurance mechanism to the department and the former provider of financial assurance; and

(B) Provide a copy of the new financial responsibility mechanism to the department that demonstrates full compliance with the requirements of this division.

(5) The following requirement is in addition to the notice requirement in the first sentence of 40 CFR § 280.109 (a):

(a) Except as otherwise provided, a provider of financial assurance may cancel or fail to renew an assurance mechanism by sending a notice of termination by certified mail to the owner or operator, with a copy provided to the department by first class mail delivery.

(6) The following language is substituted in lieu of 40 CFR § 280.110(a)(1):

(a) Within 30 days after the owner or operator identifies a release from an underground storage tank required to be reported under §280.53 or §280.61 OAR 340-122-0205 through 340-122-0360.

(7) The following requirements are in addition to 40 CFR § 280.110(a)(1) through (a)(3):

(a) With an application to modify an UST general permit registration certificate as required by OAR 340-150-0052 for a change in owner or permittee; and

(b) Within 30 days after a new financial responsibility mechanism is obtained that replaces or substitutes for a previous mechanism as required by 40 CFR § 280.108.

(8) The following requirement is in addition to 40 CFR § 280.110(a) through (c):

(a) An owner and permittee or provider of financial assurance on their behalf, must notify the department by 15 days after the end of the previous month in which any of the following changes to a liability insurance policy (as amended by endorsement or certificate of insurance) occur as a result of actions by the owner, permittee or insurer:

(A) Cancellation;

(B) Failure to renew; or

(C) Issuance of a new or modified insurance policy.

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

Stat. Auth.: ORS 466.746 & ORS 466.815

Stats. Implemented: ORS 466.815

Hist.: DEQ 6-2003, f. & cert. ef. 2-14-03

## 340-160-0005

### Purpose

(1) The purpose of these rules is to provide for the regulation of persons performing services for underground storage tank (UST) systems to assure that UST systems are being serviced in a manner which will protect



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the public health and welfare and the land and waters within the State of Oregon. These rules establish standards for:

- (a) Licensing of persons performing UST services;
  - (b) Examination, qualification and licensing of individuals who supervise the performance of UST services; and
  - (c) Administration and enforcement of these rules by the department.
- (2) Except as provided in section (3), this division applies to the installation, modification, decommissioning and testing of USTs regulated under OAR chapter 340, division 150.

(3) Except as provided by OAR 340-150-0156, this division does not apply to UST services performed by the property owner, owner or permittee.

Stat. Auth.: ORS 466.746 & ORS 466.750

Stats. Implemented: ORS 466.750

Hist.: DEQ 3-1989, f. & cert. ef. 3-10-89; DEQ 15-1991, f. & cert. ef. 8-14-91; DEQ 6-2003, f. & cert. ef. 2-14-03

## 340-160-0010

### Definitions

The definitions and terms used in OAR 340-150-0010 and this rule apply to this division:

(1) "Person" means an individual, trust, firm, joint stock company, corporation, partnership, joint venture, consortium, association, state, municipality, commission, political subdivision of a state or any interstate body, any commercial entity or the federal government or any agency of the federal government.

(2) "Service provider" means a person licensed by the department to offer to perform or perform UST services on USTs regulated under OAR chapter 340, division 150.

(3) "Supervisor" means an individual licensed by the department to direct and oversee specific UST services.

(4) "UST services" includes without limitation, installation, decommissioning, modification, testing (e.g., cathodic protection and tank tightness), and inspection of UST systems.

Stat. Auth.: ORS 466.746 & ORS 466.750

Stats. Implemented: ORS 466.706 & ORS 466.750

Hist.: DEQ 3-1989, f. & cert. ef. 3-10-89; DEQ 21-1989(Temp), f. & cert. ef. 9-18-89; DEQ 11-1990, f. & cert. ef. 3-13-90; DEQ 6-2003, f. & cert. ef. 2-14-03

## 340-160-0020

### General Provisions

(1) A person may not perform or offer to perform UST services without first obtaining a license from the department.

(2) A service provider is prohibited from offering or performing UST services on an UST system defined by OAR 340-150-0010(84) (except as exempted or deferred by OAR 340-150-0008), unless the owner and permittee of the UST system have been issued a general permit registration certificate by the department.

(3) A service provider must:

- (a) Comply with this division;
- (b) Have proof of current license available when UST services are performed;

(c) Maintain a current address on file with the department; and

(d) Perform UST services in a manner that conforms with all federal and state regulations applicable at the time the services are being performed.

(4) A service provider must submit a checklist on a form provided by the department to the department within 30 days, or as otherwise required for the UST owner and permittee, following the completion of UST services. In addition, the service provider must meet the following requirements:

(a) All checklists must be signed by an executive officer of the service provider and the supervisor of the project; and

(b) An as-built drawing of the completed UST installation or modification must be included with the associated checklist.

(5) A supervisor must be present during UST installation and modification when the following tasks are being performed:

(a) Preparation of the excavation immediately before receiving backfill and placement of the tank into the excavation;

(b) Any movement of the tank, including but not limited to, transferring the tank from the vehicle used to transport it to the project site;

(c) Setting of the tank and its associated piping into the excavation, including placement of any anchoring devices, backfill to the level of the tank and strapping, if any;

(d) Placement and connection of the piping system to the tank;

(e) Installation of cathodic protection;

(f) All pressure testing of the UST system, including associated piping, performed during the installation or modification;

(g) Completion of the backfill and filling of the excavated area around the installed UST;

(h) Preparation for and installation of any tank lining systems; and

(i) UST excavation.

(6) A supervisor must be present during an UST decommissioning when the following tasks are being performed:

(a) UST excavation;

(b) Removal and capping of vent and product lines;

(c) Cleaning the UST and removal of contents;

(d) Tank purging or inerting;

(e) Any movement of the tank, including but not limited to transferring the tank to the vehicle used to transport it from the project site; and

(f) Collection of soil and water samples.

(7) A supervisor must be present during the testing of an UST cathodic protection system.

(8) A supervisor must be present during the tank tightness testing of an UST system performed under OAR 340-150-0445.

(9) A service provider must report to the department the existence of any condition relating to an UST system that has or may result in a release to the environment within 72 hours of discovery of the condition.

(10) The requirements of this section are in addition to and not in lieu of any other licensing requirement imposed by law.

Stat. Auth.: ORS 465.200 - ORS 465.320 & ORS 466.706 - ORS 466.750

Stats. Implemented: ORS 466.706 & ORS 466.750

Hist.: DEQ 3-1989, f. & cert. ef. 3-10-89; DEQ 15-1991, f. & cert. ef. 8-14-91; DEQ 6-2003, f. & cert. ef. 2-14-03

## 340-160-0025

### Types of Licenses

(1) The department may issue the following types of licenses:

(a) Service provider;

(b) Installation supervisor;

(c) Decommissioning supervisor;

(d) Tank tightness test supervisor; and

(e) Cathodic protection system test supervisor.

(2) Licenses will be issued in accordance with the requirements of OAR 340-160-0030 for service providers and 340-160-0035 for supervisors.

Stat. Auth.: ORS 466.746 & ORS 466.750

Stats. Implemented: ORS 466.750

Hist.: DEQ 3-1989, f. & cert. ef. 3-10-89; DEQ 6-2003, f. & cert. ef. 2-14-03

## 340-160-0030

### Licensing of UST Service Providers

(1) To apply for a service provider license, a person must submit an application to the department on a form provided by the department that includes:

(a) The name, address and telephone number of the applicant;

(b) The category(ies) of UST services to be performed;

(c) A summary of the UST services provided by the applicant within the two year period immediately preceding the application, including the number of UST service projects completed in each category of UST services and identification of any other industry or government licenses held by the applicant related to specific UST services;

(d) A list of employees with supervisor licenses, the specific UST services for which they are licensed, the date the employee received a license from the department and each employee's license number;

(e) A signed statement that certifies that: "I [insert name], am the chief executive officer of [insert company name] and do hereby certify that I have obtained a copy of the applicable laws and rules pertaining to the regulation of underground storage tanks in the State of Oregon and that I have read them and will direct the employees and principals of this company to perform the UST services rendered by this company in accordance with those laws and rules"; and

(f) The required license fee.

(2) The department will review the application for completeness. If the application is incomplete, the applicant will be notified in writing of the deficiencies.

(3) The department may deny, in writing, a license to an applicant who has not satisfied the license application requirements.

(4) If the application is approved, a service provider license will be issued to the applicant. The license is valid for a period of 12 months.

(5) License renewals must be applied for in the same manner as required for an initial license, except the service provider must submit the complete renewal application to the department at least 30 days before the expiration date of the current license.

(6) The department may suspend, revoke or refuse to issue a license if the service provider:

- (a) Fraudulently obtains or attempts to obtain a license;

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(b) Fails at any time to satisfy the requirements for a license or to comply with the rules of this division or OAR chapter 340, division 150;

(c) Fails to meet any applicable state or federal standard relating to the UST services performed under the license; or

(d) Fails to employ and designate a licensed supervisor for each UST service project.

(7) A service provider who has a license suspended or revoked may reapply for a license after demonstrating to the department that the cause of the suspension or revocation has been resolved.

(8) If a service provider no longer employs a licensed supervisor, the service provider must immediately cease providing UST services. The service provider cannot provide UST services until a licensed supervisor is again employed by the service provider and written notice of the hiring of a licensed supervisor is received by the department.

Stat. Auth.: ORS 466.746 & ORS 466.750

Stats. Implemented: ORS 466.750

Hist.: DEQ 3-1989, f. & cert. ef. 3-10-89; DEQ 6-2003, f. & cert. ef. 2-14-03

## 340-160-0035

### Supervisor Licensing

(1) To obtain a license from the department to supervise the installation, decommissioning or testing of an UST, an individual must submit an application to the department on a form provided by the department within 30 days of passing the qualifying examination. The application must include the appropriate fee and documentation that the applicant passed the applicable supervisor examination.

(2) A supervisor license is valid for 24 months.

(3) License renewals must be applied for in the same manner as application for the original license, including re-examination, except the supervisor must submit the renewal application to the department at least 30 days before the current license expires.

(4) The department may suspend or revoke a supervisor's license for failure to comply with any state or federal rule or regulation pertaining to the management of underground storage tanks. If a supervisor's license is revoked, the individual may not reapply less than 90 days after the revocation date.

(5) Upon issuance of a supervisor license, an identification card will be provided that shows the license number and license expiration date for each UST services category.

(6) A supervisor must have his or her current license identification card available for inspection during each UST service project.

Stat. Auth.: ORS 466.746 & ORS 466.750

Stats. Implemented: ORS 466.750

Hist.: DEQ 3-1989, f. & cert. ef. 3-10-89; DEQ 15-1991, f. & cert. ef. 8-14-91; DEQ 6-2003, f. & cert. ef. 2-14-03

## 340-160-0040

### Supervisor Examinations

(1) To apply for a license from the department to supervise the installation, decommissioning or testing of an UST, an individual must take and pass a qualifying examination approved by the department.

(2) In lieu of the requirements of section (1), an applicant may meet the requirements for licensing by reciprocity by providing proof acceptable to the department that the applicant has:

(a) Successfully passed an equivalent supervisor examination in another jurisdiction; and

(b) Demonstrate knowledge of applicable Oregon rules and regulations.

Stat. Auth.: ORS 466.746 & ORS 466.750

Stats. Implemented: ORS 466.750

Hist.: DEQ 3-1989, f. & cert. ef. 3-10-89; DEQ 6-2003, f. & cert. ef. 2-14-03

## 340-160-0054

### Reciprocity with Other Jurisdictions

The department may develop agreements with other jurisdictions for the purposes of establishing reciprocity in training, licensing, and certification if the department finds that the training, licensing and certification standards of the other jurisdictions are at least as stringent as those required by this division.

Stat. Auth.: ORS 466.746 & ORS 466.750

Stats. Implemented: ORS 466.750

Hist.: DEQ 15-1991, f. & cert. ef. 8-14-91; DEQ 6-2003, f. & cert. ef. 2-14-03

## 340-160-0150

### Fees

(1) The nonrefundable application fee for a service provider license is \$300.

(2) The nonrefundable application fee for a supervisor license is \$150. This fee covers up to four supervisor license categories, if the expiration date is the same for all license categories.

Stat. Auth.: ORS 466.746 & ORS 466.750

Stats. Implemented: ORS 466.750

Hist.: DEQ 3-1989, f. & cert. ef. 3-10-89; DEQ 15-1991, f. & cert. ef. 8-14-91; DEQ 6-2003, f. & cert. ef. 2-14-03

## Department of Fish and Wildlife Chapter 635

Adm. Order No.: DFW 2-2003

Filed with Sec. of State: 1-17-2003

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Rules Amended: 635-045-0000, 635-045-0002, 635-060-0000, 635-065-0001, 635-065-0015, 635-065-0090, 635-065-0101, 635-065-0301, 635-065-0401, 635-065-0625, 635-065-0735, 635-065-0740, 635-065-0765, 635-066-0000, 635-066-0020, 635-067-0000, 635-067-0004, 635-067-0015, 635-067-0032, 635-067-0034, 635-067-0040, 635-069-0010, 635-070-0000, 635-071-0000, 635-071-0030, 635-072-0000, 635-073-0001, 635-073-0070, 635-073-0080, 635-073-0090, 635-078-0008, 635-080-0070

Subject: Establish 2003 hunting regulations for game mammals, including season dates, open areas, locations of cooperative travel management areas, and other rules including general hunting and controlled hunt regulations. Specific rules changes include a new travel management area in the North Alsea-Stott Mtn. area; changes to cougar quotas; leftover tags for spring bear, and spring bear controlled hunt tag correction factor to account for tags drawn but not purchased. Modifications in rules governing the Bighorn Sheep Auction Tag and Bighorn Sheep Raffle Tags will be made. Modifications in date change pertaining to Hunt 655B3-Walla Walla River No. 3 will be made. The season dates were printed in error in the 2002 Oregon Big Game Regulations.

Rules Coordinator: Mike Lueck—(503) 872-5272, ext. 5447

## 635-045-0000

### Purpose

(1) The purpose of these rules is to list definitions pursuant to hunting seasons for big game and game birds.

(2) The documents entitled "2002-2003 Oregon Game Bird Regulations", and "2003 Oregon Big Game Regulations", are incorporated by reference into these rules. These documents are available at hunting license vendors and regional, district and headquarters offices of the Oregon Department of Fish and Wildlife

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

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

Hist.: FWC 36-1988, f. & cert. ef. 6-13-88; FWC 47-1989, f. & cert. ef. 7-25-89; FWC 14-1990, f. & cert. ef. 2-2-90; FWC 91-1990, f. & cert. ef. 9-4-90; FWC 42-1996, f. & cert. ef. 8-12-96; FWC 53-1997, f. & cert. ef. 9-3-97; DFW 61-1998, f. & cert. ef. 8-10-98; DFW 75-1998, f. & cert. ef. 9-4-98; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 56-1999, f. & cert. ef. 8-13-99; DFW 92-1999, f. 12-8-99, cert. ef. 1-1-00; DFW 51-2000, f. & cert. ef. 8-22-00; DFW 82-2000, f. 12-21-00, cert. ef. 1-1-01; DFW 73-2001, f. & cert. ef. 8-15-01; DFW 121-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 88-2002, f. & cert. ef. 8-14-02; DFW 2-2003, f. & cert. ef. 1-17-03

## 635-045-0002

### Definitions

(1) "Adult hunting license" is a resident or nonresident hunter's license, resident combination angler's and hunter's license, disabled war veteran's license, pioneer's hunting license or senior citizen's hunting and fishing license.

(2) "Agricultural lands" are lands that are not less than ten acres in extent that have been cultivated and planted or irrigated to domestic crops that are currently in use. Isolated home gardens, abandoned farmsteads, logged lands, rangelands, and tree farms, are not included in this definition.

(3) "Antler Point" is a point at least one inch in length measured from tip of point to nearest edge of beam. This definition applies only to the three-point elk and spike only elk bag limits.

(4) "Antlerless deer" means doe or fawn deer.

(5) "Antlerless elk" means cow or calf elk.

(6) "Application" means the electronic form completed and purchased to apply for a hunt where the number or distribution of hunters is limited through a public drawing or other means. Mail order applications

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sent to the Department along with the proper remittance are used to generate the electronic form.

(7) "Baited Area" means an area where baiting has taken place.

(8) "Baiting" means the placing, exposing, depositing, distributing, or scattering of corn, wheat, salt or other feed to constitute a lure or enticement to, on, or over an area where hunters are attempting to take game birds.

(9) "Brace Height" is the distance from the back of the bow's riser at the handgrip to the string when the bow is at rest.

(10) "Calendar year" means from January 1 through December 31.

(11) "Carcass" is the skinned or unskinned body, with or without entrails, of a gamebird or game mammal.

(12) "Cascade elk" means any live elk occurring in the Dixon, Evans Creek, Indigo, Keno, McKenzie, Metolius, Rogue, Santiam and Upper Deschutes units and those parts of Fort Rock and Sprague units west of Highway 97, and that part of Grizzly Unit west of Hwy 97 and south of Hwy 26.

(13) "Cervid" means any member of the family cervidae (deer), including gametes or hybrids. Species included within the family, taxonomic nomenclature, and other matters pertaining to the identification of animals within the family shall be that of *Walker's Mammals of the World, Sixth Edition*, Johns Hopkins University Press, Baltimore, Maryland, 1999, by Ronald M. Nowak.

(14) "Cervid Propagation License — Type 1" means a license required to hold any live cervid species other than fallow deer and reindeer except as provided in OAR 635-049-0010(1)-(3).

(15) "Cervid Propagation License — Type 2" means a license required to hold live fallow deer and reindeer except as provided in OAR 635-049-0010(1)-(3).

(16) "Closed season" is any time and place when it is not authorized to take a specific species, sex or size of wildlife.

(17) "Coast elk" means any live elk occurring in the Alsea, Applegate, Chetco, Melrose, Powers, Saddle Mountain, Scappoose, Siuslaw, Sixes, Stott Mountain, Tioga, Trask, Willamette, and Wilson units.

(18) "Commission" means the Oregon Fish and Wildlife Commission.

(19) "Controlled hunt" is a season where the number or distribution of hunters is limited through a public drawing or other means.

(20) "Department" means the Oregon Department of Fish and Wildlife.

(21) "Director" means the Oregon Fish and Wildlife Director.

(22) "Eastern Oregon" means all counties east of the summit of the Cascade Range including all of Klamath and Hood River counties.

(23) "Eastern Oregon deer" means any live deer occurring east of the east boundaries of the Santiam, McKenzie, Dixon, Indigo and Rogue units.

(24) "Eligible Hunter" means someone who will be 12 years of age by the time they hunt.

(25) "Entry permit" means a permit issued by the Department to be in an area where entry is restricted by regulation.

(26) "Established airport" is one that the Aeronautics Division has licensed as a public-use airport, registered as a personal-use airport, or specifically exempted from either licensing or registration.

(27) "Evidence of lawful possession" means any license or permit allowing possession of the specified live cervid; or other documentation establishing lawful possession, including but not limited to a statement of nonrequirement for a license or permit for the specified live cervid granted by the country or state of origin.

(28) "Facility" means the location where animals are held, including the exterior perimeter fence and all pastures, paddocks, runways, buildings, and pens therein.

(29) "Feral Swine" means animals of the genus *Sus* as defined by the Oregon Department of Agriculture in OAR 603-010-0055.

(30) "Fiscal year" means from July 1 through June 30.

(31) "Furbearers" are beaver, bobcat, fisher, marten, mink, muskrat, otter, raccoon, red fox, and gray fox.

(32) "Game Birds" are any waterfowl, snipe, band-tailed pigeon, dove, pheasant, quail, partridge, grouse, or wild turkey.

(33) "Game mammals" are pronghorn antelope, black bear, cougar, deer, elk, moose, Rocky Mountain goat, bighorn sheep, and western gray squirrel.

(34) "General season" is any season open to the holder of a valid hunting license and appropriate game mammal tag without restriction as to the number of participants.

(35) "Hold" means any form of possession or control of an animal, gamete, hybrid, or part thereof.

(36) "Hunter certification" means to have met educational, safety or other requirements designated by administrative rule for participation in a hunt.

(37) "Hunt" means to take or attempt to take any wildlife by means involving the use of a weapon or with the assistance of any mammal or bird.

(38) "Husbandry" means the care given animals directly by their owners and managers, including but not limited to:

- (a) Nutrition;
- (b) Breeding program;
- (c) Veterinary medical care;
- (d) Environmental cleanliness; and
- (e) Humane handling.

(39) "Immediate family" means a landowner's spouse, children, father, mother, brother, sister, stepchildren, and grandchildren.

(40) "Inedible" means unfit for human consumption.

(41) "Landowner", as used in OAR chapter 635, division 075, means:  
(a) A person who holds title in trust or in fee simple to 40 or more contiguous acres of land; provided however that a recorded deed or contract of ownership shall be on file in the county in which the land is located; and/or

(b) A corporation holding title in fee simple to 40 or more contiguous acres of land; provided however that the corporation shall be registered with the State of Oregon; and/or

(c) A partnership holding title in fee simple to 40 or more contiguous acres of land; and/or

(d) Persons who hold title as part of a time share are not eligible for landowner preference.

(42) "Low Income" means a person who is "economically disadvantaged" as defined in Section 4(8) of the Federal Job Training Partnership Act of 1982.

(43) "Mounted Wildlife" means any hide, head or whole body of wildlife prepared by a licensed taxidermist for display.

(44) "Muzzleloader" is any single-barreled (shotguns may be double barreled) long gun meant to be fired from the shoulder and loaded from the muzzle with an open ignition system and open or peep sights.

(45) "Native cervid" means mule deer, black-tailed deer, white-tailed deer, Roosevelt elk, Rocky Mountain elk and moose, including gamete or hybrid.

(46) "Nonindigenous cervid" means any member of a cervid species, including gamete or hybrid, not classified as a native cervid species.

(47) "On or within" means a straight line distance measured on a map.

(48) "One deer" means a buck, doe, or fawn deer.

(49) "One elk" means a bull, cow, or calf elk.

(50) "Open Ignition" is an ignition system where the percussion cap, or frizzen, or flint is visible and exposed to the weather at all times and is not capable of being closed or covered by any permanent piece of the weapon.

(51) "Partner" means a person in an association of two or more persons formed to carry on as co-owners for profit.

(52) "Point-of-Sale" (POS) is a computerized licensing system available at locations that sell Oregon's hunting and angling licenses. Licenses and tags are generated and issued directly to customers from a POS machine at the time of sale.

(53) "Possession" means to have physical possession or to otherwise exercise dominion or control over any wildlife or parts thereof, and any person who counsels, aids or assists another person holding such wildlife is deemed equally in possession.

(54) "Postmark" means the date of mailing as stated in a mark applied by the U.S. Postal Service to a piece of mail. Office postal machine meter marks are not valid application deadline postmarks.

(55) "Predatory animals" means coyotes, rabbits, rodents, and feral swine which are or may be destructive to agricultural crops, products and activities.

(56) "Protected wildlife" means "game mammals" as defined in OAR 635-045-0002(33), "game birds" as defined in 635-045-0002(32), "furbearers" as defined in 635-045-0002(31), "threatened and endangered species" as defined in 635-100-0125, and "nongame wildlife protected" as defined in 635-044-0130.

(57) "Pursue" means the act of trailing, tracking, or chasing wildlife in an attempt to locate, capture, catch, tree, or kill any game mammal or furbearer.

(58) "Raw pelt" means any pelt that has not been processed or converted to any usable form beyond initial cleaning, stretching, and drying.

(59) "Red deer" means any species, subspecies, or race of the elk-red deer-wapiti complex *Cervus elaphus* not indigenous to the state of Oregon.

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(60) "Release" is permitting any domestically-raised or imported wildlife currently or previously in possession to exist alive outside an approved holding or propagation facility. For the purposes of OAR chapter 635, division 049, release means permitting a cervid currently or previously in possession to exist alive outside an approved holding or propagating facility, except animals that are in transit pursuant to OAR 635-049-0075.

(61) "Resident" is any person who has resided in Oregon for a period of at least six months immediately prior to the date of making application for a license or tag. Members of the armed forces assigned to permanent duty status in Oregon including spouses and dependent children, and foreign exchange students attending school in Oregon under a foreign student exchange program may purchase a resident license and tags. All other persons are nonresidents.

(62) "Resident juvenile" is any "Resident" of Oregon 14 through 17 years of age.

(63) "River" is that portion of a natural water body lying below the level of bankfull stage. Bankfull stage is the stage or elevation at which overflow of the natural banks of a stream or body of water begins to inundate the upland.

(64) "Rocky Mountain elk" is any live elk occurring east of the following described line: Beginning at the California line on Highway 97; north on Highway 97 to State Highway 26 at Madras; northwest on Highway 26 to east boundary of Santiam Unit; north along east boundary of Santiam Unit to the Columbia River.

(65) "Shotgun" is a smoothbore firearm, designed for firing birdshot, and intended to be fired from the shoulder, with a barrel length of 18 inches or more, and with an overall length of 26 inches or more. Exception: Shotguns equipped with rifled slug barrels are considered shotguns when used for hunting pronghorn antelope, black bear, cougar, deer, or elk when centerfire rifles or shotguns are legal weapons.

(66) "Sight bait" is exposed flesh bait within 15 feet of any leghold trap set for carnivores.

(67) "Spike deer" is a deer with spike (unbranched) antlers.

(68) "Spike-only bull elk" means a bull elk with at least one visible unbranched antler (brow tines are not considered an antler branch under spike-only regulations).

(69) "Stockholder" is a person who owns stock within a corporation as defined in OAR 635-045-0002(41)(b).

(70) "Take" means to kill or obtain possession or control of any wildlife.

(71) "Tag" is a document authorizing the taking of a designated kind of mammal at a specified time and place.

(72) "Unbarbed broadhead" is a fixed position arrowhead where the rear edge of the blade(s) forms an angle with the arrow shaft to which it is attached of 90° or greater.

(73) "Unprotected Mammals and Birds" are European starling, house sparrow, rock dove and any mammal species for which there are no closed seasons or bag limits.

(74) "Valid certification permit" is a permit for the current season that has not become invalid after taking a season limit or illegal game bird.

(75) "Visible Antler" means a velvet or hardened antler that is visible above the hairline on the skullcap and is capable of being shed.

(76) "Wait period" means the length of time a successful controlled hunt applicant must wait before reapplying for the species for which he was successful in drawing.

(77) "Waste" means to allow any edible portion of any game mammal (except cougar) or game bird to be rendered unfit for human consumption, or, to fail to retrieve edible portions, except internal organs, of such game mammals or game birds from the field. Entrails, including the heart and liver, are not considered edible.

(78) "Waterfowl" means ducks, geese, mergansers and coots.

(79) "Weapon" is any device used to take or attempt to take wildlife.

(80) "Western Oregon" means all counties west of the summit of the Cascade Range except Klamath and Hood River counties.

(81) "Western Oregon deer" is any live deer except the Columbian white-tailed deer occurring west of the east boundaries of the Santiam, McKenzie, Dixon, Indigo, and Rogue units.

(82) "Wildlife" means fish, wild birds, amphibians, reptiles, wild mammals, and feral swine.

(83) "Wildlife" means for the purposes of harassment to relieve damage described in OAR 635-043-0096 through 635-043-0115, game mammals, game birds except migratory birds protected by Federal law, furbearing mammals and wildlife declared protected by the commission.

(84) "Wildlife" means for the purposes of scientific taking described in OAR 635-043-0023 through 635-043-0045, wild birds, wild mammals, amphibians and reptiles, including nests, eggs, or young of same.

(85) "Wildlife unit" is a geographic area described in OAR 635-080-0000 through 635-080-0077.

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

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

Hist.: FWC 47-1989, f. & cert. ef. 7-25-89; FWC 104-1989, f. & cert. ef. 9-29-89; FWC 14-1990, f. & cert. ef. 2-2-90; FWC 22-1990, f. & cert. ef. 3-21-90; FWC 17-1991, f. & cert. ef. 3-12-91; FWC 33-1991, f. & cert. ef. 3-25-91; FWC 50-1991, f. & cert. ef. 5-13-91; FWC 57-1991, f. & cert. ef. 6-24-91; FWC 9-1993, f. & cert. ef. 2-8-93; FWC 6-1994, f. & cert. ef. 1-26-94; FWC 20-1995, f. & cert. ef. 3-6-95; FWC 63-1995, f. & cert. ef. 8-3-95; FWC 21-1996, f. & cert. ef. 5-1-96; FWC 50-1996, f. & cert. ef. 8-30-96; FWC 38-1997, f. & cert. ef. 6-17-97; FWC 53-1997, f. & cert. ef. 9-3-97; FWC 71-1997, f. & cert. ef. 12-29-97; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 47-1999, f. & cert. ef. 6-16-99; DFW 92-1999, f. & cert. ef. 1-1-00; DFW 30-2000, f. & cert. ef. 6-14-00; DFW 82-2000, f. & cert. ef. 12-21-00, cert. ef. 1-1-01; DFW 73-2001, f. & cert. ef. 8-15-01; DFW 121-2001, f. & cert. ef. 12-24-01, cert. ef. 1-1-02; DFW 2-2003, f. & cert. ef. 1-17-03

## 635-060-0000

### Purpose and General Information

(1) The purpose of these rules is to describe the requirements and procedures for controlled hunts pursuant to ORS 496.162.

(2) The documents entitled "2002-2003 Oregon Game Bird Regulations," and "2003 Oregon Big Game Regulations," are incorporated by reference into these rules. These documents are available at hunting license agents and regional, district, and headquarters offices of the Oregon Department of Fish and Wildlife.

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

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

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

Hist.: FWC 118, f. & cert. ef. 6-3-77; FWC 25-1978, f. & cert. ef. 5-26-78; FWC 32-1978, f. & cert. ef. 30-78; FWC 29-1979, f. & cert. ef. 8-2-79; FWC 33-1980, f. & cert. ef. 6-30-80; FWC 7-1981, f. & cert. ef. 6-1-81; FWC 10-1981, f. & cert. ef. 3-31-81; FWC 22-1981, f. & cert. ef. 6-29-81; FWC 21-1982, f. & cert. ef. 3-31-82; FWC 38-1982, f. & cert. ef. 6-25-82; FWC 34-1984, f. & cert. ef. 7-24-84; FWC 16-1985, f. & cert. ef. 4-11-85; FWC 43-1985, f. & cert. ef. 8-22-85; FWC 35-1986, f. & cert. ef. 8-7-86; FWC 11-1987, f. & cert. ef. 3-6-87; FWC 40-1987, f. & cert. ef. 7-6-87; FWC 12-1988, f. & cert. ef. 3-10-88; FWC 37-1988, f. & cert. ef. 6-13-88; FWC 14-1989, f. & cert. ef. 3-28-89; FWC 48-1989, f. & cert. ef. 7-25-89; FWC 23-1990, f. & cert. ef. 3-21-90; FWC 71-1997, f. & cert. ef. 12-29-97; DFW 61-1998, f. & cert. ef. 8-10-98; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 56-1999, f. & cert. ef. 8-13-99; DFW 92-1999, f. & cert. ef. 1-1-00; DFW 51-2000, f. & cert. ef. 8-22-00; DFW 82-2000, f. & cert. ef. 12-21-00, cert. ef. 1-1-01; DFW 73-2001, f. & cert. ef. 8-15-01; DFW 121-2001, f. & cert. ef. 12-24-01, cert. ef. 1-1-02; DFW 3-2002(Temp), f. & cert. ef. 1-3-02 thru 1-23-02; DFW 28-2002(Temp), f. & cert. ef. 4-1-02, cert. ef. 4-2-02 thru 9-28-02; DFW 59-2002, f. & cert. ef. 6-11-02; DFW 88-2002, f. & cert. ef. 8-14-02; DFW 2-2003, f. & cert. ef. 1-17-03

## 635-065-0001

### Purpose and General Information

(1) The purpose of these rules is to establish license and tag requirements, limits, areas, methods and other restrictions for hunting game mammals pursuant to ORS chapter 496.

(2) OAR chapter 635, division 065 incorporates, by reference, the requirements for hunting game mammals set out in the document entitled "2003 Oregon Big Game Regulations," into Oregon Administrative Rules. Therefore, persons must consult the "2003 Oregon Big Game Regulations" in addition to OAR Chapter 635, to determine all applicable requirements for game mammals. The annual Oregon Big Game Regulations are available at hunting license agents and regional, district, and headquarters offices of the Oregon Department of Fish and Wildlife.

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

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

Hist.: FWC 38-1988, f. & cert. ef. 6-13-88; FWC 63-1989, f. & cert. ef. 8-15-89; FWC 9-1997, f. & cert. ef. 2-27-97; FWC 71-1997, f. & cert. ef. 12-29-97; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 92-1999, f. & cert. ef. 12-8-99, cert. ef. 1-1-00; DFW 82-2000, f. & cert. ef. 12-21-00, cert. ef. 1-1-01; DFW 3-2002(Temp), f. & cert. ef. 1-3-02 thru 1-23-02; DFW 2-2003, f. & cert. ef. 1-17-03

## 635-065-0015

### General Tag Requirements and Limits

(1) Big Game Tags: Any person hunting game mammals for which a tag is required must have on their person a valid tag for the dates, area and species being hunted.

(2) Any person 12 years of age or older may purchase game mammal tags if they possess an adult hunting license.

(3) A person may obtain and possess during an annual hunting season only:

- (a) One valid general season black bear tag;
- (b) One valid additional general black bear tag valid in management units 20-30;
- (c) One valid controlled black bear tag in addition to general season bear tags issued under subsection (a) and (b) above;
- (d) One valid 700 series "leftover" controlled bear tag;
- (e) One valid cougar (mountain lion) tag;

# ADMINISTRATIVE RULES

- (f) One valid additional general cougar (mountain lion) tag valid only in the Blue Mountain zone;
- (g) One valid pronghorn antelope tag.
- (4) Except as provided in OAR chapter 635, division 090, and except as provided in OAR 635-075-0010, a person may obtain and possess only one of the following tags during an annual hunting season:
- (a) One valid deer bow tag;
- (b) One valid western Oregon deer tag;
- (c) One valid 100 series controlled buck hunt tag;
- (d) One valid 600 series controlled antlerless deer tag in addition to one of (4)(a)-(4)(c) and (4)(e);
- (e) One valid 800 series controlled antlerless deer tag in addition to one of (4)(a)-(4)(d);
- (f) One valid 100 series "left over" controlled deer tag;
- (g) One valid 600 series "left over" controlled deer tag;
- (h) One valid 800 series "leftover" controlled deer tag.
- (5) Except as provided in OAR chapter 635, division 090, a person may obtain and possess only one of the following tags during an annual hunting season:

- (a) One valid Cascade elk tag;
- (b) One valid Wilson-Trask elk tag;
- (c) one valid Mid Coast-Valley elk tag;
- (d) One valid Coast-Valley elk tag;
- (e) One valid Rocky Mountain elk - first season tag,
- (f) One valid Rocky Mountain elk - second season tag;
- (g) One valid elk bow tag;
- (h) One valid controlled elk hunt tag;
- (6) In addition to the tags described in OAR 635-065-0015(5), a person during an annual hunting season may obtain or possess only one valid 200 series "leftover" controlled elk tag.

(7) Except as provided in OAR 635-067-0032 thru 635-067-0034, a person may obtain and possess only one bighorn sheep ram tag in a lifetime.

(8) A person may obtain and possess only one Rocky Mountain goat tag in a lifetime.

(9) It is unlawful for any person to issue or to possess any game mammal tag which has been backdated.

(10) Any game mammal tag having an issue date subsequent to the last day authorized for issue of such tag as listed in "Oregon Big Game Regulations" for the current season is a void tag. Exception: Members of the armed forces returning to the state after the deadline shall be permitted to purchase general season tags for themselves at the Portland and regional offices of the department.

Stat. Auth.: ORS 496.012, ORS 496.138, ORS 496.146 & ORS 496.162  
Stats. Implemented: ORS 496.012, ORS 496.138, ORS 496.146 & ORS 496.162

Hist.: FWC 123, f. & ef. 6-9-77; FWC 33-1978, f. & ef. 6-30-78; FWC 28-1979, f. & ef. 8-2-79; FWC 33-1980, f. & ef. 6-30-80; FWC 6-1981, f. & ef. 1-23-81; FWC 11-1981, f. & ef. 3-31-81; FWC 20-1981, f. & ef. 6-19-81; FWC 37-1982, f. & ef. 6-25-82; FWC 13-1988, f. & cert. ef. 3-10-88; FWC 63-1989, f. & cert. ef. 8-15-89, Renumbered from 635-65-780; FWC 24-1990, f. & cert. ef. 3-21-90; FWC 20-1991, f. & cert. ef. 3-12-91; FWC 18-1994, f. 3-30-94, cert. ef. 5-1-94; FWC 4-1995, f. 1-23-95, cert. ef. 7-1-95; FWC 7-1996, f. & cert. ef. 2-12-96; FWC 9-1997, f. & cert. ef. 2-27-97; FWC 6-17-97, f. & cert. ef. 6-17-97; DFW 49-1998, f. & cert. ef. 6-22-98; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 47-1999, f. & cert. ef. 6-16-99; DFW 92-1999, f. 12-8-99, cert. ef. 1-1-00; DFW 30-2000, f. & cert. ef. 6-14-00; DFW 54-2000(Temp), f. & cert. ef. 8-28-00 thru 12-31-00; DFW 82-2000, f. 12-21-00, cert. ef. 1-1-01; DFW 47-2001, f. & cert. ef. 6-13-01; DFW 52-2001(Temp), f. & cert. ef. 6-27-01 thru 12-24-01; DFW 34-2002, f. & cert. ef. 4-18-02; DFW 59-2002, f. & cert. ef. 6-11-02; DFW 2-2003, f. & cert. ef. 1-17-03

## 635-065-0090

### Disabled Hunter Seasons and Bag Limits

(1) A person who possesses a "Permanent Disabilities Permit" issued by the department is qualified for expanded bag limits as follows: [Table not included. See ED. NOTE.]

(2) The "Permanent Disabilities Permit" is valid only with a general season or controlled bull elk or buck deer tag for the area and time period being hunted. The permit must be carried on the person while hunting.

(3) An able-bodied companion may accompany a person with a "Permanent Disabilities Permit" and kill any animal wounded by the permit holder. The wounded animal must be killed using a legal weapon for the season and species designated on the tag. The companion must immediately attach the permit holder's tag to the carcass of the animal. The companion is not required to possess a hunting license or tag.

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

Stat. Auth.: ORS 496.012, ORS 496.138, ORS 496.146 & ORS 496.162  
Stats. Implemented: ORS 496.012, ORS 496.138, ORS 496.146 & ORS 496.162  
Hist.: FWC 29-1987, f. & ef. 6-19-87; FWC 63-1989, f. & cert. ef. 8-15-89; FWC 20-1991, f. & cert. ef. 3-12-91; FWC 36-1993, f. & cert. ef. 6-14-93; FWC 18-1994, f. 3-30-94, cert. ef. 5-1-94; FWC 4-1995, f. 1-23-95, cert. ef. 7-1-95; FWC 9-1997, f. & cert. ef. 2-27-97;

FWC 71-1997, f. & cert. ef. 12-29-97; DFW 49-1998, f. & cert. ef. 6-22-98; DFW 92-1999, f. 12-8-99, cert. ef. 1-1-00; DFW 2-2003, f. & cert. ef. 1-17-03

## 635-065-0101

### Buck Deer Seasons

(1) A person hunting deer during the general buck season in the open area listed under the western Oregon deer season described in OAR chapter 635, division 068 shall have on their person a western Oregon Deer Rifle Tag.

(2) A person hunting in a season authorized by a controlled hunt tag shall have on their person the deer tag required for that area.

Stat. Auth.: ORS 496.012, ORS 496.138, ORS 496.146 & ORS 496.162  
Stats. Implemented: ORS 496.012, ORS 496.138, ORS 496.146 & ORS 496.162  
Hist.: FWC 123, f. & ef. 6-9-77; FWC 33-1978, f. & ef. 6-30-78; FWC 28-1979, f. & ef. 8-2-79; FWC 33-1980, f. & ef. 6-30-80; FWC 37-1982, f. & ef. 6-25-82; FWC 34-1984, f. & ef. 7-24-84; FWC 13-1988, f. & cert. ef. 3-10-88; FWC 38-1988, f. & cert. ef. 6-13-88; FWC 63-1989, f. & cert. ef. 8-15-89; FWC 20-1991, f. & cert. ef. 3-12-91; FWC 7-1996, f. & cert. ef. 2-12-96; FWC 9-1997, f. & cert. ef. 2-27-97; FWC 38-1997, f. & cert. ef. 6-17-97; DFW 2-2003, f. & cert. ef. 1-17-03

## 635-065-0301

### Black Bear Season

Any person hunting bear during the general black bear season in the open area listed under general black bear season described in OAR chapter 635, division 066 shall have on their person a general season black bear tag.

Stat. Auth.: ORS 496.012, ORS 496.138, ORS 496.146, & ORS 496.162  
Stats. Implemented: ORS 496.012, ORS 496.138, ORS 496.146, & ORS 496.162  
Hist.: FWC 63-1989, f. & cert. ef. 8-15-89; FWC 38-1997, f. & cert. ef. 6-17-97; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 2-2003, f. & cert. ef. 1-17-03

## 635-065-0401

### Deadline for Purchase of General Season Tags

(1) No western Oregon deer rifle tag shall be issued after 11 p.m., October 3, 2003.

(2) No deer bow tag shall be issued after 11 p.m., August 29, 2003.

(3) No bear tag shall be issued after 11 p.m. October 3, 2003.

(4) No cougar (mountain lion) tag shall be issued after 11 p.m. October 3, 2003.

(5) No Rocky Mountain Elk Rifle First Season Tag shall be issued after 11 p.m., October 28, 2003.

(6) No Rocky Mountain Elk Rifle Second Season Tag shall be issued after 11 p.m., November 7, 2003.

(7) No Wilson-Trask Elk Tag shall be issued after 11 p.m., October 17, 2003.

(8) No Mid Coast-Valley Elk Tag shall be issued after 11 p.m., November 7, 2003.

(9) No Coast-Valley Elk Tag shall be issued after 11 p.m., November 14, 2003.

(10) No Cascade Elk Rifle Tag shall be issued after 11 p.m., October 17, 2003.

(11) No elk bow tag shall be issued after 11 p.m., August 29, 2003.

Stat. Auth.: ORS 496.012, ORS 496.138, ORS 496.146 & ORS 496.162  
Stats. Implemented: ORS 496.012, ORS 496.138, ORS 496.146 & ORS 496.162  
Hist.: FWC 123, f. & ef. 6-9-77; FWC 33-1978, f. & ef. 6-30-78; FWC 28-1979, f. & ef. 8-2-79; FWC 33-1980, f. & ef. 6-30-80; FWC 6-1981, f. & ef. 1-23-81; FWC 11-1981, f. & ef. 3-31-81; FWC 20-1981, f. & ef. 6-19-81; FWC 37-1982, f. & ef. 6-25-82; FWC 28, f. & ef. 7-8-83; FWC 34-1984, f. & ef. 7-24-84; FWC 43-1985, f. & ef. 8-22-85; FWC 35-1986, f. & ef. 8-7-86; FWC 41-1987, f. & ef. 7-6-87; FWC 13-1988, f. & cert. ef. 3-10-88; FWC 38-1988, f. & cert. ef. 6-13-88; FWC 15-1989, f. & cert. ef. 3-28-89; FWC 63-1989, f. & cert. ef. 8-15-89; Renumbered from 635-65-010; FWC 24-1990, f. & cert. ef. 3-21-90; FWC 55-1990, f. & cert. ef. 6-21-90; FWC 20-1991, f. & cert. ef. 3-12-91; FWC 58-1991, f. & cert. ef. 6-24-91; FWC 36-1993, f. & cert. ef. 6-14-93; FWC 18-1994, f. 3-30-94, cert. ef. 5-1-94; FWC 4-1995, f. 1-23-95, cert. ef. 7-1-95; FWC 18-1996, f. 4-10-96, cert. ef. 8-1-96; FWC 9-1997, f. & cert. ef. 2-27-97; FWC 38-1997, f. & cert. ef. 6-17-97; FWC 71-1997, f. & cert. ef. 12-29-97; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 92-1999, f. 12-8-99, cert. ef. 1-1-00; DFW 82-2000, f. 12-21-00, cert. ef. 1-1-01; DFW 121-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 108-2002(Temp), f. & cert. ef. 9-26-02 thru 12-31-02; DFW 2-2003, f. & cert. ef. 1-17-03

## 635-065-0625

### Regulations on State Wildlife Areas; Refuges and Special Areas

State wildlife areas, refuges and special areas shall be open to hunting during authorized seasons, subject to the following special regulations and exceptions:

(1) Bear Valley National Wildlife Refuge (Klamath County): The Bear Valley Refuge shall be closed to all entry from November 1 through March 31 annually.

(2) Bridge Creek Wildlife Area (Umatilla County): Open to public access and hunting. Motorized vehicle travel restricted to open roads. Entry by permit only December 1 through April 30.

(3) Cascade Head Area: The Cascade Head Area shall be closed to hunting with centerfire rifles, muzzleloaders, or handguns. Hunting shall be restricted to archery and shotguns only during authorized seasons. Hunters

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using shotguns for elk shall use slugs (single projectile) only. The Cascade Head Area boundaries shall be defined as follows: Beginning at the Pacific Ocean at Roads End (Lincoln City); east along the northern boundary of the Lincoln City limits to U.S. Highway 101; north along U.S. Highway 101 to Highway 18; east along Highway 18 to Old Scenic Highway 101; north along Old Scenic Highway 101 to Three Rocks Road; west on Three Rocks Road to U.S. Highway 101; north on U.S. Highway 101 to Forest Service road 1861; west on Forest Service road 1861 to the Harts Cove trailhead; west on Harts Cove Trail to the Pacific Ocean; south along the Pacific Ocean coastline to Roads End (Lincoln City), point of beginning.

(4) Cold Springs Refuge (Umatilla County): The Cold Springs Refuge shall be closed to deer and elk hunting.

(5) Dean Creek Elk Viewing Area (Douglas County): Approximately 1,800 acres in the Tioga Unit including all BLM property between Hakki Ridge Road and State Highway 38, are closed to all hunting.

(6) Denman Wildlife Area (Jackson County): The Denman Wildlife Area shall be open to hunting only during game mammal and game bird seasons. Use of rifles and handguns is prohibited at all times.

(7) Dunes National Recreational Area: Use of rifles and handguns is prohibited for all hunting in that portion of the Siuslaw Unit west of Highway 101 and north of Tahkenitch Creek.

(8) North Bank Habitat Management Area (previously known as the Dunning Ranch Area in Douglas County): 6,500 acres located approximately eight miles northeast of Roseburg. Area: All BLM lands located in T2S5, R5W, Sections 35,36; T26S, R5W, Sections 1,2,11,12,13,14; T25S, R4W, Sections 31,32,33; T26S, R4W, Sections 4,5,6,7,8,18. This area shall be closed to all big game hunting except for and during controlled deer hunts specific to the management area by hunters possessing a controlled hunt tag for the area.

(9) E.E. Wilson Wildlife Area (Benton County): This area is open to deer hunting during authorized seasons, except closed to bow hunting for deer when juvenile pheasant hunts are in progress. Rabbit hunting is permitted from November 1 through February each year. Hunting by permit only. Permits are available at area headquarters and shall be filled out and returned each day hunted. Use of rifles, handguns, and crossbows shall be prohibited at all times.

(10) Eagle Creek: Closed to entry December 1 through March 31 annually - That part of the Keating Unit as follows: 16 square miles in Townships 7 and 8 South, Ranges 44 and 45 East;

(11) Elkhorn Wildlife Area (Baker/Union counties): Closed to all entry December 1 through April 10 annually. The Roth Tract is closed to all hunting. The Roth Tract is closed to public entry except by entry permit; an entry permit is required at all times of the year.

(12) Fern Ridge Wildlife Area (Lane County): Open to black-tailed deer hunting during authorized seasons, except that East and West Coyote units are closed after October 31, and hunting in Fisher Butte Unit after October 31 is limited to Saturdays, Sundays, and Wednesdays only. A free daily hunting permit is required for East Coyote, West Coyote, Fisher Butte, and Royal Amazon units. Permits are available at check stations located at area access points. Hunters are limited to shotguns and archery equipment only. The discharging of rifles and handguns within the wildlife area is prohibited.

(13) William Finley National Wildlife Refuge (Benton County):

(a) Portions of the refuge shall be open to deer hunting August 30 through September 28, 2003 under the regulations for bowhunting seasons.

(b) Portions of the refuge shall be open to hunting for buck deer October 4 through October 31, 2003 under regulations for the general western Oregon deer buck season. Use of rifles is prohibited.

(c) All hunters shall obtain a refuge permit and check in and out of the refuge daily. Information on open areas and special regulations are available at the refuge.

(14) Gods Valley Wildlife Area (Clatsop County): Vehicles shall be restricted to county roads.

(15) Government Island Complex (Multnomah County): Use of rifles, handguns, and shotguns with slugs or buckshot is prohibited at all times.

(16) Irrigon, Coyote Springs, Power City, and Boardman wildlife management areas (Morrow and Umatilla counties): Use of rifles and handguns are prohibited at all times.

(17) Hart Mountain National Antelope Refuge (Lake County): Portions of the refuge shall be open for hunting as prescribed under chukar season, controlled pronghorn antelope and bighorn sheep hunts, deer bowhunting season, and muzzleloader deer season.

(18) Heppner Regulated Hunt Area: Horse/mule use is prohibited in posted areas. Open fires prohibited. No camping in posted areas.

Approximately 130 square miles in Townships 2, 3, 4, 5, 6 and 7 South, Ranges 25, 26, 27 and 28 East;

(19) Jewell Meadows Wildlife Area (Clatsop County): The Beneke Tract and the Humbug Tract shall be open to hunting only during authorized game mammal and game bird seasons. The Beneke Tract is closed to all public entry during any open Saddle Mountain elk season. It is unlawful to shoot rifles and bows from or across open fields during any open Saddle Mountain Unit or Wilson Unit elk seasons. The Fishhawk Tract is closed to public access. Posted lands of Cavenham Forest Industries, Inc., in T5N, R7W, Sections 2, 3 and 4, 9, 10 and 11 and T6N, R7W, Sections 33 and 34, are closed to all hunting. All areas posted as Refuge are closed to public access. Entry for other purposes is only by permit obtained at the Jewell Wildlife Area Headquarters.

(20) John Day River Refuge: All land within 1/4 mile of the high-water flow line along the John Day River from the Columbia River south to Thirty Mile Creek shall be open to big game and upland game bird hunting during authorized seasons between August 30 and October 31, 2003 but closed to waterfowl hunting.

(21) Klamath Wildlife Area (Klamath County): This area is closed to all deer hunting.

(22) Klamath Marsh National Wildlife Refuge: Closed to deer and elk hunting.

(23) Ladd Marsh Wildlife Area (Union County): All land north and east of Foothill Road shall be closed to all deer and elk hunting except during controlled youth deer hunts and closed to all rifle and handgun shooting.

(24) Long Ranch (Linn County): Forty-eight acres in T13S, R4E, S32 shall be closed to all hunting.

(25) Lower Deschutes Wildlife Area: Open to hunting of big game, game birds, and waterfowl during authorized seasons. Discharge of firearms prohibited the remainder of the year. Access by foot or boat only.

(26) Malheur National Wildlife Refuge (Harney County): Portions of the refuge in Blitzen Valley lying west of State Highway 205 shall be open during authorized rifle and bow deer seasons.

(27) McDonald Forest-Dunn Forest Area (Benton County): The area is closed to all hunting except during controlled hunts as authorized by the commission.

(28) McKay Creek Refuge (Umatilla County): This refuge is closed to deer and elk hunting.

(29) Metolius Wildlife Refuge (Jefferson County). All hunting, injuring, taking, killing, or destroying any wild bird or mammal on public land is prohibited on public lands within T12 and T13S, R9E, bounded by USFS road 1420 and 1419 on the west; road 1400 on the south and east; and road 1420-400, Metolius River, and posted boundary from the Metolius River to road 1400 on the north (approximately five square miles). (36 CFR 261.58(v)).

(30) Mill Creek Watershed (Umatilla County): This watershed is closed to all access and hunting except by holders of a Mill Creek Watershed controlled elk tag and a Forest Service entry permit.

(31) Newberry Crater Wildlife Refuge (Deschutes County). All hunting, injuring, taking, killing, or destroying any wild bird or mammal on public land is prohibited on public lands within the rim of Newberry Crater in: T21S, R12E; T22S, R12E; T21S, R13E; T22S, R13E (approximately 15 square miles).

(32) Rimrock Springs Wildlife Area (Grizzly Unit): This area is closed to all hunting.

(33) Rogue River Area: (a) All land within one mile of the Rogue River between Grave Creek and Lobster Creek is closed to bear hunting.

(b) All land within 1/4 mile of the Rogue River in the wild river section from Grave Creek downstream to Watson Creek is closed to all hunting except during authorized seasons.

(34) Saddle Mountain Unit (White-tailed Deer Area): That portion of Saddle Mountain Wildlife Unit north of Burlington Northern railroad tracks to Astoria is closed to all deer hunting.

(35) Sauvie Island Wildlife Area (Multnomah-Columbia counties): This area shall be open to bowhunting for black-tailed deer August 30 through September 28, 2003. Daily permits are required. Hunters shall check in and out daily. This area shall be closed to deer hunting after September 28, 2003. Oak Island shall be closed to deer hunting. Use of rifles, handguns and crossbows shall be prohibited at all times.

(36) Phillip W. Schneider Wildlife Area (Grant County): Open to public access and hunting. Motorized vehicle travel restricted to open roads. Some roads closed seasonally from December 1 through April 30, or year-round; including BLM land within the exterior boundaries of the Wildlife Area.

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(37) Snake River Islands (Malheur County): Closed to hunting with centerfire rifles and centerfire handguns.

(38) South Slough National Estuarine Reserve: Specific areas are closed to hunting due to public health and safety. Contact reserve headquarters office for specific closures.

(39) Starkey Experimental Forest (Union County): That portion of The Starkey Experimental Forest within the eight foot elk-proof fence enclosure is closed to all hunting during deer and elk season except for persons possessing a controlled hunt tag for the area. A posted 1/4 mile buffer zone on the National Forest lands surrounding the enclosure is closed to all hunting during deer and elk season. The Experimental Forest enclosure plus the 1/4 mile wide outside buffer are closed to all hunting during the winter public access closure which shall be determined annually by the Wallowa-Whitman National Forest supervisor following general elk season.

(40) Summer Lake Wildlife Area (Lake County): It is unlawful to discharge firearms except during game bird and deer seasons. The Summer Lake Wildlife Area is closed to all deer hunting during any pheasant, quail, or waterfowl season, in order to avoid conflicts between deer hunters and game bird hunters while seasons are running concurrently. Hunters must obtain a daily hunting permit and check out at the end of the day. Permits and area maps are available at headquarters (1.3 miles south of the town of Summer Lake).

(41) Umatilla Refuge (Morrow County): This refuge shall be closed to deer and elk hunting except during controlled hunts specific to the refuge and emergency hunts as provided in OAR chapter 635, division 078.

(42) Wallowa Lake (Wallowa County): All land on or within 1/4 mile of the Wallowa River from Wallowa Lake upstream to the falls and within 1/4 mile along the west side of Wallowa Lake from the Wallowa Lake State Park to the Wallowa River outlet is closed to all big game hunting.

(43) Wenaha Wildlife Area (Union County): Open to public access and hunting. Motorized vehicle travel restricted to open roads.

(44) Willamette River Greenway Parcels: Discharge of any weapon is prohibited, except that shotguns and bows may be used while hunting on select posted State Willamette Greenway properties during authorized seasons.

(45) White River Wildlife Area: Open to hunting during authorized seasons.

Stat. Auth.: ORS 496.012, ORS 496.138, ORS 496.146 & ORS 496.162  
Stats. Implemented: ORS 496.012, ORS 496.138, ORS 496.146 & ORS 496.162  
Hist.: FWC 123, f. & ef. 6-9-77; FWC 33-1978, f. & ef. 6-30-78; FWC 28-1979, f. & ef. 8-2-79; FWC 33-1980, f. & ef. 6-30-80; FWC 6-1981, f. & ef. 1-23-81; FWC 11-1981, f. & ef. 3-31-81; FWC 20-1981, f. & ef. 6-19-81; FWC 37-1982, f. & ef. 6-25-82; FWC 28, f. & ef. 7-8-83; FWC 34-1984, f. & ef. 7-24-84; FWC 43-1985, f. & ef. 8-22-85; FWC 35-1986, f. & ef. 8-7-86; FWC 41-1987, f. & ef. 7-6-87; FWC 38-1988, f. & ef. 6-13-88; FWC 94-1988(Temp), f. & ef. 9-19-88; FWC 15-1989, f. & ef. 3-28-89; FWC 63-1989, f. & ef. 8-15-89; FWC 24-1990, f. & ef. 3-21-90; FWC 55-1990, f. & ef. 6-21-90; FWC 20-1991, f. & ef. 3-12-91; FWC 58-1991, f. & ef. 6-24-91; FWC 36-1993, f. & ef. 6-14-93; FWC 18-1994, f. & ef. 3-30-94, cert. ef. 5-1-94; FWC 4-1995, f. 1-23-95, cert. ef. 7-1-95; FWC 18-1996, f. 4-10-96, cert. ef. 8-1-96; FWC 9-1997, f. & ef. 2-27-97; FWC 38-1997, f. & ef. 6-17-97; FWC 71-1997, f. & ef. 12-29-97; DFW 49-1998, f. & ef. 6-22-98; DFW 1-1999, f. & ef. 1-14-99; DFW 47-1999, f. & ef. 6-16-99; DFW 92-1999, f. 12-8-99, cert. ef. 1-1-00; DFW 30-2000, f. & ef. 6-14-00; DFW 82-2000, f. 12-21-00, cert. ef. 1-1-01; DFW 121-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 2-2003, f. & ef. 1-17-03

## 635-065-0735

### Vehicles, Boats, Aircraft

It is *unlawful*:

(1) To hunt any wildlife from a motor-propelled vehicle. Exception: A qualified disabled hunter may obtain a permanent disabilities permit to hunt from a motor vehicle except while the vehicle is in motion or on any public road or highway.

(2) To communicate information on the location of game mammals from an aircraft.

(3) To hunt within eight hours after having been transported by helicopter or fixed-wing aircraft to any point other than an established airport adequate for fixed-wing aircraft.

(4) To shoot at pronghorn antelope from a point within 50 yards of a motor-propelled vehicle including aircraft, except for qualified disabled hunters as shown in 635-065-735(1).

Stat. Auth.: ORS 496.012, ORS 496.138, ORS 496.146 & ORS 496.162  
Stats. Implemented: ORS 496.012, ORS 496.138, ORS 496.146 & ORS 496.162  
Hist.: FWC 123, f. & ef. 6-9-77; FWC 28-1979, f. & ef. 8-2-79; FWC 33-1980, f. & ef. 6-30-80; FWC 6-1981, f. & ef. 1-23-81; FWC 11-1981, f. & ef. 3-31-81; FWC 20-1981, f. & ef. 6-19-81; FWC 37-1982, f. & ef. 6-25-82; FWC 13-1988, f. & ef. 3-10-88; FWC 38-1988, f. & ef. 6-13-88; FWC 63-1989, f. & ef. 8-15-89; FWC 24-1990, f. & ef. 3-21-90; FWC 58-1991, f. & ef. 6-24-91; DFW 1-1999, f. & ef. 1-14-99; DFW 2-2003, f. & ef. 1-17-03

## 635-065-0740

### Hunting Prohibited

It is *unlawful*:

(1) To hunt with a centerfire or muzzleloading rifle during eastern Oregon controlled buck season (Oct. 4 - 15, 2003, Cascade bull elk season, Coast bull elk seasons, Rocky Mountain bull or either-sex elk seasons, or the standard Rocky Mountain unit's antlerless elk seasons (Nov. 22 - Nov. 30, 2003) without a valid, unused tag for that species, time period and area on their person.

**EXCEPTION:** Landowners, or their agent, hunting predators on lands they own or lease may use centerfire or muzzleloading rifles to hunt on such lands.

**EXCEPTION:** Hunters may use .22 caliber or smaller centerfire rifles for hunting coyotes (*Canis latrans*) in the Juniper, Beatys Butte, Whitehorse and Owyhee units and in the Wagonfire Unit south of the Lake County Road 5-14 during Rocky Mountain bull or either-sex elk seasons, or the standard Rocky Mountain unit's antlerless elk seasons (Nov. 22 - Nov. 30, 2003).

(2) To hunt on any refuge closed by the state or federal government.

(3) To hunt within the corporate limits of any city or town, public park or cemetery, or on any campus or grounds of a public school, college, or university or from a public road, road right-of-way, or railroad right-of-way.

(4) Notwithstanding section (4) of this rule, controlled antlerless elk hunts are permitted within the south city limits of Seaside if the herd should become a serious problem.

(5) To hunt game mammals outside any area designated by a controlled hunt tag when such tag is required for that hunt season.

(6) To hunt in, or enter while in the possession of a loaded firearm, any Safety Zones created and posted by the department.

(7) To hunt protected wildlife except:

(a) By a permit or during an authorized season established by the commission.

(b) That crow, blackbirds, cowbirds, and magpies may be taken under Federal regulations for reason of depredation or health hazards as described in the Code of Federal Regulations.

(8) To pursue or assist another to pursue a cougar (mountain lion) during an authorized cougar (mountain lion) season unless in possession of an unused cougar (mountain lion) tag or accompanied by the holder of an unused cougar (mountain lion) tag which is valid for that area and time period.

Stat. Auth.: ORS 496.012, ORS 496.138, ORS 496.146 & ORS 496.162  
Stats. Implemented: ORS 496.012, ORS 496.138, ORS 496.146 & ORS 496.162  
Hist.: FWC 123, f. & ef. 6-9-77; FWC 28-1979, f. & ef. 8-2-79; FWC 33-1980, f. & ef. 6-30-80; FWC 6-1981, f. & ef. 1-23-81; FWC 11-1981, f. & ef. 3-31-81; FWC 20-1981, f. & ef. 6-19-81; FWC 37-1982, f. & ef. 6-25-82; FWC 41-1987, f. & ef. 7-6-87; FWC 15-1989, f. & ef. 3-28-89; FWC 63-1989, f. & ef. 8-15-89; FWC 24-1990, f. & ef. 3-21-90; FWC 20-1991, f. & ef. 3-12-91; FWC 58-1991, f. & ef. 6-24-91; FWC 36-1993, f. & ef. 6-14-93; FWC 18-1994, f. & ef. 3-30-94, cert. ef. 5-1-94; FWC 4-1995, f. 1-23-95, cert. ef. 7-1-95; FWC 18-1996, f. 4-10-96, cert. ef. 8-1-96; FWC 9-1997, f. & ef. 2-27-97; FWC 71-1997, f. & ef. 12-29-97; DFW 49-1998, f. & ef. 6-22-98; DFW 92-1999, f. 12-8-99, cert. ef. 1-1-00; DFW 82-2000, f. 12-21-00, cert. ef. 1-1-01; DFW 121-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 2-2003, f. & ef. 1-17-03

## 635-065-0765

### Tagging, Possession, Transportation and Evidence of Sex

(1) When the owner of any game mammal tag kills a game mammal for which a tag is issued, the owner shall immediately remove in its entirety only the month and day of kill and attach the tag in plain sight securely to the game mammal. The tag shall be kept attached to the carcass or parts until processed or until replaced by a tag or seal of the department.

(2) It is unlawful to have in possession any game mammal tag from which all or part of any date has been removed or mutilated except when the tag is legally validated and attached to a game mammal.

(3) It is unlawful to possess the meat or carcass of any pronghorn antelope, bighorn sheep, or Rocky Mountain goat without the animal's scalp while in the field, forest, or in transit on any of the highways or premises open to the public in Oregon, except processed or cut and wrapped meat. The scalp shall include the attached eyes and ears, if the animal is female; or ears, antlers, and eyes if the animal is male.

(4) It is unlawful to possess the meat or carcass of any deer or elk without evidence of sex while in the field, forest, or in transit on any of the highways or premises open to the public in Oregon, except processed or cut and wrapped meat. Evidence of sex is:

(a) Males: Head and antlers naturally attached to carcass, or testicles, scrotum, or penis naturally attached to one quarter of the carcass or to another major portion of meat.

(b) Females: Head naturally attached to carcass, or vulva or udder (mammary) naturally attached to one quarter of the carcass or to another major portion of meat.

(c) Big game taken in antler restriction areas: The head or skull plate with both antlers naturally attached shall accompany the carcass while in

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the field, forest, or in transit on any of the highways or premises open to the public in Oregon, except processed or cut and wrapped meat.

(5) When any game mammal or part thereof is transferred to the possession of another person, a written record describing the game mammal or part being transferred indicating the name and address of the person whose tag was originally attached to the carcass and the number of that tag shall accompany such transfer and shall remain with such game mammal or part so long as the same is preserved or until replaced by a tag or seal of the department.

(6) All game mammals in possession in the field or forest or in transit more than 48 hours after the close of the open season for such mammal must be tagged with a tag or metal seal by the department or by the Oregon State Police.

(7) All game mammals or portions thereof shipped by commercial carrier shall be tagged with a tag or metal seal provided by the department or by the Oregon State Police.

(8) It is unlawful to receive or have in possession any game mammal or part thereof which:

- (a) Is not properly tagged;
- (b) Was taken in violation of any wildlife laws or regulations; or
- (c) Was taken by any person who is or may be exempt from the jurisdiction of such laws or regulations.

(9) No person shall possess any game mammal or part thereof which has been illegally killed, found or killed for humane reasons, except shed antlers, unless he has notified and received permission from the department or personnel of the Oregon State Police prior to transporting.

(10) No person shall possess the horns of bighorn sheep or Rocky Mountain goat that were not taken legally during an authorized season. Any horns of bighorn sheep or Rocky Mountain goat obtained by the department may be made available to scientific and educational institutions and for ceremonial purposes.

Stat. Auth.: ORS 496.012, ORS 496.138, ORS 496.146 & ORS 496.162  
Stats. Implemented: ORS 496.012, ORS 496.138, ORS 496.146 & ORS 496.162  
Hist.: FWC 123, f. & cert. 6-9-77; FWC 33-1978, f. & cert. 6-30-78; FWC 28-1979, f. & cert. 8-2-79; FWC 33-1980, f. & cert. 6-30-80; FWC 6-1981, f. & cert. 1-23-81; FWC 11-1981, f. & cert. 3-31-81; FWC 20-1981, f. & cert. 6-19-81; FWC 37-1982, f. & cert. 6-25-82; FWC 34-1984, f. & cert. 7-24-84; FWC 43-1988, f. & cert. 8-22-85; FWC 35-1986, f. & cert. 8-7-86; FWC 11-1987, f. & cert. 3-6-87; FWC 41-1987, f. & cert. 7-6-87; FWC 13-1988, f. & cert. 3-10-88; FWC 63-1989, f. & cert. 8-15-89; FWC 24-1990, f. & cert. 3-21-90; FWC 9-1997, f. & cert. 2-27-97; DFW 49-1998, f. & cert. 6-22-98; DFW 1-1999, f. & cert. 1-14-99; DFW 92-1999, f. 12-8-99, cert. 1-1-00; DFW 82-2000, f. 12-21-00, cert. 1-1-01; DFW 90-2002(Temp), f. & cert. 8-16-02 thru 2-11-03; DFW 114-2002(Temp), f. & cert. 10-18-02 thru 2-11-03; DFW 126-2002, f. & cert. 11-12-02; DFW 127-2002(Temp), f. & cert. 11-14-02 thru 2-11-03; DFW 2-2003, f. & cert. 1-17-03

## 635-066-0000

### Purpose and General Information

(1) The purpose of these rules is to establish season dates, bag limits, areas, methods, and other restrictions for hunting black bear pursuant to ORS Chapter 496.

(2) OAR chapter 635, division 066 incorporates, by reference, the requirement for black bear hunting set out in the document entitled "2003 Oregon Big Game Regulations," into Oregon Administrative Rules. Therefore, persons must consult the "2003 Oregon Big Game Regulations" in addition to OAR chapter 635, to determine all applicable requirements for the hunting of black bear. The annual Oregon Big Game Regulations are available at authorized license agents and regional, district and headquarters offices of the Oregon Department of Fish and Wildlife.

Stat. Auth.: ORS 496.012, ORS 496.138, ORS 496.146 & ORS 496.162  
Stats. Implemented: ORS 496.012, ORS 496.138, ORS 496.146 & ORS 496.162  
Hist.: FWC 64-1989, f. & cert. 8-15-89; FWC 9-1997, f. & cert. 2-27-97; FWC 71-1997, f. & cert. 12-29-97; DFW 1-1999, f. & cert. 1-14-99; DFW 92-1999, f. 12-8-99, cert. 1-1-00; DFW 82-2000, f. 12-21-00, cert. 1-1-01; DFW 121-2001, f. 12-24-01, cert. 1-1-02; DFW 2-2003, f. & cert. 1-17-03

## 635-066-0020

### Controlled Seasons

Tags will be issued by way of a controlled hunt drawing. The number of tags issued to nonresidents will be limited to no more than three percent of the total tags authorized for each hunt. Persons receiving a controlled black bear tag may also purchase a general season black bear tag and one SW Oregon additional bear tag and one "leftover" controlled spring bear tag. No person shall use dogs to hunt or pursue black bear. No person shall use bait to attract or hunt black bear.

Stat. Auth.: ORS 496.012, ORS 496.138, ORS 496.146 & ORS 496.162  
Stats. Implemented: ORS 496.012, ORS 496.138, ORS 496.146 & ORS 496.162  
Hist.: FWC 9-1997, f. & cert. 2-27-97; DFW 1-1999, f. & cert. 1-14-99; DFW 47-1999, f. & cert. 6-16-99; DFW 82-2000, f. 12-21-00, cert. 1-1-01; DFW 2-2003, f. & cert. 1-17-03

## 635-067-0000

### Purpose and General Information

(1) The purpose of these rules is to establish season dates, bag limits, areas, methods, and other restrictions for hunting pronghorn antelope, cougar, bighorn sheep, and Rocky Mountain goat pursuant to ORS Chapter 496.

(2) OAR chapter 635, division 067 incorporates, by reference, the requirements for hunting pronghorn antelope, cougar, bighorn sheep, and Rocky Mountain goat set out in the document entitled "2003 Oregon Big Game Regulations," into Oregon Administrative Rules. Therefore, persons must consult the "2003 Oregon Big Game Regulations" in addition to OAR chapter 635, to determine all applicable requirements for hunting pronghorn antelope, cougar, bighorn sheep, and Rocky Mountain goat. The annual Oregon Big Game Regulations are available at authorized license agents and regional, district and headquarters offices of the Oregon Department of Fish and Wildlife.

(3) Controlled hunt tags shall be issued by a controlled hunt drawing following the procedures established in OAR chapter 635, division 060. Permitted arms and ammunition are established in OAR chapter 635, division 065. Controlled hunt tag numbers for 2002 are listed in Tables 1, 2, and 3 and are adopted and incorporated into OAR chapter 635, division 067 by reference.

[ED. NOTE: Tables & Publications referenced are available from the agency.]  
Stat. Auth.: ORS 496.012, ORS 496.138, ORS 496.146 & ORS 496.162  
Stats. Implemented: ORS 496.012, ORS 496.138, ORS 496.146 & ORS 496.162  
Hist.: FWC 65-1989, f. & cert. 8-15-89; FWC 35-1996, f. & cert. 6-7-96; FWC 9-1997, f. & cert. 2-27-97; FWC 38-1997, f. & cert. 6-17-97; FWC 71-1997, f. & cert. 12-29-97; DFW 49-1998, f. & cert. 6-22-98; DFW 1-1999, f. & cert. 1-14-99; DFW 47-1999, f. & cert. 6-16-99; DFW 92-1999, f. 12-8-99, cert. 1-1-00; DFW 30-2000, f. & cert. 6-14-00; DFW 82-2000, f. 12-21-00, cert. 1-1-01; DFW 47-2001, f. & cert. 6-13-01; DFW 121-2001, f. 12-24-01, cert. 1-1-02; DFW 59-2002, f. & cert. 6-11-02; DFW 2-2003, f. & cert. 1-17-03

## 635-067-0004

### Cougar Hunting Regulations

(1) Tag Requirement: Any person hunting cougar shall have on his/her person a general season cougar tag or a Blue Mountain additional cougar tag. General season cougar tags may be purchased through any authorized license agent;

(2) Hunt Area: Hunt zones, and harvest quotas for each hunt zone, are established in OAR 635-067-0015;

(a) Hunters may hunt within all hunt zones;

(b) Hunt zones will be closed to hunting when individual zone harvest quotas are reached.

(3) All hunters are required to check in the hide of any cougar killed within 72 hours of harvest at a Department of Fish and Wildlife office;

(a) Hunters are also required to retain the reproductive tract of all female cougars with the carcass until checked in.

(4) No person shall hunt or assist another to hunt a cougar during an authorized cougar season unless in possession of an unused cougar tag or accompanied by the holder of an cougar tag which is valid for that area and time period.

(5) No person shall use dogs to hunt or pursue cougar.

Stat. Auth.: ORS 496.012, ORS 496.138, ORS 496.146 & ORS 496.162  
Stats. Implemented: ORS 496.012, ORS 496.138, ORS 496.146 & ORS 496.162  
Hist.: FWC 9-1997, f. & cert. 2-27-97; FWC 38-1997, f. & cert. 6-17-97; FWC 71-1997, f. & cert. 12-29-97; DFW 49-1998, f. & cert. 6-22-98; DFW 1-1999, f. & cert. 1-14-99; DFW 92-1999, f. 12-8-99, cert. 1-1-00; DFW 30-2000, f. & cert. 6-14-00; DFW 82-2000, f. 12-21-00, cert. 1-1-01; DFW 121-2001, f. 12-24-01, cert. 1-1-02; DFW 2-2003, f. & cert. 1-17-03

## 635-067-0015

### General Cougar Season Zone Harvest Quotas

(1) Hunt Zone: A — Hunt Name: Coast/North Cascades;

(a) Harvest Quota: 116;

(b) Hunt Area: All of Wildlife Units: 10, 11, 12, 14, 15, 16, 17, 18, 20, 24, 25, 26, 27, 39, 41, and 42;

(2) Hunt Zone: B — Hunt Name: Southwest Cascades;

(a) Harvest Quota: 133;

(b) Hunt Area: All of Wildlife Units: 19, 21, 22, 23, 28, 29, 30, and 31;

(3) Hunt Zone: C — Hunt Name: Southeast Cascades;

(a) Harvest Quota: 46;

(b) Hunt Area: All of Wildlife Units: 32, 33, 34, 35, 75, 76, and 77;

(4) Hunt Zone: D — Hunt Name: Columbia Basin;

(a) Harvest Quota: 16;

(b) Hunt Area: All of Wildlife Units: 38, 40, 43, 44, and 45;

(5) Hunt Zone: E — Hunt Name: Blue Mountains;

(a) Harvest Quota: 123;



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(b) Hunt Area: All of Wildlife Units: 37, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, and 64;

(6) Hunt Zone: F — Hunt Name: Southeast Oregon;

(a) Harvest Quota: 76;

(b) Hunt Area: All of Wildlife Units: 36, 65, 66, 67, 68, 69, 70, 71, 72, 73, and 74.

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

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

Hist.: FWC 118, f. & ef. 6-3-77; FWC 32-1978, f. & ef. 6-30-78; FWC 12-1979, f. & ef. 3-28-79; FWC 29-1979, f. & ef. 8-2-79; FWC 14-1980, f. & ef. 4-8-80; FWC 19-1980, f. & ef. 4-18-80; FWC 10-1981, f. & ef. 3-31-81; FWC 22-1981, f. & ef. 6-29-81; FWC 21-1982, f. & ef. 3-31-82. Renumbered from 635-060-0700; FWC 15-1983, f. & ef. 4-19-83; FWC 16-1984, f. & ef. 4-6-84, ef. 4-15-84; FWC 21-1985, f. & ef. 5-7-85; FWC 29-1986, f. & ef. 7-23-86; FWC 11-1987, f. & ef. 3-6-87; FWC 14-1988, f. & cert. ef. 3-10-88; FWC 65-1989, f. & cert. ef. 8-15-89; FWC 57-1990, f. & cert. ef. 6-21-90; FWC 60-1991, f. & cert. ef. 6-24-91; FWC 45-1992, f. & cert. ef. 7-15-92; FWC 36-1993, f. & cert. ef. 6-14-93; FWC 46-1993, f. & cert. ef. 8-4-93; FWC 18-1994, f. 3-30-94, cert. ef. 5-1-94; FWC 40-1994, f. & cert. ef. 6-28-94; FWC 90-1994(Temp), f. & cert. ef. 12-8-94; FWC 6-1995, f. 1-23-95, cert. ef. 4-1-95; FWC 10-1995, f. & cert. ef. 2-3-95; FWC 54-1995, f. & cert. ef. 6-20-95; FWC 38-1997, f. & cert. ef. 6-17-97; DFW 49-1998, f. & cert. ef. 6-22-98; DFW 47-1999, f. & cert. ef. 6-16-99; DFW 92-1999, f. 12-8-99, cert. ef. 1-1-00; DFW 30-2000, f. & cert. ef. 6-14-00; DFW 121-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 2-2003, f. & cert. ef. 1-17-03

## 635-067-0032

### Bighorn Sheep Auction Tag

(1) One bighorn sheep tag will be auctioned to the highest bidder during 2003 in the manner and at such time as provided by the department. The department may contract with a sportsmen's group or organization to conduct the auction.

(2) The bighorn sheep auction tag and auction shall be limited as follows:

(a) Bag Limit: One bighorn sheep ram.

(b) Hunting Hours: One-half hour before sunrise to one-half hour after sunset.

(c) Open Season: The season shall begin on the opening day of the first regularly scheduled bighorn sheep season in 2003 and shall end on the last day of the last regularly scheduled bighorn sheep season in 2003.

(d) Open Area: Any area where bighorn sheep hunts and tags have been authorized for the 2003 season. The remainder of the state is closed to bighorn sheep hunting.

(e) Auction Requirements:

(A) The bid price includes the hunting license and tag fee. A valid bighorn sheep tag will be provided to the winner of the raffle and a valid hunting license will be provided if the winner has not already purchased one, so long as the winner is eligible to purchase an adult Oregon hunting license.

(B) Any person, resident or nonresident, is eligible to bid.

(C) If the highest bid is submitted by a person other than the person who is to receive the tag, the department shall be notified within five business days of the name, address, and phone number of the individual who is to receive the license and tag and his or her position or affiliation with the corporation or organization.

(D) Acceptance of the highest bid shall be conditional until the full amount of the bid is paid. Payment shall be made to the Oregon Department of Fish and Wildlife by cashiers check or certified check within 60 days of the date of the auction, whether conducted by the department or by a sportsman's group or organization authorized by the department to conduct the auction.

(E) If the full amount is not paid as provided in OAR 635-067-0032 (2)(d)(D), the department may, at its discretion, reject the bid and offer the tag to the next highest bidder. If the department offers the tag to the next highest bidder, such next highest bidder must make payment to the Oregon Department of Fish and Wildlife by cashiers check or certified check within 30 days of notification of his opportunity to obtain the tag.

(F) The successful bidder may be required to complete a bighorn sheep hunting orientation course prior to their hunt. The hunter shall inform the department when and where the hunt will be conducted. The successful bidder shall be required to take appropriate steps to assure that any ram taken is marked with an identification pin by department personnel within five days of being taken.

(G) The department shall reserve the right to accept or reject any or all bids.

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

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

Hist.: FWC 16-1987, f. & ef. 5-5-87; FWC 14-1988, f. & cert. ef. 3-10-88; FWC 16-1989, f. & cert. ef. 3-28-89; FWC 35-1989, f. & cert. ef. 6-6-89; FWC 65-1989, f. & cert. ef. 8-15-89; FWC 36-1990, f. & cert. ef. 4-25-90; FWC 128-1990, f. & cert. ef. 12-24-90; FWC 127-1991, f. & cert. ef. 10-28-91; FWC 61-1992, f. & cert. ef. 7-30-92; FWC 45-1993, f. & cert. ef. 8-4-93; FWC 91-1994, f. & cert. ef. 12-15-94; FWC 53-1995, f. & cert. ef. 6-20-95; FWC 39-1996, f. 6-17-96, cert. ef. 11-1-96; FWC 71-1997, f. & cert. ef. 12-29-97; DFW 49-1998, f. & cert. ef. 6-22-98; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 47-1999, f. & cert. ef. 6-16-

99; DFW 92-1999, f. 12-8-99, cert. ef. 1-1-00; DFW 82-2000, f. 12-21-00, cert. ef. 1-1-01; DFW 121-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 2-2003, f. & cert. ef. 1-17-03

## 635-067-0034

### Bighorn Sheep Raffle Tag

(1) One bighorn sheep tag will be raffled during 2003 to an individual selected at a public drawing. The department may contract with a sportsmen's group or organization to conduct the raffle.

(2) The bighorn sheep raffle tag shall be limited as follows:

(a) Bag Limit: One bighorn sheep ram.

(b) Hunting Hours: One-half hour before sunrise to one-half hour after sunset.

(c) Open Season: The season shall begin on the opening day of the first regularly scheduled bighorn sheep season in 2003 and shall end on the last day of the last regularly scheduled bighorn sheep season in 2003.

(d) Open Area: Any area where bighorn sheep hunts and tags have been authorized for the 2003 season. The remainder of the state is closed to bighorn sheep hunting.

(3) Raffle Requirements:

(a) There is no limit on the number of tickets that a person may purchase. Raffle tickets shall be available for purchase in the following denominations:

(A) One ticket package at a cost of \$9.50 (plus a \$1.50 license agent fee).

(B) Six ticket package at a cost of \$49.50 (plus a \$1.50 license agent fee).

(C) Thirteen ticket package at a cost of \$99.50 (plus a \$1.50 license agent fee).

(b) Raffle tickets will be made available to the public through the authorized license agents in the state or through licensing in the Portland headquarters office or may be purchased through the mail using Oregon Department of Fish and Wildlife accepted forms. Tickets may be sold by department representatives at various gatherings of sportsmen's groups.

(c) Residents and nonresidents shall be eligible to purchase tickets.

(d) There shall be no refunds on any purchases of raffle tickets.

(e) Tickets purchased through license agents and handled by mail shall be received in the Portland headquarters office of the department by 5 p.m. one week prior to the drawing date to be announced by the department. Additional tickets may be purchased at the actual raffle site prior to the drawing.

(f) One winner and two alternate winners will be drawn at a public drawing; time and location to be announced by the department.

(g) The department will mail notification to the winner and two alternates. If the winner does not claim the tag by 5 p.m., July 1, 2003, the winner shall be disqualified and the department will offer the tag to the first alternate. If the first alternate does not claim the tag within 10 business days of July 1, 2003, the second alternate will be contacted. If the tag is not claimed by 5 p.m., August 18, 2003, it will not be issued.

(h) License and Tag Requirements: A valid bighorn sheep tag will be provided to the winner of the raffle and a valid hunting license will be provided if the winner has not already purchased one, so long as the winner is eligible to purchase an adult Oregon hunting license.

(i) The bighorn sheep tag shall be issued in the name of the person on the winning ticket provided that person meets all criteria outlined above. The tag may not be sold, assigned, or otherwise transferred.

(j) The winner of the bighorn sheep tag may be required to complete a bighorn sheep hunting orientation course prior to their hunt. The hunter shall inform the department as to where and when the hunt will be conducted.

(k) If the holder of the raffle bighorn sheep tag is successful in taking a bighorn sheep ram, that person shall present the ram to the department for permanent marking within five days of taking of the ram.

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

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

Hist.: FWC 127-1991, f. & cert. ef. 10-28-91; FWC 61-1992, f. & cert. ef. 7-30-92; FWC 45-1993, f. & cert. ef. 8-4-93; FWC 91-1994, f. & cert. ef. 12-15-94; FWC 53-1995, f. & cert. ef. 6-20-95; FWC 39-1996, f. 6-17-96, cert. ef. 11-1-96; FWC 71-1997, f. & cert. ef. 12-29-97; DFW 49-1998, f. & cert. ef. 6-22-98; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 92-1999, f. 12-8-99, cert. ef. 1-1-00; DFW 1-2000(Temp), f. & cert. ef. 1-3-00 thru 6-30-00; DFW 30-2000, f. & cert. ef. 6-14-00; DFW 82-2000, f. 12-21-00, cert. ef. 1-1-01; DFW 121-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 2-2003, f. & cert. ef. 1-17-03

## 635-067-0040

### Controlled Rocky Mountain Goat Hunt Regulations

Rocky Mountain goat taken by hunters shall be inspected by department personnel prior to the hunter leaving the hunt area. Party applications are not allowed. All hunters are required to attend an orientation class with

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department personnel prior to hunting and to check out through the local district office of ODFW within 72 hours of completion of their hunt.

Stat. Auth.: ORS 496.012, ORS 496.138, ORS 496.146 & ORS 496.162  
Stats. Implemented: ORS 496.012, ORS 496.138, ORS 496.146 & ORS 496.162  
Hist.: FWC 9-1997, f. & cert. ef. 2-27-97; FWC 38-1997, f. & cert. ef. 6-17-97; DFW 49-1998, f. & cert. ef. 6-22-98; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 30-2000, f. & cert. ef. 6-14-00; DFW 2-2003, f. & cert. ef. 1-17-03

## 635-069-0010

### Controlled Antlerless Deer Hunts

- (1) Hunt 655B3- Hunt Name: Walla Walla River No. 3
- (a) Bag Limit: one antlerless white-tailed deer
- (b) Open Season: January 18, 2003 — January 26, 2003
- (c) Hunt Area: 0% public lands. That part of Unit 55 within 1 mile of Walla Walla River and its' forks as follows: From Couse Creek Road bridge (MP 1 on Walla Walla River Road) upstream to confluence of north and south forks; upstream along South Fork Walla Walla River to MP 5 on South Fork Walla Walla River Road; upstream along North Fork Walla Walla River to end of County Road.

Stat. Auth.: ORS 496.012, ORS 496.138, ORS 496.146 & ORS 496.162  
Stats. Implemented: ORS 496.012, ORS 496.138, ORS 496.146 & ORS 496.162  
Hist.: FWC 37-1982, f. & ef. 6-25-82; FWC 28-1983, f. & ef. 7-8-83; FWC 34-1984, f. & ef. 7-24-84; FWC 43-1985, f. & ef. 8-22-85; FWC 35-1986, f. & ef. 8-7-86; FWC 43-1987, f. & ef. 7-6-87; FWC 40-1988, f. & cert. ef. 6-13-88; FWC 67-1989, f. & cert. ef. 8-15-89; FWC 59-1990, f. & cert. ef. 6-21-90; FWC 62-1991, f. & cert. ef. 6-24-91; FWC 114-1991, f. & cert. ef. 9-30-91; FWC 47-1992, f. & cert. ef. 7-15-92; FWC 36-1993, f. & cert. ef. 6-14-93; FWC 46-1993, f. & cert. ef. 8-4-93; FWC 18-1994, f. 3-30-94, cert. ef. 5-1-94; FWC 40-1994, f. & cert. ef. 6-28-94; FWC 6-1995, f. 1-23-95, cert. ef. 4-1-95; FWC 54-1995, f. & cert. ef. 6-20-95; FWC 17-1996, f. 4-10-96, cert. ef. 4-15-96; FWC 35-1996, f. & cert. ef. 6-7-96; FWC 9-1997, f. & cert. ef. 2-27-97; DFW 32-1999(Temp), f. & cert. ef. 5-4-99 thru 10-31-99; DFW 34-1999(Temp), f. & cert. ef. 5-12-99 thru 10-31-99; DFW 20-2000(Temp), f. 4-12-00, cert. ef. 4-12-00 thru 6-30-00; DFW 30-2000, f. & cert. ef. 6-14-00; DFW 47-2001, f. & cert. ef. 6-13-01; DFW 2-2003, f. & cert. ef. 1-17-03

## 635-070-0000

### Purpose and General Information

(1) The purpose of these rules is to establish season dates, bag limits, areas, methods and other restrictions for hunting Cascade and Coast elk pursuant to ORS Chapter 496.

(2) Controlled hunt tag numbers for 2002 are listed in Tables 1 and 2 and are adopted and incorporated into OAR chapter 635, division 070 by reference.

(3) OAR chapter 635, division 070 incorporates, by reference, the requirements for hunting western Oregon elk set out in the document entitled "2003 Oregon Big Game Regulations," into Oregon Administrative Rules. Therefore, persons must consult the "2003 Oregon Big Game Regulations" in addition to OAR chapter 635, to determine all applicable requirements for hunting western Oregon elk. The annual Oregon Big Game Regulations are available at hunting license agents and regional, district and headquarters offices of the Oregon Department of Fish and Wildlife.

[ED. NOTE: Tables & Publications referenced are available from the agency.]  
Stat. Auth.: ORS 496.012, ORS 496.138, ORS 496.146 & ORS 496.162  
Stats. Implemented: ORS 496.012, ORS 496.138, ORS 496.146 & ORS 496.162  
Hist.: FWC 41-1988, f. & cert. ef. 6-13-88; FWC 35-1996, f. & cert. ef. 6-7-96; FWC 9-1997, f. & cert. ef. 2-27-97; FWC 38-1997, f. & cert. ef. 6-17-97; FWC 71-1997, f. & cert. ef. 12-29-97; DFW 49-1998, f. & cert. ef. 6-22-98; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 47-1999, f. & cert. ef. 6-16-99; DFW 92-1999, f. 12-8-99, cert. ef. 1-1-00; DFW 30-2000, f. & cert. ef. 6-14-00; DFW 82-2000, f. 12-21-00, cert. ef. 1-1-01; DFW 47-2001, f. & cert. ef. 6-13-01; DFW 121-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 59-2002, f. & cert. ef. 6-11-02; DFW 2-2003, f. & cert. ef. 1-17-03

## 635-071-0000

### Purpose and General Information

(1) The purpose of these rules is to establish season dates, bag limits, areas, methods and other restrictions for hunting Rocky Mountain elk pursuant to ORS Chapter 496.

(2) Controlled hunt tag numbers for 2002 are listed in Tables 1 and 2 and are adopted and incorporated in OAR chapter 635, division 071 by reference.

(3) OAR chapter 635, division 071 incorporates, by reference, the requirements for hunting Rocky Mountain elk set out in the document entitled "2003 Oregon Big Game Regulations," into Oregon Administrative Rules. Therefore, persons must consult the "2003 Oregon Big Game Regulations" in addition to OAR chapter 635, to determine all applicable requirements for hunting Rocky Mountain elk. The annual Oregon Big Game Regulations are available at hunting license agents and regional, district and headquarters offices of the Oregon Department of Fish and Wildlife.

[ED. NOTE: Tables & Publications referenced are available from the agency.]  
Stat. Auth.: ORS 496.012, ORS 496.138, ORS 496.146 & ORS 496.162  
Stats. Implemented: ORS 496.012, ORS 496.138, ORS 496.146 & ORS 496.162

Hist.: FWC 42-1988, f. & cert. ef. 6-13-88; FWC 35-1996, f. & cert. ef. 6-7-96; FWC 9-1997, f. & cert. ef. 2-27-97; FWC 38-1997, f. & cert. ef. 6-17-97; FWC 71-1997, f. & cert. ef. 12-29-97; DFW 49-1998, f. & cert. ef. 6-22-98; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 47-1999, f. & cert. ef. 6-16-99; DFW 92-1999, f. 12-8-99, cert. ef. 1-1-00; DFW 30-2000, f. & cert. ef. 6-14-00; DFW 82-2000, f. 12-21-00, cert. ef. 1-1-01; DFW 47-2001, 6-13-01; DFW 121-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 59-2002, f. & cert. ef. 6-11-02; DFW 2-2003, f. & cert. ef. 1-17-03

## 635-071-0030

### Controlled Rocky Mountain Elk Seasons

Tags shall be issued by a controlled hunt drawing following the procedures established in OAR chapter 635, division 060. A person successful in drawing a controlled elk tag shall not hunt in any other elk season, except as provided in OAR chapter 635, division 090 and they may hunt during any elk season for which they possess a "left over" controlled elk tag obtained through the first-come, first-served process.

Stat. Auth.: ORS 496.012, ORS 496.138, ORS 496.146 & ORS 496.162  
Stats. Implemented: ORS 496.012, ORS 496.138, ORS 496.146 & ORS 496.162  
Hist.: FWC 9-1997, f. & cert. ef. 2-27-97; DFW 53-1999(Temp), f. & cert. ef. 8-6-99 thru 2-2-00; DFW 47-2001, f. & cert. ef. 6-13-01; DFW 2-2003, f. & cert. ef. 1-17-03

## 635-072-0000

### Purpose and General Information

(1) The purpose of these rules is to establish season dates, bag limits, areas, and other restrictions for hunting western gray squirrels pursuant to ORS Chapter 496.

(2) OAR chapter 635, division 072 incorporates, by reference, the requirements for hunting western gray squirrel set out in the document entitled "2003 Oregon Big Game Regulations," into Oregon Administrative Rules. Therefore, persons must consult the "2003 Oregon Big Game Regulations" in addition to OAR Chapter 635, to determine all applicable requirements for hunting western gray squirrel. The annual Oregon Big Game Regulations are available at hunting license agents and regional, district and headquarters offices of the Oregon Department of Fish and Wildlife.

Stat. Auth.: ORS 496.012, ORS 496.138, ORS 496.146 & ORS 496.162  
Stats. Implemented: ORS 496.012, ORS 496.138, ORS 496.146 & ORS 496.162  
Hist.: FWC 43-1988, f. & cert. ef. 6-13-88; FWC 9-1997, f. & cert. ef. 2-27-97; FWC 71-1997, f. & cert. ef. 12-29-97; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 92-1999, f. 12-8-99, cert. ef. 1-1-00; DFW 82-2000, f. 12-21-00, cert. ef. 1-1-01; DFW 121-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 2-2003, f. & cert. ef. 1-17-03

## 635-073-0001

### Bowhunting Seasons

(1) Portions of the bowhunting areas are open for other hunting during specified periods listed under extended and controlled seasons.

(2) A bowhunter shall have on his person a hunting license and a valid tag while hunting in any of the bowhunting seasons listed in this section.

(3) A bowhunter possessing an elk bow tag is restricted to authorized elk bowhunting areas and seasons, and shall not hunt during the Cascade, Coast, or Rocky Mountain elk rifle seasons.

(4) A bowhunter possessing a deer bow tag is restricted to authorized bowhunting areas and seasons and shall not hunt during any other general western Oregon deer or controlled buck seasons. Exception: bowhunters possessing a "left over" tag obtained through the first-come, first-served process also may hunt during the season for which that tag was issued.

(5) The elk bow tag is the only tag valid in any bowhunting season open to elk hunting. The deer bow tag is the only tag valid in any bowhunting season open to deer hunting. Exception: bowhunters possessing a "left over" tag obtained through the first-come, first-served process also may hunt during the season for which that tag was issued.

(6) White-tailed deer are protected in all units west of the eastern boundaries of the Santiam, McKenzie, Indigo, Dixon, and Rogue units.

Stat. Auth.: ORS 496.012, ORS 496.138, ORS 496.146 & ORS 496.162  
Stats. Implemented: ORS 496.012, ORS 496.138, ORS 496.146 & ORS 496.162  
Hist.: FWC 123, f. & ef. 6-9-77; FWC 12-1979, f. & ef. 3-28-79; FWC 28-1979, f. & ef. 8-2-79; FWC 33-1980, f. & ef. 6-30-80; FWC 6-1981, f. & ef. 1-23-81; FWC 11-1981, f. & ef. 3-31-81; FWC 20-1981, f. & ef. 6-19-81; FWC 37-1982, f. & ef. 6-25-82; Renumbered from 635-065-0500; FWC 28-1983, f. & ef. 7-8-83; FWC 34-1984, f. & ef. 7-24-84; FWC 43-1985, f. & ef. 8-22-85; FWC 35-1986, f. & ef. 8-7-86; FWC 44-1988, f. & cert. ef. 6-13-88; FWC 71-1989, f. & cert. ef. 8-15-89; FWC 63-1990, f. & cert. ef. 6-21-90; FWC 26-1991, f. & cert. ef. 3-12-91; FWC 71-1997, f. & cert. ef. 12-29-97; DFW 49-1998, f. & cert. ef. 6-22-98; DFW 47-2001, f. & cert. ef. 6-13-01; DFW 2-2003, f. & cert. ef. 1-17-03

## 635-073-0070

### Early Eastern Oregon Bowhunting Seasons

(1) General Bowhunting Seasons — Eastern Oregon.

(a) Bag Limit: One buck deer having a visible antler and one elk;

(b) Open Season: August 30- September 28, 2003;

(c) Hunt Area: The Grizzly, Metolius, Upper Deschutes, Paulina, Sprague, Keno, Klamath Falls, Interstate, Warner, Wagontire, Juniper, Beatys Butte, Steens Mountain, Owyhee, Malheur River, Silvies, Maury,

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Ochoco, Murderers Creek, Beulah, Fossil, Northside, Desolation, Ukiah, Starkey, Mt. Emily, Walla Walla, Wenaha, Sled Springs, Chesnimnus, Minam, Catherine Creek, Sumpter, Lookout Mountain, Keating, Pine Creek, Innaha, Snake River, and Whitehorse units and that part of the White River Unit within the Mt. Hood National Forest except that: That part of the Whitehorse Unit south of Whitehorse Ranch Rd. and west of US Hwy 95 (Trout Creek Mts.), is closed to deer bowhunting during the general bowhunting season unless the hunter has a Trout Creek Mts. controlled bow deer tag. Approximately 40 square miles of the Starkey Experimental Forest within the Starkey Unit shall be closed to all bowhunting. The Chesnimnus Unit shall be closed to deer bowhunting during the general bowhunting season unless the hunter also has a Chesnimnus controlled bow elk tag (used or unused). The Chesnimnus Unit shall be closed to all elk bowhunting unless the hunter has a valid, controlled Chesnimnus elk bow tag. The Sled Springs Unit shall be closed to deer bowhunting during the general bowhunting season unless the hunter also has a Sled Springs controlled bow elk tag (used or unused). The Sled Springs Unit shall be closed to all elk bowhunting unless the hunter has a valid, controlled Sled Springs elk bow tag. In the Walla Walla and Mt. Emily units, the bag limit is one antlerless elk or one spike bull elk having at least one antler that is a spike above the ears; in the Wenaha Unit, the bag limit is one spike bull elk only;

(2) General Bowhunting Seasons — Eastern Oregon.

(a) Bag Limit: One deer and one elk;

(b) Open Season: August 24 — September 22, 2002;

(c) Hunt Area: The Hood, Biggs, Fort Rock, Silver Lake, Heppner, Maupin, and Columbia Basin units and that part of the White River Unit outside the Mt. Hood National Forest except that: That portion of the Columbia Basin Unit described as follows shall be closed to all bowhunting: Beginning at Heppner, north and west on State Hwy 74 to Lexington; north and east on State Hwy 207 to Butter Creek Junction; south on Butter Creek Road to Hwy 74 at Vinson; west on Hwy 74 to Heppner, point of beginning.

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

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

Hist.: FWC 9-1997, f. & cert. ef. 2-27-97; FWC 38-1997, f. & cert. ef. 6-17-97; FWC 71-1997, f. & cert. ef. 12-29-97; DFW 47-1999, f. & cert. ef. 6-16-99; DFW 92-1999, f. 12-8-99, cert. ef. 1-1-00; DFW 57-2001, f. & cert. ef. 7-6-01; DFW 59-2002, f. & cert. ef. 6-11-02; DFW 2-2003, f. & cert. ef. 1-17-03

## 635-073-0080

### Controlled Muzzleloader Deer Hunt Regulations

Tags shall be issued by a controlled hunt drawing following the procedures established in OAR chapter 635, division 060. A hunter successful in drawing one of the controlled muzzleloader deer tags shall not hunt in any general deer season or other 100 series hunts. Exception: Hunters who possess an additional 100, 600, or 800 series "left over" tag obtained through the first-come, first-served process may hunt during the season for which that tag was issued. Hunters successful in drawing a tag may hunt in 600 and 800 series hunts as provided in OAR chapter 635, division 090.

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

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

Hist.: FWC 9-1997, f. & cert. ef. 2-27-97; DFW 47-2001, f. & cert. ef. 6-13-01; DFW 2-2003, f. & cert. ef. 1-17-03

## 635-073-0090

### Controlled Antlerless Deer and Elk Youth Hunting Regulations

(1) General Regulations: Tags shall be issued by a controlled hunt drawing following the procedures established in OAR chapter 635, division 060. Hunters must be 12 to 17 years of age at the time they hunt. An adult at least 21 years of age, who may not hunt or carry a loaded firearm, must accompany not more than two juveniles. Juveniles must have a hunter education certificate, a valid hunting license, and a controlled hunt permit valid for that area and time period in possession while hunting. A hunter successful in drawing one of the controlled 600 series deer youth hunt tags may hunt in any general deer season or controlled buck deer hunt, and as provided in OAR chapter 635, division 090; if possessing the proper tag for the area and time period being hunted. A youth hunter obtaining a "left over" tag through the first-come, first-served process also may hunt during the season for which that tag was issued.

(2) A hunter successful in drawing a controlled antlerless elk youth hunt tag shall not hunt in any other elk season, except as provided in OAR chapter 635, division 090.

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

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

Hist.: FWC 9-1997, f. & cert. ef. 2-27-97; DFW 82-2000, f. 12-21-00, cert. ef. 1-1-01; DFW 47-2001, f. & cert. ef. 6-13-01; DFW 2-2003, f. & cert. ef. 1-17-03

## 635-078-0008

### District Emergency Hunts

(1) Upon determination that acute game mammal damage to agriculture or other resources is occurring, and that an emergency exists requiring an immediate response to alleviate the damage situation, the commission authorizes district wildlife biologists to issue permits and tags for:

(a) Taking pronghorn antelope, deer and elk in designated areas from August 1 to March 31;

(b) The manner of taking game mammals;

(c) Numbers and sex to be taken.

(2) The method of determining who shall be eligible to participate in the emergency hunts set forth in section (1) of this rule shall be as follows:

(a) Hunters who wish to be eligible for emergency hunts shall have their names placed on the emergency hunt list for the county in which they wish to hunt. The list is to be effective for one year. Each hunter less than 18 years of age shall have an adult hunting license and be accompanied by a responsible adult (21 years of age or older). Applications will be accepted at the office of the Department of Fish and Wildlife, PO Box 59, Portland, Oregon 97207. Beginning July 1 of each year, the hunter's name will be placed on the eligible list in the order received. No fee is required for applicants to be placed on the emergency hunt list. Applications may be made on a form available at department offices and up to two hunters may apply on the form as a party. Each applicant shall list their name, address, and telephone number, where they can be contacted and the county for which they are applying.

(b) At such time as the district wildlife biologist determines that a need for such emergency hunt exists, those numbers of hunters for which permits are available shall be notified to obtain their permits from the department. Hunt lists will be prioritized by a random sort of the applications received during July of each year. Applications received after July 31 each year will be prioritized as received.

(3) It is unlawful to take game mammals in and during the emergency hunt set forth in section (1) of this rule without having an emergency hunt permit/tag authorized for the species, area, and season on one's person.

(4) Upon killing a game mammal pursuant to these rules, the hunter shall immediately notify the local ODFW representative (or designee), and pay the appropriate fee for the tag required.

(5) Fees for such tags shall be the same as the tag fees established by species in ORS 497.112.

(6) No more than 250 hunters in aggregate, per county may be used to alleviate emergency damage between August 1 - March 31 annually.

(7) The director shall notify the commission of the results of any hunts set forth in section (1) if this rule.

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

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

Hist.: FWC 15-1992, f. 3-10-92, cert. ef. 3-13-92 (and corrected 3-13-92); FWC 52-1992, f. & cert. ef. 7-15-92; FWC 46-1993, f. & cert. ef. 8-4-93; FWC 17-1996, f. 4-10-96, cert. ef. 4-15-96; FWC 9-1997, f. & cert. ef. 2-27-97; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 92-1999, f. 12-8-99, cert. ef. 1-1-00; DFW 121-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 2-2003, f. & cert. ef. 1-17-03

## 635-080-0070

### Beatys Butte Unit

The Beatys Butte Unit, number 70, is that area beginning at Denio; west along Oregon state line to Fort Bidwell-Warner Valley Road (Lake County Rd 3-14); north on 4-13 to Adel; north on county road 3-10 through Plush to county road 3-11; east on county road 3-11 to Hart Refuge and country road 3-12; north and east on 3-12 to Hart Refuge headquarters; east on Frenchglen road which becomes Harney County Rd 139 to State Hwy 205; south on State Hwy 205 to Denio; point of beginning.

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

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

Hist.: FWC 119, f. & cert. ef. 6-3-77; FWC 26-1978, f. & cert. ef. 5-26-78; FWC 72-1989, f. & cert. ef. 8-15-89; DFW 47-1999, f. & cert. ef. 6-16-99; DFW 2-2003, f. & cert. ef. 1-17-03

Adm. Order No.: DFW 3-2003

Filed with Sec. of State: 1-17-2003

Certified to be Effective: 1-20-03

Notice Publication Date: 9-1-02

Rules Amended: 635-068-0000, 635-073-0000

Subject: Establish 2003 hunting regulations for game mammals, including season dates, open area, and other rules including general hunting and control hunt regulations.

Rules Coordinator: Mike Lueck—(503) 872-5272, ext. 5447

# ADMINISTRATIVE RULES

635-068-0000

## Purpose and General Information

(1) The purpose of these rules is to establish season dates, bag limits, areas, methods and other restrictions for hunting western Oregon deer pursuant to ORS Chapter 496.

(2) Controlled hunt tag numbers for 2002 are listed in Tables 1 and 2 and are adopted and incorporated into OAR chapter 635, division 068 by reference.

(3) OAR chapter 635, division 068 incorporates, by reference, the requirements for hunting western Oregon deer set out in the document entitled "2003 Oregon Big Game Regulations," into Oregon Administrative Rules. Therefore, persons must consult the "2003 Oregon Big Game Regulations" in addition to OAR chapter 635, to determine all applicable requirements for hunting western Oregon deer. The annual Oregon Big Game Regulations are available at authorized license agents and regional, district, and headquarters offices of the Oregon Department of Fish and Wildlife.

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

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

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

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

Hist.: FWC 39-1988, f. & cert. ef. 6-13-88; FWC 35-1996, f. & cert. ef. 6-7-96; FWC 9-1997, f. & cert. ef. 2-27-97; FWC 38-1997, f. & cert. ef. 6-17-97; FWC 71-1997, f. & cert. ef. 12-29-97; DFW 49-1998, f. & cert. ef. 6-22-98; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 47-1999, f. & cert. ef. 6-16-99; DFW 92-1999, f. 12-8-99, cert. ef. 1-1-00; DFW 30-2000, f. & cert. ef. 6-14-00; DFW 82-2000, f. 12-21-00, cert. ef. 1-1-01; DFW 47-2001, f. & cert. ef. 6-13-01; DFW 121-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 59-2002, f. & cert. ef. 6-11-02; DFW 3-2003, f. 1-17-03, cert. ef. 1-20-03

635-073-0000

## Purpose and General Information

(1) The purpose of these rules is to establish season dates, bag limits, areas and other restrictions for bow and muzzleloader hunting and controlled deer and elk youth hunts; pursuant to ORS Chapter 496.

(2) Controlled hunt tag numbers for 2002 for deer and elk bow and muzzleloader hunting and deer and elk youth hunts are listed in Tables 1 and 2 and are adopted and incorporated into OAR chapter 635, division 073 by reference.

(3) OAR chapter 073 incorporates, by reference, the requirements for bow and muzzleloader hunting and controlled deer and elk youth hunts set out in the document entitled "2003 Oregon Big Game Regulations," into Oregon Administrative Rules. Therefore, persons must consult the "2003 Oregon Big Game Regulations," in addition to OAR chapter 635, to determine all applicable requirements for bow and muzzleloader hunting and controlled deer and elk youth hunts. The annual Oregon Big Game Regulations are available at hunting license agents and regional, district and headquarters offices of the Oregon Department of Fish and Wildlife.

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

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

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

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

Hist.: FWC 44-1988, f. & cert. ef. 6-13-88; FWC 18-1994, f. 3-30-94, cert. ef. 5-1-94; FWC 17-1996, f. 4-10-96, cert. ef. 4-15-96; FWC 35-1996, f. & cert. ef. 6-7-96; FWC 9-1997, f. & cert. ef. 2-27-97; FWC 38-1997, f. & cert. ef. 6-17-97; FWC 71-1997, f. & cert. ef. 12-29-97; DFW 49-1998, f. & cert. ef. 6-22-98; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 47-1999, f. & cert. ef. 6-16-99; DFW 92-1999, f. 12-8-99, cert. ef. 1-1-00; DFW 21-2000(Temp), f. 4-12-00, cert. ef. 4-12-00 thru 6-30-00; DFW 30-2000, f. & cert. ef. 6-14-00; DFW 82-2000, f. 12-21-00, cert. ef. 1-1-01; DFW 47-2001, f. & cert. ef. 6-13-01; DFW 121-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 59-2002, f. & cert. ef. 6-11-02; DFW 3-2003, f. 1-17-03, cert. ef. 1-20-03

Adm. Order No.: DFW 4-2003

Filed with Sec. of State: 1-17-2003

Certified to be Effective: 4-1-03

Notice Publication Date: 9-1-02

Rules Amended: 635-060-0055, 635-075-0020

Subject: Establish 2003 hunting regulations for game mammals, including season dates, open area, and other rules including general hunting and controlled hunt regulations.

Rules Coordinator: Mike Lueck—(503) 872-5272, ext. 5447

635-060-0055

## Documents Required in Field

(1) A person hunting in any controlled game mammal hunt shall have on his or her person a valid hunting license, Hunter Education Certificate (for persons less than 18 years old), and a controlled hunt tag (if applicable) for the area and season being hunted. The hunting license number shall be the same as that indicated on the controlled hunt tag. Exception: Controlled hunts continuing or occurring after December 31, 2003 will have a 2003 hunting license number on the controlled hunt tag.

(2) A tag or permit holder for a hunt after December 31, 2003 shall have on his or her person a valid 2004 hunting license.

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

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

Hist.: FWC 32-1978, f. & cert. ef. 6-30-78; FWC 29-1979, f. & cert. ef. 8-2-79; FWC 33-1980, f. & cert. ef. 6-30-80; FWC 7-1981, f. 2-18-81, cert. ef. 6-1-81; FWC 10-1981, f. & cert. ef. 3-31-81; FWC 22-1981, f. & cert. ef. 6-29-81; FWC 38-1982, f. & cert. ef. 6-25-82; FWC 34-1984, f. & cert. ef. 7-24-84; FWC 43-1985, f. & cert. ef. 8-22-85; FWC 35-1986, f. & cert. ef. 8-7-86; FWC 11-1987, f. & cert. ef. 3-6-87; FWC 12-1988, f. & cert. ef. 3-10-88; FWC 37-1988, f. & cert. ef. 6-13-88; FWC 14-1989, f. & cert. ef. 3-28-89; FWC 48-1989, f. & cert. ef. 7-25-89; FWC 23-1990, f. & cert. ef. 3-21-90; FWC 18-1991, f. & cert. ef. 3-12-91; FWC 14-1992, f. 3-10-92, cert. ef. 3-13-92 (and corrected 3-13-92); FWC 36-1993, f. & cert. ef. 6-14-93; FWC 51-1993, f. & cert. ef. 8-25-93; FWC 6-1994, f. & cert. ef. 1-26-94; FWC 45-1994(Temp), f. & cert. ef. 7-29-94; FWC 94-1994, f. & cert. ef. 12-22-94; FWC 63-1995, f. & cert. ef. 8-3-95; FWC 21-1996, f. & cert. ef. 5-1-96; FWC 9-1997, f. & cert. ef. 2-27-97; FWC 71-1997, f. & cert. ef. 12-29-97; DFW 49-1998, f. & cert. ef. 6-22-98; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 47-1999, f. & cert. ef. 6-16-99; DFW 92-1999, f. 12-8-99, cert. ef. 1-1-00; DFW 82-2000, f. 12-21-00, cert. ef. 1-1-01; DFW 121-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 4-2003, f. 1-17-03, cert. ef. 4-1-03

635-075-0020

## Landowner Hunting Preference Tags in Special Seasons

(1) During controlled elk hunts with a bag limit of spike or better in units where the usual bag limit for bull elk is spike only, landowner hunting preference tags shall be limited to five tags or 10 percent of the total controlled hunt tags whichever is greater; with a bag limit of spike or better.

(2) If landowner preference tags remain from the controlled hunts described in 635-075-0020(1) after the game mammal controlled hunt drawing, the Department will issue remaining tags to qualified landowners in the following manner:

(a) The tags shall be issued on a first-come, first-served basis.

(b) The Department will set the time and date for the sale of the tags.

(c) Tags issued are additional tags. A qualified landowner may purchase only one first-come, first-served tag per hunt series. Such a tag may be for the landowner or for someone other than the landowner listed on their tag distribution form.

(d) For the purposes of OAR 635-075-0020(2), "qualified landowner" is a landowner who registered their land through the landowner preference program for the Wildlife Management Unit which includes the controlled hunt and who has a current tag distribution form filed with the Department.

(5) A hunter who received a tag of his or her choice through the original game mammal controlled hunt drawing process may exchange that tag for a remaining tag in the first-come, first-served process while tags remain available. Tag purchases and exchanges may be obtained only through ODFW Portland Headquarters and must be made before the start of the seasons for which the tags are issued. The tag being exchanged shall not be reissued.

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

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

Hist.: FWC 10-1994, f. & cert. ef. 2-24-94; FWC 40-1994, f. & cert. ef. 6-28-94; FWC 9-1997, f. & cert. ef. 2-27-97; DFW 4-2003, f. 1-17-03, cert. ef. 4-1-03

Adm. Order No.: DFW 5-2003

Filed with Sec. of State: 1-17-2003

Certified to be Effective: 7-1-03

Notice Publication Date: 9-1-02

Rules Amended: 635-065-0760

Subject: Establish 2003 hunting regulations for game mammals including locations of cooperative travel management areas. Specific rule changes include a new travel management area in the North Alsea-Stott Mtn. area.

Rules Coordinator: Mike Lueck—(503) 872-5272, ext. 5447

635-065-0760

## Other Restrictions

It is unlawful:

(1) To take or hold in captivity the young of any game mammal.

(2) To hold in captivity any wildlife of this state for which a permit is required without first securing a permit.

(3) To release without a permit any wildlife brought from another state or country, or raised in captivity in this state.

(4) To resist game law enforcement officers.

(5) To refuse inspection of any license, tag or permit by an employee of the department; any person authorized to enforce the wildlife laws; or a landowner or agent of the landowner on his land.

(6) To take or attempt to take any game mammals, game birds, migratory waterfowl or any protected wildlife species of any size or sex or amount, by any method or weapon, during any time or in any area not prescribed in these rules.

## ADMINISTRATIVE RULES

- (7) To disturb, damage, remove, alter or possess any official department signs.
- (8) To sell, lend, or borrow any big game tag.
- (9) It is unlawful to operate or to be transported in a motor-propelled vehicle in violation of Cooperative Travel Management Areas. "Motor-propelled vehicle" includes aircraft not landing on designated airstrips. Through cooperative agreement, motor vehicle use is limited to specific roads during the dates for the areas listed below. There are two methods of posting road access information; 1. signs showing road closed, or 2. round green reflectors marking roads open to motorized travel. Unit descriptions may be found in OAR 635-080-0000 through 635-080-0077. The following closures shall be effective during the specified periods each year:
- (a) North Coast Access Area: August 27 through December 1, 2003 — Applies to all gated, posted, and/or barrier-closed roads within the Saddle Mountain, Scappoose and Wilson wildlife management units.
- (b) Upper Tualatin-Trask: Three days prior to the opening of controlled buck deer season through the close of the last elk rifle season — That part of the Trask Unit as follows: 60 square miles in Townships 1 North and 1 South, and Ranges 5 and 6 West;
- (c) Rickreall Regulated Hunt Area: November 1 through November 30 annually — That part of Stott Mt. Unit as follows: 12 square miles in Townships 7 and 8 South, Ranges 6 and 7 West;
- (d) Luckiamute: Permanent Closure — Those parts of the Stott Mt./Alsea Units as follows: 9 square miles in Townships 8 and 9 South, Ranges 7 and 8 West.
- (e) Mid-Coast: Permanent Closure — That part of the Alsea Unit as follows: Individual gated and posted roads on Alsea, Mapleton, and Waldport Ranger Districts, Siuslaw National Forest;
- (f) Smith Ridge: Permanent Closure — That part of the McKenzie Unit as follows: 8 square miles in Townships 13 and 14 South, Ranges 6 and 7 East;
- (g) Chucksney Mountain: September 1 through November 30 annually — That part of the McKenzie Unit as follows: 6 square miles in Township 19 South, Range 5 1/2 East;
- (h) Skookum Flat: Permanent Closure — That part of the McKenzie Unit as follows: 8 square miles in Townships 19 and 20 South, Range 6 East;
- (i) Eagle Creek: October 15 through October 24, 2003 — That part of the McKenzie Unit as follows: 66 square miles in Townships 21 and 22 South, Ranges 5, 5 1/2 and 6 East;
- (j) Scott Creek: Permanent Closure — That part of the McKenzie Unit as follows: 51 square miles in Townships 14, 15, and 16 South, Ranges 6 and 7 East;
- (k) Hadsall: Permanent Closure — That part of the Siuslaw Unit as follows: 6 square miles in Township 18 South, Ranges 9 and 10 West;
- (l) Coos Bay BLM: Permanent Closure — That part of the Tioga Unit as follows: Individual posted roads on lands administered by BLM, Coos Bay District.
- (m) Upper Rogue: Three days prior to the general Cascade elk season through the end of the general Cascade elk season — That part of the Rogue Unit as follows: Butte Falls and Prospect Ranger Districts, Rogue River National Forest;
- (n) Jackson: Three days prior to the general Cascade elk season through end of the general Cascade elk season through April 30 annually — That part of the Rogue, Dixon, and Evans Creek units as follows: 67 square miles in Townships 32, 33, 34, and 35 South, Ranges 1 and 2 West and 1 and 2 East; off-road motor vehicle travel is prohibited at all times;
- (o) Pokegama: November 20, 2003 through March 31, 2004 — That part of the Keno Unit as follows: 97 square miles in Townships 40 and 41 South, Ranges 4, 5, and 6 East;
- (p) Lower Klamath Hills: Permanent Closure — That part of the Klamath Unit as follows: 3 square miles in Township 40 South, Range 9 East;
- (q) Goodlow Mountain Area Closure: December 1, 2003 through March 31, 2004 — That part of the Klamath Unit as follows: 17 square miles in Townships 38 and 39 South, Ranges 12 and 13 East;
- (r) Sun Creek: November 1, 2003 through June 30, 2004 — That part of the Sprague Unit as follows: 14 square miles in Township 32 South, Ranges 6 and 7 1/2 East;
- (s) Fox Butte: Three days prior to the opening of controlled buck deer season through the close of the controlled buck deer season — That part of the Paulina Unit as follows: 230 square miles in Townships 20, 21, 22, 23, and 24 South, Ranges 14, 15, and 16 East;
- (t) Timbers: Permanent Closure — That part of the Paulina Unit as follows: 25 square miles in Townships 23 and 24 South, Ranges 9 and 10 East;
- (u) Rager: October 1 through November 30, 2003 — That part of the Ochoco Unit as follows: 352 square miles south of U.S. Highway 26 and west of the South Fork John Day River.
- (v) White River Wildlife Area: December 1, 2003 through March 31, 2004 — That part of the White River Unit as follows: 59 square miles along the eastern edge of the Mt. Hood National Forest in the southern half of the White River Unit;
- (w) Lower Deschutes: Permanent Closure — That part of the Biggs Unit as follows: 12 square miles along lower 17 miles of Deschutes River except the county access road to Kloan;
- (x) Murderers Creek-Flagtail: October 1 through October 15, 2003 and October 26 through November 16, 2003 — That part of the Murderers Creek Unit as follows: 185 square miles in Townships 13, 14, 15, 16, and 17 South, Ranges 26, 27, 28, and 29 East;
- (y) Camp Creek: October 1 through October 15, 2003 and October 26 through November 16, 2003 — That part of the Northside Unit as follows: 54 square miles in Townships 10, 11, and 12 South, Ranges 31, 32, and 33 East.
- (z) Heppner Regulated Hunt Area: Year-round, unless posted otherwise. That part of the Heppner Unit as follows: Approximately 84 square miles in Townships 2, 3, 4, 5, and 7 South, Ranges 26, 27, and 28 East;
- (aa) Bridge Creek Wildlife Area: December 1, 2003 through April 30, 2004 — That part of the Ukiah Unit as follows: 20 square miles in Townships 5 and 6 south, Ranges 31 and 32 East in the Southwest corner of Ukiah Unit;
- (bb) Dark Canyon: Three days prior to the opening of controlled buck deer season through the close of the last elk season encompassing this travel management area. That part of the Sumpter Unit as follows: 20 square miles in Townships 11 and 12 South, Ranges 40 and 41 East;
- (cc) Patrick Creek: Three days prior to the opening of controlled buck deer season through the close of the last elk season encompassing this travel management area. That part of the Sumpter Unit as follows: 8 square miles in Townships 10 and 11 South, Ranges 35 1/2 and 36 East;
- (dd) Dry Beaver/Ladd Canyon: Permanent Closure — That part of the Starkey Unit as follows: 125 square miles in Townships 4, 5 and 6 South, Ranges 35, 36, 37 and 38 East;
- (ee) Clear Creek: October 26 through November 16, 2003 — That part of the Starkey Unit as follows: 10 square miles in Township 5 South, Ranges 37 and 38 East;
- (ff) Trail Creek: October 26 through November 16, 2003 — That part of the Starkey Unit as follows: 22 square miles in Townships 7 and 8 South, Ranges 35 and 36 East;
- (gg) Indian Creek-Gorham Butte: October 26 through November 16, 2003 — That part of the Starkey Unit as follows: 20 square miles in Townships 6, 7 and 8 South, Ranges 36 and 37 East;
- (hh) Elkhorn Wildlife Area: Permanent Closure — Those parts of the Starkey and Sumpter units as follows: 7 square miles in Township 6 South, Range 38 East;
- (ii) Starkey Experimental Forest: Permanent Closure — That part of the Starkey Unit as follows: 40 square miles in Townships 3 and 4 South, Range 34 East;
- (jj) Hall Ranch: October 26, 2003 through April 30, 2004 — that part of the Catherine Creek Unit as follows: 3 square miles in Township 5 South, Range 41 East;
- (kk) Little Catherine Creek: August 27, 2003 through June 15, 2004 — That part of the Catherine Creek Unit as follows: 14 square miles in Townships 4 and 5 South, Range 41 East;
- (ll) Walla Walla: Permanent Closure — Those parts of Walla Walla, Wenaha, and Mt. Emily units as follows: All gated, posted, and closed roads within the Walla Walla Ranger District of the Umatilla National Forest.
- (mm) Wenaha Wildlife Area: Permanent Closure — That part of the Wenaha Unit as follows: 17 square miles in Townships 5 and 6 North, Ranges 42 and 43 East along eastern edge of Umatilla Forest in northeast corner of Wenaha Unit;
- (nn) Noregaard: Three days prior to the opening of general statewide early archery season through December 15 annually. That part of the Sled Springs Unit as follows: 175 square miles in west one-third of Sled Springs Wildlife Unit.
- (oo) Shamrock: August 1 through December 9, 2003 — That part of the Sled Springs Unit as follows: 20 square miles in Township 4 North, Range 44 East;

# ADMINISTRATIVE RULES

(pp) Chesnimnus: November 5 through 16, 2003 — That portion of the Chesnimnus Wildlife Unit within the boundaries of the Wallowa-Whitman National Forest;

(qq) Cemetery Ridge Road: Permanent Closure — That part of the Chesnimnus Unit as follows: Cemetery Ridge Road north of the south boundary of Section 4, Township 4 North, Range 48 East.

(rr) Lord Flat: Permanent Closure — That part of the Snake River Unit as follows: 120 square miles in Townships 1 South and 1 and 2 North, Ranges 49 and 50 East;

(ss) Grouse-Lick Creeks: October 26 through November 16, 2003 — That part of the Imnaha Unit as follows: 100 square miles in Townships 2, 3, 4, and 5 South, Ranges 46, 47 and 48 East;

(tt) Clear Lake Ridge: Three days prior to the opening of general statewide early archery season through December 1 annually — That part of the Imnaha Unit as follows: Five square miles in Township 2 South, Range 47 East, Sections 3 and 4 and Township 1 South, Range 47 East, Sections 28, 15, 33, 34 and 22.

(uu) Melhorn Reservoir: Permanent Closure: That part of the Pine Creek Unit as follows: 26 square miles in Township 6 South, Ranges 45 and 46 East;

(vv) Lake Fork: Three days prior to the opening of archery season to the end of all elk rifle seasons — That part of the Pine Creek Unit as follows: 32 square miles in Townships 6 and 7 South, Ranges 46 and 47 East;

(ww) Dutchman: Three days prior to the opening of buck deer rifle season to the end of all elk rifle seasons — That part of the Pine Creek Unit as follows: 5 square miles in Township 6 South, Range 47 East;

(xx) Okanogan-Fish: Three days prior to the opening of buck deer rifle season to the end of elk rifle seasons — That part of the Pine Creek Unit as follows: 22 square miles in Township 6 and 7 South, Ranges 46 and 47 East;

(yy) Little Eagle Meadows: Permanent Closure: That part of the Keating Unit as follows: 8 square miles in Townships 6 and 7 South, Ranges 44 and 45 East;

(zz) Boulder Creek: Three days prior to the opening of buck deer rifle season to the end of all elk rifle seasons — That part of the Keating Unit as follows: 6 square miles in Townships 6 and 7 South, Range 45 East;

(aaa) Holcomb Creek: Three days prior to the opening of archery season to the end of all elk rifle seasons — That part of the Keating Unit as follows: 7 square miles in Townships 7 and 8 South, Ranges 44 and 45 East;

(bbb) Eagle Creek: December 1, 2003 through March 31, 2004 — That part of the Keating Unit as follows: 10 square miles in Townships 7 and 8 South, Range 45 East;

(ccc) Conroy Cliff: October 1 through October 15, 2003 and October 26 through November 16, 2003 — That part of the Malheur River Unit as follows: 46 square miles in Townships 16, 17, and 18 South, Ranges 32 1/2, 34, and 35 East;

(ddd) Devine Ridge-Rattlesnake: October 1 through October 15, 2003 and October 26 through November 16, 2003 — That part of the Malheur River Unit as follows: 59 square miles in Townships 20 and 21 South, Ranges 31, 32, 32 1/2 East;

(eee) Dairy Creek: October 1 through October 15, 2003 and October 26 through November 16, 2003 — That part of the Silvies Unit as follows: 98 square miles in Townships 19, 20, 21, and 22 South, Ranges 24, 25, and 26 East;

(fff) Burnt Cabin: October 1 through October 15, 2003 and October 26 through November 16, 2003 — That part of the Silvies Unit as follows: 22 square miles in Townships 18 and 19 South, Ranges 26 and 27 East;

(ggg) Walker Rim: Three days prior to the opening of controlled buck deer season through the close of the controlled buck deer season — That part of the Fort Rock Unit as follows: 113 square miles in Townships 24, 25, and 26 South, Ranges 8, 9, and 10 East;

(hhh) North Paulina: Permanent Closure — That part of the Fort Rock Unit as follows: 12 square miles in Townships 25 and 26 South; Range 8 East;

(iii) Sugarpine Mountain: Permanent Closure — That part of the Fort Rock Unit as follows: 40 square miles in Township 28, Ranges 9 and 10 East.

(jjj) Stott Mt.-Alsea: August 29 — November 21, 2003 — All gated and/or barrier closed roads within the Alsea Unit north of US Hwy 20 and west of State Hwy 233 (Kings Valley Hwy); and in the Stott Mt. Unit.

Stat. Auth.: ORS 496.012, ORS 496.138, ORS 496.146 & ORS 496.162  
Stats. Implemented: ORS 496.012, ORS 496.138, ORS 496.146 & ORS 496.162  
Hist.: FWC 123, f. & ef. 6-9-77; FWC 33-1978, f. & ef. 6-30-78; FWC 28-1979, f. & ef. 8-2-79; FWC 33-1980, f. & ef. 6-30-80; FWC 6-1981, f. & ef. 1-23-81; FWC 11-1981, f. & ef. 3-31-81; FWC 20-1981, f. & ef. 6-19-81; FWC 37-1982, f. & ef. 6-25-82; FWC 28, f. & ef. 7-8-83; FWC 34-1984, f. & ef. 7-24-84; FWC 43-1985, f. & ef. 8-22-85; FWC 35-1986, f. & ef. 8-7-86; FWC 15-1989, f. & cert. ef. 3-28-89; FWC 63-1989, f. & cert. ef. 8-15-89;

FWC 24-1990, f. & cert. ef. 3-21-90; FWC 55-1990, f. & cert. ef. 6-21-90; FWC 58-1991, f. & cert. ef. 6-24-91; FWC 36-1993, f. & cert. ef. 6-14-93; FWC 18-1994, f. 3-30-94, cert. ef. 5-1-94; FWC 4-1995, f. 1-23-95, cert. ef. 7-1-95; FWC 30-1995, f. & cert. ef. 4-17-95; FWC 18-1996, f. 4-10-96, cert. ef. 8-1-96; FWC 9-1997, f. & cert. ef. 2-27-97; FWC 38-1997, f. & cert. ef. 6-17-97; FWC 71-1997, f. & cert. ef. 12-29-97; DFW 49-1998, f. & cert. ef. 6-22-98; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 47-1999, f. & cert. ef. 6-16-99; DFW 92-1999, f. 12-8-99, cert. ef. 1-1-00; DFW 82-2000, f. 12-21-00, cert. ef. 1-1-01; DFW 121-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 5-2003, f. 1-17-03, cert. ef. 7-1-03

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**Adm. Order No.:** DFW 6-2003

**Filed with Sec. of State:** 1-21-2003

**Certified to be Effective:** 2-1-03

**Notice Publication Date:** 12-1-02

**Rules Amended:** 635-006-0232

**Subject:** Amends rules establishing the average market value of food fish species used to determine damages for commercial fishing violations during 2003.

**Rules Coordinator:** Mike Lueck—(503) 872-5272, ext. 5447

**635-006-0232**

**Damages for Commercial Fishing Violations**

(1) For purposes of ORS 506.720 the following shall be the 2003 average market value of food fish species. For species not listed, the average market value shall be the price per pound paid to law enforcement officials for any fish or shellfish confiscated from the person being assessed damages, or the average price per pound paid for that species during the month in which the violation occurred, whichever is greater. Unless otherwise noted, the amount given is the price per pound and is based on round weight.

(a) FISH:

(A) Cabezon,

(i) Round weight, \$0.68;

(ii) Live, \$3.33.

(B) Carp \$0.10 (1995 price);

(C) Cod, Pacific \$0.61;

(D) Flounder, arrowtooth \$0.12;

(E) Flounder, starry \$0.44;

(F) Greenling,

(i) Round weight, \$0.53;

(ii) Live, \$3.18.

(G) Grenadier \$0.14;

(H) Hake, Pacific (Whiting) \$0.05;

(I) Halibut, Pacific, dressed weight with head on \$2.02 and with head off \$2.97;

(J) Herring, Pacific \$0.29;

(K) Lamprey, Pacific \$1.19 (2001 price);

(L) Lingcod,

(i) Round weight, using trawl gears, \$0.89, using line and pot gears \$1.18, and live \$1.76;

(ii) Dressed weight \$1.43.

(M) Pollock, Walleye \$0.67 (2001 price);

(N) Pacific ocean perch, \$0.44;

(O) Rockfish,

(i) Black, using trawl gears \$0.45, using line and pot gears \$0.75, and live \$1.21;

(ii) Blue, using line and pot gears \$0.64 and live \$1.25;

(iii) Canary, using trawl gears \$0.46, using line and pot gears \$1.13 (2001 price), and live \$3.00 (2001 price);

(iv) Widow \$0.41;

(v) Yellowtail, using trawl gears \$0.45, using line and pot gears \$0.76, and live \$3.04 (2001 price);

(vi) Nearshore, using trawl gears \$0.45, using line and pot gears \$1.71, and live \$6.33;

(vii) Shelf, using trawl gears \$0.40, using line and pot gears \$0.97, and live \$2.37;

(viii) Slope, using trawl gears \$0.44, using line and pot gears \$0.47;

(ix) Shortbelly, using trawl gears \$0.03 (2001 price).

(x) Darkblotched, using trawl gears \$0.44;

(xi) Yelloweye, using trawl gears \$0.73, using line and pot gears \$1.04.

(P) Sablefish,

(i) Round weight, ungraded \$1.74, extra small \$0.82, small \$1.17, medium \$1.34, and large \$1.62;

(ii) Dressed weight, ungraded \$1.70, extra small \$2.21, small \$2.81, medium \$3.14, and large \$3.16.

(Q) Salmon, Chinook,

# ADMINISTRATIVE RULES

(i) Columbia River round weight, winter \$4.18, spring \$1.60, ungraded fall \$0.55, tules fall \$0.11, and jacks fall \$0.07;

(ii) Ocean dressed weight, large \$1.70, medium \$1.33, small \$1.11, and mixed size \$1.70.

(R) Salmon, chum \$0.34;

(S) Salmon, coho,

(i) Columbia River round weight, ungraded, tule, and jacks \$0.32;

(ii) Ocean dressed weight, mixed size \$0.75.

(T) Salmon, pink, ocean dressed weight, ungraded, \$0.58 (2001 price);

(U) Salmon, sockeye, Columbia River round weight, ungraded \$0.50;

(V) Sanddab, Pacific \$0.31;

(W) Sardine, Pacific \$0.06;

(X) Shad, American,

(i) Columbia, ungraded \$0.24;

(ii) Coast, ungraded, gill net and set net, \$0.25.

(Y) Shark, blue \$0.29, Pacific sleeper, live \$0.62 (2000 price), short-fin mako \$1.00 (2001 price), sixgill, \$0.50 (2001 price), soupfin \$0.63, spiny dogfish \$0.05, scalloped hammerhead \$0.12 (2001 price), silky \$0.18 (2001 price), thresher dressed weight \$1.50 (1995 price) and round weight \$0.37, and other species \$0.58 (2001 price);

(Z) Skates and Rays \$0.15;

(AA) Smelt, Eulachon (Columbia River) \$0.49, and other species \$0.30;

(BB) Sole, butter \$0.34, curlfin (turbot) \$0.37, Dover \$0.37, English \$0.35, flathead \$0.34, petrale \$0.90, rex \$0.43, rock \$0.35, and sand \$0.84;

(CC) Steelhead \$0.46;

(DD) Sturgeon, green \$0.49 and white \$1.60;

(EE) Surfperch round weight, \$0.90 and live, \$2.51;

(FF) Swordfish \$4.25 (2000 price);

(GG) Thornyhead (Sebastolobus), longspine \$0.83 and shortspine \$1.00;

(HH) Tuna, albacore \$0.67, bluefin \$3.50, and yellowfin \$0.73 (2001 price);

(II) Walleye \$1.00 (1999 price);

(JJ) Wolf-eel \$1.28;

(KK) Wrymouth \$0.21;

(LL) Hagfish \$0.19;

(MM) Anchovy, Northern \$0.25.

(b) CRUSTACEANS:

(A) Crab, box \$1.11, Dungeness bay \$2.48 and ocean \$1.67, rock \$1.00, and Tanner \$0.34;

(B) Crayfish \$1.48;

(C) Shrimp, brine \$1.00, coonstripe \$3.37, ghost (sand) \$2.04, mud \$1.29, pink \$0.27 (applied to the gross round weight of the confiscated pink shrimp reported on the fish receiving ticket), and spot \$6.94;

(D) Water flea (Daphnia) \$0.65.

(c) MOLLUSKS:

(A) Abalone, flat \$16.58;

(B) Clams, butter \$0.32, cockle \$0.37, gaper \$0.63, littleneck \$2.20, razor \$1.52, and softshell \$0.46;

(C) Mussels, ocean \$0.46;

(D) Octopus \$0.70;

(E) Scallop, weathervane dressed weight (shucked) \$5.73 and round weight \$0.55 (2000 prices);

(F) Squid \$0.15.

(d) OTHER INVERTEBRATES. Sea urchin, red \$0.44 and purple \$0.80.

(2) The Department may initiate civil proceedings to recover damages as authorized by ORS 506.720 where the value of any food fish unlawfully taken exceeds \$300, except for food fish taken by trawl in the groundfish fishery where the trip limit has not been exceeded by more than 15%.

Stat. Auth.: ORS 508

Stats. Implemented: ORS 508

Hist.: FWC 160, f. & ef. 11-25-77; FWC 18-1978, f. & ef. 4-7-78, Renumbered from 635-036-0605; FWC 33-1982, f. & ef. 6-2-82; FWC 9-1988, f. & cert. ef. 3-3-88; DFW 6-2003, f. 1-21-03, cert. ef. 2-1-03

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**Adm. Order No.:** DFW 7-2003

**Filed with Sec. of State:** 1-17-2003

**Certified to be Effective:** 2-1-03

**Notice Publication Date:** 9-1-02

**Rules Amended:** 635-069-0000

**Subject:** Establish 2003 hunting regulations for game mammals, including season dates, open area, and other rules including general hunting and control hunt regulations.

**Rules Coordinator:** Mike Lueck—(503) 872-5272, ext. 5447

**635-069-0000**

## Purpose and General Information

(1) The purpose of these rules is to establish season dates, bag limits, areas, methods and other restrictions for hunting eastern Oregon deer pursuant to ORS Chapter 496.

(2) Controlled hunt tag numbers for 2002 are listed in Tables 1 and 2 and are adopted and incorporated into OAR chapter 635, division 069 by reference.

(3) OAR chapter 635, division 069 incorporates, by reference, the requirements for hunting eastern Oregon deer set out in the document entitled "2003 Oregon Big Game Regulations," into Oregon Administrative Rules. Therefore, persons must consult the "2003 Oregon Big Game Regulations" in addition to OAR Chapter 635, to determine all applicable requirements for hunting eastern Oregon deer. The annual Oregon Big Game Regulations are available at hunting license agents and regional, district and headquarters offices of the Oregon Department of Fish and Wildlife.

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

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

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

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

Hist.: FWC 40-1988, f. & cert. ef. 6-13-88; FWC 35-1996, f. & cert. ef. 6-7-96; FWC 9-1997, f. & cert. ef. 2-27-97; FWC 38-1997, f. & cert. ef. 6-17-97; FWC 71-1997, f. & cert. ef. 12-29-97; DFW 49-1998, f. & cert. ef. 6-22-98; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 32-1999(Temp), f. & cert. ef. 5-4-99 thru 10-31-99; DFW 34-1999(Temp), f. & cert. ef. 5-12-99 thru 10-31-99; DFW 47-1999, f. & cert. ef. 6-16-99; DFW 92-1999, f. 12-8-99, cert. ef. 1-1-00; DFW 20-2000(Temp), f. 4-12-00, cert. ef. 4-12-00 thru 6-30-00; DFW 30-2000, f. & cert. ef. 6-14-00; DFW 82-2000, f. 12-21-00, cert. ef. 1-1-01; DFW 47-2001, f. & cert. ef. 6-13-01; DFW 121-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 59-2002, f. & cert. ef. 6-11-02; DFW 7-2003, f. 1-17-03, cert. ef. 2-1-03

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**Adm. Order No.:** DFW 8-2003(Temp)

**Filed with Sec. of State:** 1-27-2003

**Certified to be Effective:** 1-28-03 thru 4-1-03

**Notice Publication Date:**

**Rules Amended:** 635-042-0135

**Subject:** Amend rules relating to the commercial fishing season for sturgeon in the Columbia River below Bonneville Dam, consistent with action taken January 24, 2003 by the Columbia River Compact.

**Rules Coordinator:** Mike Lueck—(503) 872-5272, ext. 5447

**635-042-0135**

## Sturgeon Season

(1) Sturgeon may be taken for commercial purposes from the Columbia River below Bonneville Dam during commercial salmon fishing seasons with the same fishing gear authorized for the taking of salmon.

(2) Sturgeon and salmon may be taken for commercial purposes from the Columbia River below Bonneville Dam during commercial sturgeon/salmon fishing seasons using gill nets with a minimum mesh size of nine inches and a maximum mesh size of 9 3/4 inches. Adipose fin-clipped salmon and sturgeon only may be sold from this fishery. The open fishing periods are as follows:

(a) 12 noon January 7, 2003, to 6 p.m. January 8, 2003;

(b) 12 noon January 14, 2003, to 6 p.m. January 15, 2003;

(c) 12 noon January 21, 2003, to 6 p.m. January 22, 2003;

(d) 6 a.m. to 6 p.m. January 28, 2003;

(e) 6 a.m. to 6 p.m. February 4, 2003.

(3) Sturgeon and salmon may be taken for commercial purposes in Zone 1, 2, and 3 below the Longview Bridge during commercial sturgeon/salmon fishing seasons using gill nets with a minimum mesh size of nine inches and a maximum mesh size of 9-3/4 inches. Salmon and sturgeon only may be sold from this fishery. The open fishing period is as follows:

(a) 7 p.m. August 5, 2001 to 7 a.m. August 6, 2001.

(4) Sturgeon and salmon must be delivered to wholesale fish dealers, canners, or fish buyers undressed (in the round).

(5) It is *unlawful* to:

(a) Take sturgeon and salmon by angling from any vessel that is engaged in commercial fishing (including the period of time the gear is fished) or has been engaged in commercial fishing on that same day or has commercially caught sturgeon or salmon aboard;

(b) Steal or otherwise molest or disturb any lawful fishing gear;

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- (c) Keep any fish taken under a commercial license for personal use;
  - (d) Remove the head or tail of any sturgeon taken for commercial purposes prior to being received at the premises of a wholesale fish dealer or canner;
  - (e) Sell or attempt to sell unprocessed or processed sturgeon eggs that have been taken from the Columbia River below Bonneville Dam;
  - (f) Purchase from commercial fishermen sturgeon eggs which have been removed from the body cavity prior to sale;
  - (g) Have in possession any green sturgeon smaller than 48 inches or larger than 66 inches in overall length or any white sturgeon smaller than 48 inches or larger than 60 inches in overall length;
  - (h) Gaff or penetrate sturgeon in any way while landing or releasing it.
- (6) The Sandy River closed sanctuary, described in OAR 625-042-0005, is in effect during the fishing periods described in subsection 2(a), (b), (c), (d), (e), and (f) of this rule.

Stat. Auth.: ORS 183.325, ORS 506.109 & ORS 506.119

Stats. Implemented: ORS 506.129 & ORS 507.030

Hist.: FWC 85, f. & cf. 1-28-77; FWC 2-1978, f. & cf. 1-31-78; FWC 7-1978, f. & cf. 2-21-78; FWC 2-1979, f. & cf. 1-25-79; Renumbered from 635-035-0320; FWC 6-1980, f. & cf. 1-28-80; FWC 1-1981, f. & cf. 1-19-81; FWC 6-1982, f. & cf. 1-28-82; FWC 20-1982(Temp), f. & cf. 3-25-82; FWC 3-1983, f. & cf. 1-21-83; FWC 4-1984, f. & cf. 1-31-84; FWC 4-1986 (Temp), f. & cf. 1-28-86; FWC 79-1986(Temp), f. & cf. 12-22-86; FWC 2-1987, f. & cf. 1-23-87; FWC 8-1992, f. & cert. ef. 2-11-92; FWC 11-1993, f. 2-11-93, cert. ef. 2-16-93; FWC 9-1994, f. 2-14-94, cert. ef. 2-15-94; FWC 16-1994(Temp), f. & cert. ef. 3-3-94; FWC 3-1997, f. & cert. ef. 1-27-97; FWC 8-1997(Temp), f. & cert. ef. 2-14-97; FWC 42-1997, f. & cert. ef. 8-4-97; DFW 2-1998(Temp), f. 1-9-98, cert. ef. 1-12-98 thru 1-23-98; DFW 58-1998(Temp), f. & cert. ef. 8-4-98 thru 8-21-98; DFW 82-1998(Temp), f. 10-6-98, cert. ef. 10-7-98 thru 10-23-98; DFW 84-1998(Temp), f. & cert. ef. 10-22-98 thru 10-23-98; DFW 86-1998(Temp), f. & cert. ef. 10-28-98 thru 10-30-98; DFW 87-1998(Temp), f. & cert. ef. 11-5-98 thru 11-6-98; DFW 101-1998, f. & cert. ef. 12-24-98; DFW 7-1999(Temp), f. 2-12-99 & cert. ef. 2-15-99 thru 2-19-99; DFW 11-1999(Temp), f. 2-24-99, cert. ef. 2-25-99 thru 2-26-99; DFW 52-1999(Temp), f. & cert. ef. 8-2-99 thru 8-6-99; Administrative correction 11-17-99; DFW 95-1999(Temp), f. & cert. ef. 12-22-99, cert. ef. 12-26-99 thru 1-21-00; DFW 3-2000, f. & cert. ef. 1-24-00; DFW 42-2000, f. & cert. ef. 8-3-00; DFW 80-2000(Temp), f. 12-22-00, cert. ef. 1-1-01 thru 3-31-01; DFW 3-2001, f. & cert. ef. 2-6-01; DFW 115-2001(Temp), f. 12-13-01, cert. ef. 1-1-02 thru 3-31-02; DFW 9-2002, f. & cert. ef. 2-1-02; DFW 11-2002(Temp), f. & cert. ef. 2-8-02 thru 8-7-02; DFW 134-2002(Temp), f. & cert. ef. 12-19-02 thru 4-1-03; DFW 8-2003(Temp), f. 1-27-03, cert. ef. 1-28-03 thru 4-1-03

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**Adm. Order No.:** DFW 9-2003(Temp)

**Filed with Sec. of State:** 1-28-2003

**Certified to be Effective:** 1-28-03 thru 6-16-03

**Notice Publication Date:**

**Rules Amended:** 635-065-0001, 635-065-0625, 635-070-0000, 635-071-0000

**Subject:** Some 2002 controlled hunts overlap into 2003. These rules allow the 2002 hunt specified regulations to be in place through the affected hunts.

**Rules Coordinator:** Mike Lueck—(503) 872-5272, Ext. 5447

**635-065-0001**

## Purpose and General Information

(1) The purpose of these rules is to establish license and tag requirements, limits, areas, methods and other restrictions for hunting game mammals pursuant to ORS Chapter 496.

(2) OAR chapter 635, division 065 incorporates, by reference, the requirements for hunting game mammals set out in the document entitled "2003 Oregon Big Game Regulations," into Oregon Administrative Rules. Therefore, persons must consult the "2003 Oregon Big Game Regulations" in addition to OAR chapter 635, to determine all applicable requirements for game mammals. For 2002 hunts that extend into 2003, the hunt-specific requirements in the 2002 hunting regulations will continue to apply to those hunts until they are completed. The annual Oregon Big Game Regulations are available at hunting license agents and regional, district, and headquarters offices of the Oregon Department of Fish and Wildlife.

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

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

Hist.: FWC 38-1988, f. & cert. ef. 6-13-88; FWC 63-1989, f. & cert. ef. 8-15-89; FWC 9-1997, f. & cert. ef. 2-27-97; FWC 71-1997, f. & cert. ef. 12-29-97; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 92-1999, f. 12-8-99, cert. ef. 1-1-00; DFW 82-2000, f. 12-21-00, cert. ef. 1-1-01; DFW 3-2002(Temp), f. & cert. ef. 1-3-02 thru 1-23-02; DFW 2-2003, f. & cert. ef. 1-17-03; DFW 9-2003(Temp), f. & cert. ef. 1-28-03 thru 6-16-03

**635-065-0625**

## Regulations on State Wildlife Areas, Refuges and Special Areas

State wildlife areas, refuges and special areas shall be open to hunting during authorized seasons, subject to the following special regulations and exceptions. For 2002 hunts that extend into 2003, the hunt-specific requirements in the 2002 hunting regulations will continue to apply to those hunts until they are completed.

(1) Bear Valley National Wildlife Refuge (Klamath County): The Bear Valley Refuge shall be closed to all entry from November 1 through March 31 annually.

(2) Bridge Creek Wildlife Area (Umatilla County): Open to public access and hunting. Motorized vehicle travel restricted to open roads. Entry by permit only December 1 through April 30.

(3) Cascade Head Area: The Cascade Head Area shall be closed to hunting with centerfire rifles, muzzleloaders, or handguns. Hunting shall be restricted to archery and shotguns only during authorized seasons. Hunters using shotguns for elk shall use slugs (single projectile) only. The Cascade Head Area boundaries shall be defined as follows: Beginning at the Pacific Ocean at Roads End (Lincoln City); east along the northern boundary of the Lincoln City limits to U.S. Highway 101; north along U.S. Highway 101 to Highway 18; east along Highway 18 to Old Scenic Highway 101; north along Old Scenic Highway 101 to Three Rocks Road; west on Three Rocks Road to U.S. Highway 101; north on U.S. Highway 101 to Forest Service road 1861; west on Forest Service road 1861 to the Harts Cove trailhead; west on Harts Cove Trail to the Pacific Ocean; south along the Pacific Ocean coastline to Roads End (Lincoln City), point of beginning.

(4) Cold Springs Refuge (Umatilla County): The Cold Springs Refuge shall be closed to deer and elk hunting.

(5) Dean Creek Elk Viewing Area (Douglas County): Approximately 1,800 acres in the Tioga Unit including all BLM property between Hakki Ridge Road and State Highway 38, are closed to all hunting.

(6) Denman Wildlife Area (Jackson County): The Denman Wildlife Area shall be open to hunting only during game mammal and game bird seasons. Use of rifles and handguns is prohibited at all times.

(7) Dunes National Recreational Area: Use of rifles and handguns is prohibited for all hunting in that portion of the Siuslaw Unit west of Highway 101 and north of Tahkenitch Creek.

(8) North Bank Habitat Management Area (previously known as the Dunning Ranch Area in Douglas County): 6,500 acres located approximately eight miles northeast of Roseburg. Area: All BLM lands located in T25S, R5W, Sections 35,36; T26S, R5W, Sections 1,2,11,12,13,14; T25S, R4W, Sections 31,32,33; T26S, R4W, Sections 4,5,6,7,8,18. This area shall be closed to all big game hunting except for and during controlled deer hunts specific to the management area by hunters possessing a controlled hunt tag for the area.

(9) E.E. Wilson Wildlife Area (Benton County): This area is open to deer hunting during authorized seasons, except closed to bow hunting for deer when juvenile pheasant hunts are in progress. Rabbit hunting is permitted from November 1 through February each year. Hunting by permit only. Permits are available at area headquarters and shall be filled out and returned each day hunted. Use of rifles, handguns, and crossbows shall be prohibited at all times.

(10) Eagle Creek: Closed to entry December 1 through March 31 annually — That part of the Keating Unit as follows: 16 square miles in Townships 7 and 8 South, Ranges 44 and 45 East;

(11) Elkhorn Wildlife Area (Baker/Union counties): Closed to all entry December 1 through April 10 annually. The Roth Tract is closed to all hunting. The Roth Tract is closed to public entry except by entry permit; an entry permit is required at all times of the year.

(12) Fern Ridge Wildlife Area (Lane County): Open to black-tailed deer hunting during authorized seasons, except that East and West Coyote units are closed after October 31, and hunting in Fisher Butte Unit after October 31 is limited to Saturdays, Sundays, and Wednesdays only. A free daily hunting permit is required for East Coyote, West Coyote, Fisher Butte, and Royal Amazon units. Permits are available at check stations located at area access points. Hunters are limited to shotguns and archery equipment only. The discharging of rifles and handguns within the wildlife area is prohibited.

(13) William Finley National Wildlife Refuge (Benton County):

(a) Portions of the refuge shall be open to deer hunting August 30 through September 28, 2003 under the regulations for bowhunting seasons.

(b) Portions of the refuge shall be open to hunting for buck deer October 4 through October 31, 2003 under regulations for the general western Oregon deer buck season. Use of rifles is prohibited.

(c) All hunters shall obtain a refuge permit and check in and out of the refuge daily. Information on open areas and special regulations are available at the refuge.

(14) Gods Valley Wildlife Area (Clatsop County): Vehicles shall be restricted to county roads.

(15) Government Island Complex (Multnomah County): Use of rifles, handguns, and shotguns with slugs or buckshot is prohibited at all times.



## ADMINISTRATIVE RULES

(16) Irrigon, Coyote Springs, Power City, and Boardman wildlife management areas (Morrow and Umatilla counties): Use of rifles and handguns are prohibited at all times.

(17) Hart Mountain National Antelope Refuge (Lake County): Portions of the refuge shall be open for hunting as prescribed under chukar season, controlled pronghorn antelope and bighorn sheep hunts, deer bowhunting season, and muzzleloader deer season.

(18) Heppner Regulated Hunt Area: Horse/mule use is prohibited in posted areas. Open fires prohibited. No camping in posted areas. Approximately 130 square miles in Townships 2, 3, 4, 5, 6 and 7 South, Ranges 25, 26, 27 and 28 East;

(19) Jewell Meadows Wildlife Area (Clatsop County): The Beneke Tract and the Humbug Tract shall be open to hunting only during authorized game mammal and game bird seasons. The Beneke Tract is closed to all public entry during any open Saddle Mountain elk season. It is unlawful to shoot rifles and bows from or across open fields during any open Saddle Mountain Unit or Wilson Unit elk seasons. The Fishhawk Tract is closed to public access. Posted lands of Cavenham Forest Industries, Inc., in T5N, R7W, Sections 2, 3 and 4, 9, 10 and 11 and T6N, R7W, Sections 33 and 34, are closed to all hunting. All areas posted as Refuge are closed to public access. Entry for other purposes is only by permit obtained at the Jewell Wildlife Area Headquarters.

(20) John Day River Refuge: All land within 1/4 mile of the high-water flow line along the John Day River from the Columbia River south to Thirty Mile Creek shall be open to big game and upland game bird hunting during authorized seasons between August 30 and October 31, 2003 but closed to waterfowl hunting.

(21) Klamath Wildlife Area (Klamath County): This area is closed to all deer hunting.

(22) Klamath Marsh National Wildlife Refuge: Closed to deer and elk hunting.

(23) Ladd Marsh Wildlife Area (Union County): All land north and east of Foothill Road shall be closed to all deer and elk hunting except during controlled youth deer hunts and closed to all rifle and handgun shooting.

(24) Long Ranch (Linn County): Forty-eight acres in T13S, R4E, S32 shall be closed to all hunting.

(25) Lower Deschutes Wildlife Area: Open to hunting of big game, game birds, and waterfowl during authorized seasons. Discharge of firearms prohibited the remainder of the year. Access by foot or boat only.

(26) Malheur National Wildlife Refuge (Harney County): Portions of the refuge in Blitzen Valley lying west of State Highway 205 shall be open during authorized rifle and bow deer seasons.

(27) McDonald Forest-Dunn Forest Area (Benton County): The area is closed to all hunting except during controlled hunts as authorized by the commission.

(28) McKay Creek Refuge (Umatilla County): This refuge is closed to deer and elk hunting.

(29) Metolius Wildlife Refuge (Jefferson County). All hunting, injuring, taking, killing, or destroying any wild bird or mammal on public land is prohibited on public lands within T12 and T13S, R9E, bounded by USFS road 1420 and 1419 on the west; road 1400 on the south and east; and road 1420-400, Metolius River, and posted boundary from the Metolius River to road 1400 on the north (approximately five square miles). (36 CFR 261.58(v)).

(30) Mill Creek Watershed (Umatilla County): This watershed is closed to all access and hunting except by holders of a Mill Creek Watershed controlled elk tag and a Forest Service entry permit.

(31) Newberry Crater Wildlife Refuge (Deschutes County). All hunting, injuring, taking, killing, or destroying any wild bird or mammal on public land is prohibited on public lands within the rim of Newberry Crater in: T21S, R12E; T22S, R12E; T21S, R13E; T22S, R13E (approximately 15 square miles).

(32) Rimrock Springs Wildlife Area (Grizzly Unit): This area is closed to all hunting.

(33) Rogue River Area:

(a) All land within one mile of the Rogue River between Grave Creek and Lobster Creek is closed to bear hunting.

(b) All land within 1/4 mile of the Rogue River in the wild river section from Grave Creek downstream to Watson Creek is closed to all hunting except during authorized seasons.

(34) Saddle Mountain Unit (White-tailed Deer Area): That portion of Saddle Mountain Wildlife Unit north of Burlington Northern railroad tracks to Astoria is closed to all deer hunting.

(35) Sauvie Island Wildlife Area (Multnomah-Columbia counties): This area shall be open to bowhunting for black-tailed deer August 30 through September 28, 2003. Daily permits are required. Hunters shall check in and out daily. This area shall be closed to deer hunting after September 28, 2003. Oak Island shall be closed to deer hunting. Use of rifles, handguns and crossbows shall be prohibited at all times.

(36) Phillip W. Schneider Wildlife Area (Grant County): Open to public access and hunting. Motorized vehicle travel restricted to open roads. Some roads closed seasonally from December 1 through April 30, or year-round; including BLM land within the exterior boundaries of the Wildlife Area.

(37) Snake River Islands (Malheur County): Closed to hunting with centerfire rifles and centerfire handguns.

(38) South Slough National Estuarine Reserve: Specific areas are closed to hunting due to public health and safety. Contact reserve headquarters office for specific closures.

(39) Starkey Experimental Forest (Union County): That portion of The Starkey Experimental Forest within the eight foot elk-proof fence enclosure is closed to all hunting during deer and elk season except for persons possessing a controlled hunt tag for the area. A posted 1/4 mile buffer zone on the National Forest lands surrounding the enclosure is closed to all hunting during deer and elk season. The Experimental Forest enclosure plus the 1/4 mile wide outside buffer are closed to all hunting during the winter public access closure which shall be determined annually by the Wallowa-Whitman National Forest supervisor following general elk season.

(40) Summer Lake Wildlife Area (Lake County): It is unlawful to discharge firearms except during game bird and deer seasons. The Summer Lake Wildlife Area is closed to all deer hunting during any pheasant, quail, or waterfowl season, in order to avoid conflicts between deer hunters and game bird hunters while seasons are running concurrently. Hunters must obtain a daily hunting permit and check out at the end of the day. Permits and area maps are available at headquarters (1.3 miles south of the town of Summer Lake).

(41) Umatilla Refuge (Morrow County): This refuge shall be closed to deer and elk hunting except during controlled hunts specific to the refuge and emergency hunts as provided in OAR Chapter 635, Division 078.

(42) Wallowa Lake (Wallowa County): All land on or within 1/4 mile of the Wallowa River from Wallowa Lake upstream to the falls and within 1/4 mile along the west side of Wallowa Lake from the Wallowa Lake State Park to the Wallowa River outlet is closed to all big game hunting.

(43) Wenaha Wildlife Area (Union County): Open to public access and hunting. Motorized vehicle travel restricted to open roads.

(44) Willamette River Greenway Parcels: Discharge of any weapon is prohibited, except that shotguns and bows may be used while hunting on select posted State Willamette Greenway properties during authorized seasons.

(45) White River Wildlife Area: Open to hunting during authorized seasons.

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

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

Hist.: FWC 123, f. & ef. 6-9-77; FWC 33-1978, f. & ef. 6-30-78; FWC 28-1979, f. & ef. 8-2-79; FWC 33-1980, f. & ef. 6-30-80; FWC 6-1981, f. & ef. 1-23-81; FWC 11-1981, f. & ef. 3-31-81; FWC 20-1981, f. & ef. 6-19-81; FWC 37-1982, f. & ef. 6-25-82; FWC 28, f. & ef. 7-8-83; FWC 34-1984, f. & ef. 7-24-84; FWC 43-1985, f. & ef. 8-22-85; FWC 35-1986, f. & ef. 8-7-86; FWC 41-1987, f. & ef. 7-6-87; FWC 38-1988, f. & cert. ef. 6-13-88; FWC 94-1988(Temp), f. & cert. ef. 9-19-88; FWC 15-1989, f. & cert. ef. 3-28-89; FWC 63-1989, f. & cert. ef. 8-15-89; FWC 24-1990, f. & cert. ef. 3-21-90; FWC 55-1990, f. & cert. ef. 6-21-90; FWC 20-1991, f. & cert. ef. 3-12-91; FWC 58-1991, f. & cert. ef. 6-24-91; FWC 36-1993, f. & cert. ef. 6-14-93; FWC 18-1994, f. 3-30-94, cert. ef. 5-1-94; FWC 4-1995, f. 1-23-95, cert. ef. 7-1-95; FWC 18-1996, f. 4-10-96, cert. ef. 8-1-96; FWC 9-1997, f. & cert. ef. 2-27-97; FWC 38-1997, f. & cert. ef. 6-17-97; FWC 71-1997, f. & cert. ef. 12-29-97; DFW 49-1998, f. & cert. ef. 6-22-98; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 47-1999, f. & cert. ef. 6-16-99; DFW 92-1999, f. 12-8-99, cert. ef. 1-1-00; DFW 30-2000, f. & cert. ef. 6-14-00; DFW 82-2000, f. 12-21-00, cert. ef. 1-1-01; DFW 121-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 2-2003, f. & cert. ef. 1-17-03; DFW 9-2003(Temp), f. & cert. ef. 1-28-03 thru 6-16-03

### 635-070-0000

#### Purpose and General Information

(1) The purpose of these rules is to establish season dates, bag limits, areas, methods and other restrictions for hunting Cascade and Coast elk pursuant to ORS Chapter 496.

(2) Controlled hunt tag numbers for 2002 are listed in Tables 1 and 2 and are adopted and incorporated into OAR chapter 635, division 070 by reference.

(3) OAR chapter 635, division 070 incorporates, by reference, the requirements for hunting western Oregon elk set out in the document entitled "2003 Oregon Big Game Regulations," into Oregon Administrative Rules. Therefore, persons must consult the "2003 Oregon Big Game Regulations" in addition to OAR Chapter 635, to determine all applicable

# ADMINISTRATIVE RULES

requirements for hunting western Oregon elk. For 2002 hunts that extend into 2003, the hunt-specific requirements in the 2002 hunting regulations will continue to apply to those hunts until they are completed. The annual Oregon Big Game Regulations are available at hunting license agents and regional, district and headquarters offices of the Oregon Department of Fish and Wildlife.

[ED. NOTE: Tables referenced are available from the agency.]  
Stat. Auth.: ORS 496.012, ORS 496.138, ORS 496.146 & ORS 496.162  
Stats. Implemented: ORS 496.012, ORS 496.138, ORS 496.146 & ORS 496.162  
Hist.: FWC 41-1988, f. & cert. ef. 6-13-88; FWC 35-1996, f. & cert. ef. 6-7-96; FWC 9-1997, f. & cert. ef. 2-27-97; FWC 38-1997, f. & cert. ef. 6-17-97; FWC 71-1997, f. & cert. ef. 12-29-97; DFW 49-1998, f. & cert. ef. 6-22-98; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 47-1999, f. & cert. ef. 6-16-99; DFW 92-1999, f. 12-8-99, cert. ef. 1-1-00; DFW 30-2000, f. & cert. ef. 6-14-00; DFW 82-2000, f. 12-21-00, cert. ef. 1-1-01; DFW 47-2001, f. & cert. ef. 6-13-01; DFW 121-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 59-2002, f. & cert. ef. 6-11-02; DFW 2-2003, f. & cert. ef. 1-17-03; DFW 9-2003(Temp), f. & cert. ef. 1-28-03 thru 6-16-03

## 635-071-0000

### Purpose and General Information

(1) The purpose of these rules is to establish season dates, bag limits, areas, methods and other restrictions for hunting Rocky Mountain elk pursuant to ORS Chapter 496.

(2) Controlled hunt tag numbers for 2002 are listed in Tables 1 and 2 and are adopted and incorporated in OAR chapter 635, division 071 by reference.

(3) OAR chapter 635, division 071 incorporates, by reference, the requirements for hunting Rocky Mountain elk set out in the document entitled "2003 Oregon Big Game Regulations," into Oregon Administrative Rules. Therefore, persons must consult the "2003 Oregon Big Game Regulations" in addition to OAR chapter 635, to determine all applicable requirements for hunting Rocky Mountain elk. For 2002 hunts that extend into 2003, the hunt-specific requirements in the 2002 hunting regulations will continue to apply to those hunts until they are completed. The annual Oregon Big Game Regulations are available at hunting license agents and regional, district and headquarters offices of the Oregon Department of Fish and Wildlife.

[ED. NOTE: Tables referenced are available from the agency.]  
Stat. Auth.: ORS 496.012, ORS 496.138, ORS 496.146 & ORS 496.162  
Stats. Implemented: ORS 496.012, ORS 496.138, ORS 496.146 & ORS 496.162  
Hist.: FWC 42-1988, f. & cert. ef. 6-13-88; FWC 35-1996, f. & cert. ef. 6-7-96; FWC 9-1997, f. & cert. ef. 2-27-97; FWC 38-1997, f. & cert. ef. 6-17-97; FWC 71-1997, f. & cert. ef. 12-29-97; DFW 49-1998, f. & cert. ef. 6-22-98; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 47-1999, f. & cert. ef. 6-16-99; DFW 92-1999, f. 12-8-99, cert. ef. 1-1-00; DFW 30-2000, f. & cert. ef. 6-14-00; DFW 82-2000, f. 12-21-00, cert. ef. 1-1-01; DFW 47-2001, 6-13-01; DFW 121-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 59-2002, f. & cert. ef. 6-11-02; DFW 2-2003, f. & cert. ef. 1-17-03; DFW 9-2003(Temp), f. & cert. ef. 1-28-03 thru 6-16-03

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**Adm. Order No.:** DFW 10-2003(Temp)

**Filed with Sec. of State:** 2-3-2003

**Certified to be Effective:** 2-3-03 thru 4-1-03

**Notice Publication Date:**

**Rules Amended:** 635-042-0135

**Subject:** Amend rules relating to the commercial fishing season for sturgeon in the Columbia River below Bonneville Dam, consistent with action taken January 31, 2003 by the Columbia River Compact.

**Rules Coordinator:** Mike Lueck—(503) 872-5272, ext. 5447

## 635-042-0135

### Sturgeon Season

(1) Sturgeon may be taken for commercial purposes from the Columbia River below Bonneville Dam during commercial salmon fishing seasons with the same fishing gear authorized for the taking of salmon.

(2) Sturgeon and salmon may be taken for commercial purposes from the Columbia River below Bonneville Dam during commercial sturgeon/salmon fishing seasons using gill nets with a minimum mesh size of nine inches and a maximum mesh size of 9 3/4 inches. Adipose fin-clipped salmon and sturgeon only may be sold from this fishery. The open fishing periods are as follows:

- (a) 12 noon January 7, 2003, to 6 p.m. January 8, 2003;
- (b) 12 noon January 14, 2003, to 6 p.m. January 15, 2003;
- (c) 12 noon January 21, 2003, to 6 p.m. January 22, 2003;
- (d) 6 a.m. to 6 p.m. January 28, 2003.

(3) Sturgeon and salmon may be taken for commercial purposes in Zone 1, 2, and 3 below the Longview Bridge during commercial sturgeon/salmon fishing seasons using gill nets with a minimum mesh size of nine inches and a maximum mesh size of 9-3/4 inches. Salmon and sturgeon only may be sold from this fishery. The open fishing period is as follows:

- (a) 7 p.m. August 5, 2001 to 7 a.m. August 6, 2001.

(4) Sturgeon and salmon must be delivered to wholesale fish dealers, cannerys, or fish buyers undressed (in the round).

(5) It is *unlawful* to:

(a) Take sturgeon and salmon by angling from any vessel that is engaged in commercial fishing (including the period of time the gear is fished) or has been engaged in commercial fishing on that same day or has commercially caught sturgeon or salmon aboard;

(b) Steal or otherwise molest or disturb any lawful fishing gear;

(c) Keep any fish taken under a commercial license for personal use;

(d) Remove the head or tail of any sturgeon taken for commercial purposes prior to being received at the premises of a wholesale fish dealer or cannery;

(e) Sell or attempt to sell unprocessed or processed sturgeon eggs that have been taken from the Columbia River below Bonneville Dam;

(f) Purchase from commercial fishermen sturgeon eggs which have been removed from the body cavity prior to sale;

(g) Have in possession any green sturgeon smaller than 48 inches or larger than 66 inches in overall length or any white sturgeon smaller than 48 inches or larger than 60 inches in overall length;

(h) Gaff or penetrate sturgeon in any way while landing or releasing it.

(6) The Sandy River closed sanctuary, described in OAR 625-042-0005, is in effect during the fishing periods described in subsection 2(a), (b), (c), (d), (e), and (f) of this rule.

Stat. Auth.: ORS 183.325, ORS 506.109 & ORS 506.119

Stats. Implemented: ORS 506.129 & ORS 507.030

Hist.: FWC 85, f. & cert. ef. 1-28-77; FWC 2-1978, f. & cert. ef. 2-21-78; FWC 2-1979, f. & cert. ef. 1-25-79; Renumbered from 635-035-0320; FWC 6-1980, f. & cert. ef. 1-28-80; FWC 1-1981, f. & cert. ef. 1-19-81; FWC 6-1982, f. & cert. ef. 1-28-82; FWC 20-1982(Temp), f. & cert. ef. 3-25-82; FWC 3-1983, f. & cert. ef. 1-21-83; FWC 4-1984, f. & cert. ef. 1-31-84; FWC 4-1986(Temp), f. & cert. ef. 1-28-86; FWC 79-1986(Temp), f. & cert. ef. 12-22-86; FWC 2-1987, f. & cert. ef. 1-23-87; FWC 8-1992, f. & cert. ef. 2-11-92; FWC 11-1993, f. 2-11-93, cert. ef. 2-16-93; FWC 9-1994, f. 2-14-94, cert. ef. 2-15-94; FWC 16-1994(Temp), f. & cert. ef. 3-3-94; FWC 3-1997, f. & cert. ef. 1-27-97; FWC 8-1997(Temp), f. & cert. ef. 2-14-97; FWC 42-1997, f. & cert. ef. 8-4-97; DFW 2-1998(Temp), f. 1-9-98, cert. ef. 1-12-98 thru 1-23-98; DFW 58-1998(Temp), f. & cert. ef. 8-4-98 thru 8-21-98; DFW 82-1998(Temp), f. 10-6-98, cert. ef. 10-7-98 thru 10-23-98; DFW 84-1998(Temp), f. & cert. ef. 10-22-98 thru 10-23-98; DFW 86-1998(Temp), f. & cert. ef. 10-28-98 thru 10-30-98; DFW 87-1998(Temp), f. & cert. ef. 11-5-98 thru 11-6-98; DFW 101-1998, f. & cert. ef. 12-24-98; DFW 7-1999(Temp), f. 2-12-99 & cert. ef. 2-15-99 thru 2-19-99; DFW 11-1999(Temp), f. 2-24-99, cert. ef. 2-25-99 thru 2-26-99; DFW 52-1999(Temp), f. & cert. ef. 8-2-99 thru 8-6-99; Administrative correction 11-17-99; DFW 95-1999(Temp), f. 12-22-99, cert. ef. 12-26-99 thru 1-21-00; DFW 3-2000, f. & cert. ef. 1-24-00; DFW 42-2000, f. & cert. ef. 8-3-00; DFW 80-2000(Temp), f. 12-22-00, cert. ef. 1-1-01 thru 3-31-01; DFW 3-2001, f. & cert. ef. 2-6-01; DFW 115-2001(Temp), f. 12-13-01, cert. ef. 1-1-02 thru 3-31-02; DFW 9-2002, f. & cert. ef. 2-1-02; DFW 11-2002(Temp), f. & cert. ef. 2-8-02 thru 8-7-02; DFW 134-2002(Temp), f. & cert. ef. 12-19-02 thru 4-1-03; DFW 8-2003(Temp), f. 1-27-03, cert. ef. 1-28-03 thru 4-1-03; DFW 10-2003(Temp), f. & cert. ef. 2-3-03 thru 4-1-03

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**Adm. Order No.:** DFW 11-2003(Temp)

**Filed with Sec. of State:** 2-10-2003

**Certified to be Effective:** 2-10-03 thru 6-30-03

**Notice Publication Date:**

**Rules Amended:** 635-004-0027, 635-006-1010, 635-006-1035, 635-006-1085

**Subject:** Amends rules regarding the 2003 Yaquina Bay commercial roe herring fishery quota, clarifies rules related to the definition of the roe fishery's open dates, clarifies the number of permits to be issued each year and authorizes allocation of the fishery upon agreement of the permittees.

**Rules Coordinator:** Mike Lueck—(503) 872-5272, ext. 5447

## 635-004-0027

### Inland Waters Herring Season

There is no closed season for the commercial taking of herring in inland waters except:

(1) During the period January 1 through April 15 it is *unlawful* to take herring for commercial purposes without a permit issued by the Department.

(2) It is *unlawful* to violate any of the conditions of the permit issued under section (1) of this rule.

(3) In all inland waters except Yaquina Bay, herring taken during the period January 1 through April 15 may only be sold for use as bait.

(4) In Yaquina Bay:

(a) The open season for the taking of herring is February 1 through December 31;

(b) The quota for the 2003 Yaquina Bay commercial roe herring fishery during the period of February 1 through April 15 is set at 139 short tons (278,000 pounds).

# ADMINISTRATIVE RULES

(c) During the period February 1 through April 15 it is *unlawful* to:

(A) Fish commercially from midnight Friday through midnight Sunday with nets;

(B) Use any fishing gear or method of harvest for the taking of herring other than: a purse seine no larger than 50 fathoms x 7 fathoms, lampara net, hook and line "jigging", or roe-on-kelp method.

Stat. Auth.: ORS 506.109, ORS 506.119, ORS 506.129, & ORS 508.765

Stats. Implemented: 506.109, ORS 506.119, ORS 506.129, & ORS 508.765

Hist.: FWC 50-1979, f. & ef. 11-1-79; FWC 67-1980, f. & ef. 12-3-80; FWC 4-1983, f. 1-28-83, ef. 2-1-83; FWC 8-1983(Temp), f. & ef. 2-15-83; FWC 8-1984(Temp), f. & ef. 3-5-84, FWC 29-1984, f. & ef. 7-3-84; FWC 9-1985(Temp), f. & ef. 2-20-85; FWC 5-1986(Temp), f. & ef. 2-11-86; FWC 6-1989(Temp), f. 2-15-89, cert. ef. 2-16-89; FWC 18-1990(Temp), f. 2-23-90, cert. ef. 2-24-90; FWC 13-1991(Temp), f. & cert. ef. 2-22-91; FWC 21-1995(Temp), f. 3-7-95, cert. ef. 3-8-95; FWC 10-1996(Temp), f. & cert. ef. 3-5-96; FWC 14-1997(Temp), f. & cert. ef. 3-10-97; DFW 11-2003(Temp), f. & cert. ef. 2-10-03 thru 6-30-03

## 635-006-1010

### Definitions

For the purpose of OAR 635-006-1015 through 635-006-1210:

(1) "Completion" of a vessel for the purposes of initial eligibility for an Oregon ocean Dungeness crab permit pursuant to ORS 508.931 is defined as:

(a) A date identified in a contract document as the proposed or actual date of completion; or

(b) The date an insurance policy was in effect covering the vessel for loss or liability; or

(c) The date of inspection for certification by the U.S. Coast Guard; or

(d) Other written document acceptable to the Department that establishes the actual date the vessel was completed for the purposes of entering the Oregon ocean Dungeness crab fishery.

(2) "Crab fishing season" is the period from December 1 of one year through August 14 of the next year.

(3) "Length" or "Overall Length" of a vessel means the manufacturer's specification of overall length, United States Coast Guard or Marine Board registered length documentation stating overall length or overall length as surveyed by a certified marine surveyor. In determining overall length, marine surveyors shall measure in a straight line parallel to the keel from the foremost part of the vessel to the aftermost part, excluding sheer and excluding bow sprits, boomkins, rudders aft of the transom, outboard motor brackets, or transom extensions as in a dive step or platform. For the purpose of initial ocean Dungeness crab permit issuance, length of the vessel is overall length of the vessel on September 9, 1995.

(4) "Ocean Dungeness crab fishery" for the purposes of ORS 508.926, means all fishing for Dungeness crab in Oregon waters of the Columbia River and all other ocean water seaward of Oregon's coastline and river mouths.

(5) "Owner" is any ownership interest in a vessel, including interests arising from partnerships, corporations, limited liability corporations, or limited liability partnerships. Owner does not include a leasehold interest.

(6) "Replacement vessel" is a vessel purchased to replace a permitted vessel which has been lost due to fire, capsizing, sinking or other event. For the ocean Dungeness crab fishery, a replacement vessel shall be no more than 10 feet greater than the vessel which it replaces.

(7) "Sea urchin fishery" shall mean the commercial fishing for *Strongylocentrotus franciscanus*, *S. purpuratus*, and *S. droebachiensis*.

(8) "Under construction" for the purposes of initial eligibility for an Oregon ocean Dungeness crab permit pursuant to ORS 508.931, means that between December 1, 1988, and August 14, 1991, a contract was signed and earnest money paid equaling at least 10% of the value of the contract, or invoices have been paid for 10% or more of the total construction cost, to produce a newly constructed vessel, including, but not limited to, the laying of the new vessel's keel.

(9) "Yaquina Bay Roe-herring fishery" shall mean the commercial fishery for Pacific herring (*Clupea harengus pallasii*) which occurs annually between February 1 and April 15 in Yaquina Bay.

(10) "Initial eligibility for vessels to participate" for the purposes of application for an Ocean Dungeness crab permit pursuant to ORS 508.931 means eligibility of a vessel on which to make permit application is confined to vessels which have never obtained an initial permit.

Stat. Auth.: ORS 506.109, ORS 506.119, ORS 506.129 & ORS 508.765

Stats. Implemented: ORS 506.109, ORS 506.119, ORS 506.129, & ORS 508.765

Hist.: FWC 76-1995, f. 9-13-95, cert. ef. 9-19-95; FWC 3-1996, f. 1-31-96, cert. ef. 2-1-96; FWC 64-1996, f. 11-13-96, cert. ef. 11-15-96; DFW 92-1998, f. & cert. ef. 11-25-98; DFW 11-2003(Temp), f. & cert. ef. 2-10-03 thru 6-30-03

## 635-006-1035

### Eligibility Requirements for a Permit

Eligibility for a limited entry permit is as follows:

(1) Gillnet salmon — see ORS 508.784.

(2) Troll salmon — see ORS 508.810.

(3) Shrimp — see ORS 508.886 and 508.895.

(4) Scallop — see ORS 508.852.

(5) Roe-herring — The Oregon Department of Fish and Wildlife shall issue a permit as per ORS 508.765:

(a) By renewal of previous year's permit;

(b) Through the lottery if a lottery is held in accordance with OAR 635-006-1085.

(6) Sea Urchin — An individual licensed as a commercial fisherman under ORS 508.235 is eligible to obtain the permit required by OAR 635-006-1015:

(a) By renewal of previous year's permit; or

(b) Through the lottery if a lottery is held in accordance with OAR 635-006-1085; or

(c) Through a duly authorized medical transfer of an existing permit in accordance with 635-006-1095;

(d) By combining three currently renewed permits into one new permit as provided in OAR 635-006-1095.

(7) Ocean Dungeness crab:

(a) See ORS 508.931;

(b) For the purposes of eligibility for the ocean Dungeness crab fishery permit, a boat which received a license waiver issued pursuant to ORS 508.808 shall be considered as having possessed a boat license for that year;

(c) ORS 508.931 and 508.941 require that the vessel be previously licensed in accordance with ORS 508.260 for the purposes of initial eligibility for an ocean Dungeness crab fishery permit. A single delivery license may not be substituted for a boat license for this purpose.

Stat. Auth.: ORS 506.109, ORS 506.119, ORS 506.12, & ORS 508.765

Stats. Implemented: ORS 506.109, ORS 506.119, ORS 506.129 & ORS 508.765

Hist.: FWC 3-1996, f. 1-31-96, cert. ef. 2-1-96; FWC 64-1996, f. 11-13-96, cert. ef. 11-15-96; DFW 11-2003(Temp), f. & cert. ef. 2-10-03 thru 6-30-03

## 635-006-1085

### Lottery for Certain Limited Entry Fisheries

(1) A lottery process is provided in all limited entry fisheries except ocean Dungeness crab.

(2) A lottery for issuance of permits shall be conducted as follows:

(a) Gillnet salmon — see ORS 508.792;

(b) Troll salmon — see ORS 508.819;

(c) Shrimp — see ORS 508.904;

(d) Scallop — see ORS 508.861. If the number of permits issued in accordance with ORS 508.849 falls below 25, the Department in the next succeeding calendar year may issue permits by a lottery system. However, the total number of permits issued shall not exceed 25;

(e) Roe-herring — If the number of permits issued in accordance with OAR 635-006-1035 falls below six, the Department in the next succeeding calendar year may issue permits by a lottery system. However, the total number of permits issued shall not exceed ten;

(f) Sea Urchin:

(A) If the total number of permits which have been renewed, and/or for which an appeal is pending, with the Commercial Fishery Permit Board and/or awarded through a prior lottery, is less than 30, a lottery shall be held on the 4th Friday in April;

(B) An individual must be 18 years of age or older and furnish proof of age to be eligible for the lottery;

(C) An individual may not already hold a valid urchin permit, however, an individual whose permit is at issue in a pending Sea Urchin Permit Board proceeding or before a court of law may participate in the lottery;

(D) If a permittee whose permit is at issue either before the Sea Urchin Permit Board or a court of law is awarded another permit through the lottery and thereafter prevails before the Board or in court, the permittee shall immediately surrender one of the permits to any Department office, so that only one valid permit is held;

(E) An individual who qualifies to participate in the lottery shall send a complete lottery application to the Department, date-stamped or post-marked no later than April 15 of the year for which the permit is to be issued. An individual shall not submit more than one application to participate in the lottery. For successful applicants, the application fee shall apply toward the permit fee of \$75;

(F) The names of lottery applicants shall be drawn to obtain the available permits. All other names of lottery applicants shall be drawn and

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placed on an alternate list in the order in which they were drawn, and shall be issued permits during the next 24 months as they may become available through Permit Board actions or surrender of permits by a permit holder;

(G) An individual whose name is drawn in the lottery shall thereafter apply on the prescribed form, to the Department to obtain a permit. Such application must be received by the Department within 30 days of the date the notification was mailed to the successful applicant following the lottery;

(H) Any individual who fails to apply for the lottery permit within 30 days shall forfeit such permit. The permit shall then be made available to the first name on the alternate list, and shall be applied for in accordance with section (G) of this rule;

(I) If all permits are not issued by renewal or through the lottery, permits thereafter may be issued on a first come first served basis up to the total number of permits allowed. All applications shall be mailed to the Department and priority shall be based on postmark or date-stamped date;

(J) The Commission may suspend the lottery for up to two years based upon its assessment of the condition of the resource and recommendations of the Sea Urchin Permit Review Board.

(3) Each applicant for a permit lottery shall complete the application form prescribed by the Department.

(4) Application for vessel permits shall only be accepted for vessels, which in the judgment of the Department, are capable of operating the gear necessary to legally participate in the fishery. Vessels of a size or design incapable of harvesting the permitted species are not eligible for the lottery.

(5) Only one application per vessel may be submitted for each permit fishery lottery.

(6) Any application which is not legible, has incomplete information, or is postmarked after the deadline will not be entered in the lottery. Applications for all vessel permits will be accepted at the Headquarters Office of the Department of Fish and Wildlife, and shall be postmarked or date stamped no later than June 30 of the year for which the permit is issued.

Stat. Auth.: ORS 506.109, ORS 506.119, ORS 506.129 & ORS 508.765  
Stats. Implemented: ORS 506.109, ORS 506.119, ORS 506.129 & ORS 508.765  
Hist.: FWC 3-1996, f. 1-31-96, cert. ef. 2-1-96; DFW 11-2003(Temp), f. & cert. ef. 2-10-03 thru 6-30-03

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**Adm. Order No.:** DFW 12-2003

**Filed with Sec. of State:** 2-14-2003

**Certified to be Effective:** 2-14-03

**Notice Publication Date:** 12-1-02

**Rules Amended:** 635-023-0090, 635-042-0020, 635-042-0110, 635-042-0145, 635-042-0160, 635-042-0170

**Subject:** Amended rules relating to commercial fishing in the Columbia River below Bonneville Dam and select areas; and amended rules relating to sport fishing in the mainstem Columbia River.

**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 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.

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. 6-27-00, 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

## 635-042-0020

### Winter Season

(1) Adipose fin-clipped salmon and sturgeon may be taken by gill net for commercial purposes:

(a) From the area of the Columbia River described in section (2) of this rule from 5 a.m. to 9 p.m. February 17, 2003, 5 a.m. to 9 p.m. February 19, 2003, 5 a.m. to 9 p.m. February 21, 2003, 5 a.m. to 9 p.m. February 24, 2003, 5 a.m. to 9 p.m. February 26, 2003, and 5 a.m. to 9 p.m. February 28, 2003;

(b) From the Columbia River below Bonneville Dam during commercial sturgeon fishing seasons described in OAR 635-042-0135 with gear authorized for the taking of sturgeon;

(c) A maximum of three white sturgeon may be possessed or sold by each participating vessel during each open period described in section (1)(a).

(2) During the season indicated in section (1)(a) of this rule, it is unlawful to fish in any area of the Columbia River other than from a lower deadline of a straight line projected from the knuckle of the south jetty on the Oregon bank to the inshore end of the north jetty of the Washington bank upstream to Kelley Point.

(3) During the season indicated in section (1)(a) of this rule, it is unlawful to use a gill net having a mesh size:

(a) Less than eight inches and more than 9-3/4 inches;

(b) Gill nets shall not exceed 900 feet (150 fathoms) in length. Monofilament nets are allowed;

(c) A red cork must be placed on the corkline every 25 fathoms as measured from the first mesh of the net. Red corks at 25-fathom intervals must be in color contrast to the corks used in the remainder of the net;

(d) Nets shall be fished for no longer than 45 minutes per set. The time of fishing is measured from when the first mesh of the net is deployed into the water until the last mesh of the net is fully retrieved from the water;

(e) It is unlawful for a gill net in whole or in part to be anchored, tied, staked, fixed, or attached to the bottom, shore, or a beached boat; left unattended at any time it is fished; or attended by more than one boat while being fished;

(f) It is unlawful to fish more than one gill net from a licensed commercial fishing boat at any one time;

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(g) Nets fished from sunset to sunrise shall have lighted buoys on both ends of the net unless the net is attached to the boat then one lighted buoy on the opposite end of the net from the boat is required.

(4) During the season indicated in section (1)(a) of this rule, nonlegal sturgeon, nonadipose fin-clipped chinook salmon, and steelhead must be released immediately with care and the least possible injury to the fish to the river without violence or into an operating recovery box:

(a) One operating recovery box with two chambers or two operating recovery boxes with one chamber each to aid survival of released fish must be on board each fishing vessel participating in the fishery. Recovery boxes shall be operating during any time that a net is being retrieved or picked;

(b) All salmon and steelhead that are bleeding or in lethargic condition must be placed in the recovery box for rehabilitation purposes prior to release to the river;

(c) Each chamber of the recovery box must meet the following dimensions as measured from within the box; the inside length measurement must be at or within 39-1/2 to 48 inches, the inside width measurement must be at or within 8 to 10 inches, and the inside height measurement must be at or within 14 to 16 inches;

(d) Each chamber of the recovery box must include an operating water pumping system; pumping system must be capable of delivering a minimum flow of 16 gallons per minute not to exceed 20 gallons per minute of fresh river water into each chamber. The fisher must demonstrate to ODFW and WDFW employees, fish and wildlife enforcement officers, or other peace officers, upon request, that the pumping system is delivering the proper volume of fresh river water into each chamber;

(e) Each chamber of the recovery box must include a water inlet hole between 3/4 inch and 1 inch in diameter, centered horizontally across the door or wall of chamber and 1-3/4 inches from the floor of the chamber;

(f) Each chamber of the recovery box must include a water outlet hole opposite the inflow that is at least 1-1/2 inches in diameter. The center of the outlet hole must be located a minimum of 12 inches above the floor of the box or chamber;

(g) All fish placed in recovery boxes must be released to the river prior to landing or docking.

(6) During the season indicated in section (1)(b) of this rule, at least one fisher on each boat engaged in the fishery must have in possession a valid certificate issued by a representative of the Oregon Department of Fish and Wildlife (ODFW) or the Washington Department of Fish and Wildlife (WDFW) that indicates the fisher had attended a one-day workshop hosted by ODFW or WDFW to educate fishers on regulations and best methods for conduct of the fishery. The certificate shall expire on December 31, 2003. No individual may obtain more than one certificate between January 1, 2003 and December 31, 2003:

(a) The certificate must be displayed to ODFW and WDFW employees, fish and wildlife enforcement officers, or other peace officers upon request;

(b) Nothing in this section sets any precedent for any fishery after the 2003 spring chinook fishery. The fact that an individual may hold a certificate in spring 2003 does not entitle the certificate holder to participate in any other fishery. If ODFW authorizes a spring chinook fishery in spring 2004 or at any other time, ODFW may establish qualifications and requirements that are different from those established for 2003. In particular, ODFW may consider an individual's compliance with these rules in determining that individual's eligibility to participate in any future fisheries.

(4) Closed waters, as described in OAR 635-042-0005 for Grays River, Elokomina-A sanctuary, Cowlitz River, Kalama-A sanctuary, Lewis-A sanctuary, and Gnat Creek, are in effect during the open fishing periods described in section (1)(a) of this rule.

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

Stats. Implemented: ORS 496.162, ORS 506.129 & ORS 507.030

Hist.: FWC 85, f. & ef. 1-28-77; FWC 2-1978, f. & ef. 1-31-78; FWC 7-1978, f. & ef. 2-12-78; FWC 2-1979, f. & ef. 1-25-79; FWC 10-1979(Temp), f. & ef. 3-5-79, Renumbered from 635-035-0210; FWC 6-1980, f. & ef. 1-28-80; FWC 1-1981, f. & ef. 1-19-81; FWC 6-1982, f. & ef. 1-28-82; FWC 2-1983, f. & ef. 1-21-83, f. & ef. 2-1-83; FWC 4-1984, f. & ef. 1-31-84; FWC 2-1985, f. & ef. 1-30-85; FWC 13-1985(Temp), f. & ef. 3-7-85; FWC 4-1986(Temp), f. & ef. 1-28-86; FWC 79-1986(Temp), f. & ef. 12-22-86; FWC 2-1987, f. & ef. 1-23-87; FWC 9-1987(Temp), f. & ef. 3-2-87; FWC 3-1988(Temp), f. & ef. 1-29-88; FWC 10-1988, f. & ef. 3-4-88; FWC 5-1989, f. & ef. 2-6-89, cert. ef. 2-7-89; FWC 8-1989(Temp), f. & ef. 3-2-89; FWC 10-1989(Temp), f. & ef. 3-7-89; FWC 15-1990(Temp), f. & ef. 2-8-90, cert. ef. 2-9-90; FWC 17-1990(Temp), f. & ef. 2-13-90; FWC 20-1990, f. & ef. 3-15-90; FWC 10-1991, f. & ef. 2-7-91, cert. ef. 2-8-91; FWC 11-1991(Temp), f. & ef. 2-12-91; FWC 8-1992, f. & ef. 2-11-92; FWC 11-1993, f. & ef. 2-11-93, cert. ef. 2-16-93; FWC 12-1993(Temp), f. & ef. 2-22-93; FWC 18-1993(Temp), f. & ef. 3-2-93; FWC 20-1993(Temp), f. & ef. 3-4-93; FWC 9-1994, f. & ef. 2-14-94, cert. ef. 2-15-94; FWC 11-1994(Temp), f. & ef. 2-28-94; FWC 15-1994(Temp), f. & ef. 3-3-94; FWC 15-1995, f. & ef. 2-15-95; FWC 6-1996, f. & ef. 2-7-96; FWC 4-1997, f. & ef. 1-30-97; DFW 15-1998, f. & ef. 3-3-98; DFW 10-1999, f. & ef. 2-26-99; DFW 7-2000(Temp), f. & ef. 2-11-00, cert. ef. 2-13-00 thru 2-29-00; DFW 8-2000(Temp), f. & ef. 2-18-00, cert. ef. 2-20-00 thru 2-29-00; DFW 9-2000, f. & ef. 2-25-00; DFW 10-2000(Temp), f. & ef. 2-25-

00, cert. ef. 2-25-00 thru 2-29-00; DFW 7-2001(Temp), f. & ef. 2-26-01 thru 4-30-01; DFW 9-2001(Temp), f. & ef. 3-2-01, cert. ef. 3-4-01 thru 3-6-01; DFW 10-2001(Temp), f. & ef. 3-6-01 thru 3-31-01; DFW 11-2001(Temp), f. & ef. 3-8-01 thru 3-31-01; Administrative correction 6-21-01; DFW 15-2002(Temp), f. & ef. 2-20-02 thru 8-18-02; DFW 17-2002(Temp), f. & ef. 3-7-02, cert. ef. 3-8-02 thru 9-1-02; DFW 21-2002(Temp), f. & ef. 3-19-02, cert. ef. 3-20-02 thru 9-16-02; DFW 24-2002(Temp), f. & ef. 3-22-02 thru 9-17-02; DFW 27-2002(Temp), f. & ef. 3-26-02 thru 9-22-02; DFW 12-2003, f. & ef. 2-14-03

## 635-042-0110

### Gary Island to Bonneville Dam Shad Season

(1) Shad may be taken for commercial purposes from the area of the Columbia River described in section (2) of this rule during the following open fishing periods:

- (a) 3 p.m. to 10 p.m. daily May 19, 2003 to May 23, 2003;
- (b) 3 p.m. to 10 p.m. daily May 27, 2003 to May 30, 2003;
- (c) 3 p.m. to 10 p.m. daily June 2, 2003 to June 6, 2003;
- (d) 3 p.m. to 10 p.m. daily June 9, 2003 to June 13, 2003;
- (e) 3 p.m. to 10 p.m. daily June 16, 2003 to June 20, 2003;
- (f) 3 p.m. to 10 p.m. daily June 23, 2003 to June 27, 2003.

(2) The area of the Columbia River open to fishing during the season indicated in section (1) of this rule is from a downstream boundary of a true north/south line through flashing red 4-second light "50" near the Oregon bank to an upstream boundary of a straight line from a deadline marker on the Oregon bank to a deadline marker on the Washington bank, both such deadline markers located approximately five miles downstream from Bonneville Dam.

(3) During the season indicated in section (1) of this rule, it is *unlawful* to use a gill net having a mesh size less than 5-3/8 inches or more than 6-1/4 inches with a breaking strength greater than a 10-pound pull, or to use a gill net other than a single wall floater net, or to use a gill net having slackers, or to use a gill net of more than 150 fathoms in length or 40 meshes in depth. Rip lines are authorized spaced not closer than 20 corks apart.

(4) All salmon, steelhead, walleye, and sturgeon taken in shad nets during the season indicated in section (1) of this rule must be immediately returned to the water and those alive must be released unharmed.

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

Stats. Implemented: ORS 496.162, ORS 506.129 & ORS 507.030

Hist.: FWC 85, f. & ef. 1-28-77; FWC 116(Temp), f. & ef. 6-1-77 thru 6-3-77; FWC 124(Temp), f. & ef. 6-17-77 thru 10-14-77; FWC 2-1978, f. & ef. 1-31-78; FWC 7-1978, f. & ef. 2-21-78; FWC 27-1978(Temp), f. & ef. 5-26-78 thru 9-22-78; FWC 2-1979, f. & ef. 1-25-79, Renumbered from 635-035-0275; FWC 6-1980, f. & ef. 1-28-80; FWC 25-1980(Temp), f. & ef. 6-13-80; FWC 1-1981, f. & ef. 1-19-81; FWC 18-1981(Temp), f. & ef. 6-10-81; FWC 6-1982, f. & ef. 1-28-82; FWC 36-1982(Temp), f. & ef. 6-11-82; FWC 2-1983, f. & ef. 2-1-83; FWC 21-1983(Temp), f. & ef. 6-10-83; FWC 4-1984, f. & ef. 1-31-84; FWC 2-1985, f. & ef. 1-30-85; FWC 19-1985, f. & ef. 5-1-85; FWC 4-1986(Temp), f. & ef. 1-28-86; FWC 16-1986(Temp), f. & ef. 5-23-86; FWC 79-1986(Temp), f. & ef. 12-22-86; FWC 2-1987, f. & ef. 1-23-87; FWC 23-1987(Temp), f. & ef. 5-20-87; FWC 10-1988, f. & ef. 3-4-88; FWC 5-1989, f. & ef. 2-6-89, cert. ef. 2-7-89; FWC 15-1990(Temp), f. & ef. 2-8-90, cert. ef. 2-9-90; FWC 20-1990, f. & ef. 3-15-90; FWC 10-1991, f. & ef. 2-7-91, cert. ef. 2-8-91; FWC 8-1992, f. & ef. 2-11-92; FWC 34-1992(Temp), f. & ef. 5-19-92, cert. ef. 5-20-92; FWC 11-1993, f. & ef. 2-11-93, cert. ef. 2-16-93; FWC 9-1994, f. & ef. 2-14-94, cert. ef. 2-15-94; FWC 15-1995, f. & ef. 2-15-95; FWC 6-1996, f. & ef. 2-7-96; FWC 4-1997, f. & ef. 1-30-97; DFW 15-1998, f. & ef. 3-3-98; DFW 10-1999, f. & ef. 2-26-99; DFW 48-1999(Temp), f. & ef. 6-24-99 thru 7-2-99; DFW 9-2000, f. & ef. 2-25-00; DFW 36-2000(Temp), f. & ef. 6-28-00, cert. ef. 6-28-00 thru 7-1-00; DFW 3-2001, f. & ef. 2-6-01; DFW 15-2002(Temp), f. & ef. 2-20-02 thru 8-18-02; DFW 12-2003, f. & ef. 2-14-03

## 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, 5 a.m. to 9 p.m. February 25, 2003, 12 noon March 1, 2003 to 6 p.m. March 2, 2003, 5 a.m. to 9 p.m. March 4, 2003, and 12 noon March 8, 2003 to 6 p.m. March 9, 2003;

(B) 12 noon April 16, 2003 to 6 p.m. April 18, 2003, 12 noon April 23, 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 to 6 p.m. July 18, 2003

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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. & 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. & cert. ef. 8-7-89, cert. ef. 8-20-89; FWC 82-1990(Temp), f. & cert. ef. 8-14-90, cert. ef. 8-19-90; FWC 86-1991, f. & cert. ef. 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. & cert. ef. 5-22-92, cert. ef. 5-25-92; FWC 74-1992 (Temp), f. & cert. ef. 8-10-92, cert. ef. 8-16-92; FWC 28-1993(Temp), f. & cert. ef. 4-26-93; FWC 48-1993, f. & cert. ef. 8-6-93, cert. ef. 8-9-93; FWC 21-1994(Temp), f. & cert. ef. 4-22-94, cert. ef. 4-25-94; FWC 51-1994, f. & cert. ef. 8-19-94, cert. ef. 8-22-94; FWC 64-1994(Temp), f. & cert. ef. 9-14-94, cert. ef. 9-15-94; FWC 66-1994(Temp), f. & cert. ef. 9-20-94; FWC 27-1995, f. & cert. ef. 3-29-95, cert. ef. 4-1-95; FWC 48-1995(Temp), f. & cert. ef. 6-5-95; FWC 66-1995, f. & cert. ef. 8-22-95, cert. ef. 8-27-95; FWC 69-1995, f. & cert. ef. 8-25-95, cert. ef. 8-27-95; FWC 8-1995, f. & cert. ef. 2-28-96, cert. ef. 3-1-96; FWC 37-1996(Temp), f. & cert. ef. 6-11-96, cert. ef. 6-12-96; FWC 41-1996, f. & cert. ef. 8-12-96; FWC 45-1996(Temp), f. & cert. ef. 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. & 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. & cert. ef. 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. & cert. ef. 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

## 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. April 24, 2003 to 7 a.m. April 25, 2003, 7 p.m. April 29, 2003 to 7 a.m. April 30, 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;

(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. & cert. ef. 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. & cert. ef. 2-13-02, cert. ef. 2-18-02 thru 8-17-02; DFW 96-2002(Temp), f. & cert. ef. 8-26-02 thru 12-31-02; DFW 12-2003, f. & cert. ef. 2-14-03

# ADMINISTRATIVE RULES

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. April 24, 2003 to 7 a.m. April 25, 2003, 7 p.m. April 29, 2003 to 7 a.m. April 30, 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 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

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**Adm. Order No.:** DFW 13-2003

**Filed with Sec. of State:** 2-14-2003

**Certified to be Effective:** 2-14-03

**Notice Publication Date:** 11-1-02, 2-1-03

**Rules Amended:** 635-160-0000, 635-160-0010, 635-160-0020, 635-160-0030, 635-190-0000, 635-190-0010, 635-190-0020, 635-190-0030

**Subject:** Rules were amended to update the Mule Deer and Elk Management Plans.

**Rules Coordinator:** Mike Lueck—(503) 872-5272, ext. 5447

**635-160-0000**

### Elk Management Plan Content and Purpose

The document entitled "Oregon Elk Management Plan" dated February 2003 is incorporated by reference into these rules. Copies of the plan are available through the Department. The plan provides program direction, identifies objectives, and outlines strategies to fulfill management, research, and habitat needs. Together with the rules establishing elk seasons, this plan establishes the framework and the implementation of the Department's elk program.

Stat. Auth.: ORS 496.012, ORS 496.138, ORS 496.146, ORS 496.162 & ORS 496.164

Stats. Implemented: ORS 496.012, ORS 496.138, ORS 496.146, ORS 496.162 & ORS 496.164

Hist.: FWC 62-1992, f. & cert. ef. 7-30-92; FWC 13-1995, f. & cert. ef. 2-15-95; DFW 13-2003, f. & cert. ef. 2-14-03

**635-160-0010**

### Plan Objectives for Elk Management

Stat. Auth.: ORS 496.012, ORS 496.138, ORS 496.146, ORS 496.162 & ORS 496.164

Stats. Implemented: ORS 496.012, ORS 496.138, ORS 496.146, ORS 496.162 & ORS 496.164

Hist.: FWC 62-1992, f. & cert. ef. 7-30-92; FWC 13-1995, f. & cert. ef. 2-15-95; DFW 13-2003, f. & cert. ef. 2-14-03

**635-160-0020**

### Plan Implementation

Stat. Auth.: ORS 496.012, ORS 496.138, ORS 496.146, ORS 496.162 & ORS 496.164

Stats. Implemented: ORS 496.012, ORS 496.138, ORS 496.146, ORS 496.162 & ORS 496.164

Hist.: FWC 62-1992, f. & cert. ef. 7-30-92; FWC 13-1995, f. & cert. ef. 2-15-95; DFW 13-2003, f. & cert. ef. 2-14-03

**635-160-0030**

### Five-Year Review

Stat. Auth.: ORS 496.012, ORS 496.138, ORS 496.146, ORS 496.162 & ORS 496.164

Stats. Implemented: ORS 496.012, ORS 496.138, ORS 496.146, ORS 496.162 & ORS 496.164

Hist.: FWC 62-1992, f. & cert. ef. 7-30-92; FWC 13-1995, f. & cert. ef. 2-15-95; DFW 13-2003, f. & cert. ef. 2-14-03

**635-190-0000**

### Mule Deer Management Plan Content and Purpose

The document entitled "Oregon Mule Deer Management Plan" dated February 2003 is incorporated by reference into these rules. Copies of the plan are available through the Department. The plan provides program direction, identifies objectives, and outline strategies to fulfill management, research, and habitat needs. Together with the rules establishing deer seasons, this plan establishes the framework and the implementation of the Department's mule deer program.

Stat. Auth.: ORS 183 & ORS 496

Stats. Implemented: ORS 183 & ORS 496

Hist.: FWC 129-1990, f. & cert. ef. 12-24-90; DFW 13-2003, f. & cert. ef. 2-14-03

**635-190-0010**

### Plan Objectives for Mule Deer Management

Stat. Auth.: ORS 183 & ORS 496

Stats. Implemented: ORS 183 & ORS 496

Hist.: FWC 129-1990, f. & cert. ef. 12-24-90; DFW 13-2003, f. & cert. ef. 2-14-03

**635-190-0020**

### Plan Implementation

Stat. Auth.: ORS 183 & ORS 496

Stats. Implemented: ORS 183 & ORS 496

Hist.: FWC 129-1990, f. & cert. ef. 12-24-90; DFW 13-2003, f. & cert. ef. 2-14-03

# ADMINISTRATIVE RULES

635-190-0030

## Five-Year Review

Stat. Auth.: ORS 183 & ORS 96

Stats. Implemented: ORS 183 & ORS 496

Hist.: FWC 129-1990, f. & cert. ef. 12-24-90; DFW 13-2003, f. & cert. ef. 2-14-03

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## Department of Forestry Chapter 629

**Adm. Order No.:** DOF 1-2003(Temp)

**Filed with Sec. of State:** 1-29-2003

**Certified to be Effective:** 1-29-03 thru 7-27-03

**Notice Publication Date:**

**Rules Amended:** 629-630-0500

**Subject:** This temporary rule amends OAR 629-630-0500 to remove the requirement that operators obtain prior approval for harvesting operations in high landslide areas, while maintaining the same protection standards for on-site operating practices. Questions specific to the temporary rule may be directed to Charlie Stone, 503-945-7205.

**Rules Coordinator:** Gayle Birch—(503) 945-7210

629-630-0500

## Harvesting On High Landslide Hazard Locations

(1) The purpose of this rule is to prevent timber harvesting-related serious ground disturbance and drainage alterations on all high landslide hazard locations, and to reference additional requirements when there is public safety exposure below the high landslide hazard location.

(2) Unless otherwise required by law, prior approval is not required for harvesting operations on high landslide hazard locations, although the substantive standards in this rule remain applicable. Operators concerned about the application of these standards to a specific operation may consult with the State Forester to obtain an evaluation of their harvesting plan and its likelihood of compliance with the standards.

(3) Operators and the State Forester shall share responsibility to identify high landslide hazard locations and to determine if there is public safety exposure from shallow, rapidly moving landslides using methods described in OAR 629-623-0100 through 0300. If there is public safety exposure, then the practices described in OAR 629-623-0400 through 0800 shall also apply.

(4) Operators shall not construct skid roads on high landslide hazard locations.

(5) Operators shall not operate ground-based equipment on high landslide hazard locations.

(6) Operators shall prevent deep or extensive ground disturbance on high landslide hazard locations during log felling and yarding operations.

(7) This rule does not substitute for or enforce the federal Endangered Species Act or impose any state requirement to comply with the federal Endangered Species Act. Landowners and operators are advised that federal law prohibits a person from taking certain threatened or endangered species which are protected under the Endangered Species Act.

Stat. Auth.: ORS 527.710(2)

Stats. Implemented: ORS 527.630(3), ORS 527.765 & ORS 527.714

Hist.: FB 9-1996, f. 12-2-96, cert. ef. 1-1-97; DOF 12-2002, f. 12-9-02 cert. ef. 1-1-03; DOF 1-2003(Temp), f. & cert. ef. 1-29-03 thru 7-27-03

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

**Adm. Order No.:** CWP 16-2003

**Filed with Sec. of State:** 1-21-2003

**Certified to be Effective:** 2-1-03

**Notice Publication Date:** 11-1-02

**Rules Adopted:** 413-130-0125

**Rules Amended:** 413-130-0120

**Subject:** This rule revision and adoption of a new rule establishes the process by which the Department of Human Services (DHS) will implement budget reductions in the Adoption Assistance Program, in the event of legislative or executive branch actions that impact DHS budget or expenditure authority.

**Rules Coordinator:** Barbara J. Carranza—(503) 945-6649

413-130-0120

## Appeal Procedures of Adoption Assistance

(1) Except as provided in OAR 413-130-0125, at any time the Department takes action to deny the application, or reduce or terminate payments, recipients of adoption assistance benefits shall be notified of their right to a hearing, except for terminations required by law, termination on the child's 18th birthday, or terminations required by legislative action.

(2) If agreement cannot be reached between DHS and the adoptive parents on the amount or type of benefits, the adoptive parents have the right to request a review or hearing within 30 days of notification of this right. Excluded from the right of appeal are Special Payments described in 413-130-0090(1).

(3) Requests for a hearing should be addressed in writing to the manager of the DHS central office adoptions unit. The adoption manager will complete the Hearing Request Memo and forward copies to the Adult and Family Services Hearings Unit.

(4) A summarizing written report shall be prepared by the adoption assistance coordinator within two weeks of the receipt of a request for a hearing.

(5) Hearings will be conducted by the Adult and Family Services Hearings Unit in compliance with rules governing contested case hearings.

(6) The hearing officer will prepare and distribute a proposed final order in compliance with rules governing contested case hearings and according to any interagency agreement between DHS and the hearings unit.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.330 - ORS 418.340, PL 96-272, PL 99-514 & PIQ 88-06

Hist.: SCF 2-1995, f. & cert. ef. 8-21-95; SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SCF 6-1996, f. & cert. ef. 9-17-96; SCF 11-1997, f. & cert. ef. 10-6-97; SOSCF 8-1999, f. & cert. ef. 5-17-99; SOSCF 7-2002, f. 3-28-02, cert. ef. 4-1-02; CWP 16-2003, f. 1-21-03, cert. ef. 2-1-03

413-130-0125

## Budgetary Reductions of Adoption Assistance

(1) In the event that legislative or executive branch actions impacting DHS' budget or expenditure authority makes it necessary for DHS to implement budget reductions to the Adoption Assistance Program, DHS shall notify all recipients of Adoption Assistance of the following:

(a) The reason for the reduction;

(b) The percentage or amount that Adoption Assistance will be reduced; and

(c) The effective date of the reduced Adoption Assistance payment.

(2) Reductions to Adoption Assistance payments pursuant to this rule shall be applied uniformly to all recipients of Adoption Assistance.

(3) Reductions to Adoption Assistance payments pursuant to this rule shall not be subject to negotiation between DHS and the adoptive family.

(4) Reductions to Adoption Assistance payments pursuant to this rule are not subject to a contested case hearing.

(5) Reductions to Adoption Assistance pursuant to this rule shall not constitute a change in circumstances warranting a change in the recipient's Adoption Assistance benefits.

(6) It is the intent of DHS to restore as much as possible any Adoption Assistance which has been reduced by operation of this rule. If additional funding becomes available to DHS to restore, in whole or in part, the reductions to Adoption Assistance payments required by this rule, DHS shall notify all recipients of Adoption Assistance the percentage of or amount of the increase, and the effective date of the increase. Any payment increase under this rule shall be applied uniformly to all recipients of Adoption Assistance.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.330 - ORS 418.340, PL96-272, 99-514, PIQ88-06

Hist.: CWP 16-2003, f. 1-21-03, cert. ef. 2-1-03

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**Adm. Order No.:** CWP 17-2003(Temp)

**Filed with Sec. of State:** 1-23-2003

**Certified to be Effective:** 1-23-03 thru 3-18-03

**Notice Publication Date:**

**Rules Adopted:** 413-020-0275, 413-020-0280, 413-020-0285

**Subject:** On October 1, 2002, temporary rules were filed to implement a more efficient and timely "cross reporting" with law enforcement agencies. These changes were driven by findings in the September 2002 report of the Clackamas County Child Welfare Review Team.

Through the interim use and further review and discussion of the October 1, 2002 rules, several areas of cross reporting need clarification. Child welfare program managers, Department of Human Ser-



# ADMINISTRATIVE RULES

vices field staff, and law enforcement representatives have met to develop these temporary rules. Child welfare and law enforcement leaders believe it is important to adopt these improved rules to be effective immediately.

**Rules Coordinator:** Barbara J. Carranza—(503) 945-6649

## 413-020-0275

### Purpose

(1) ORS 419B.015 requires the Department and Law Enforcement Agencies (LEA) to notify each other when a report of child abuse or neglect is received. This process is known as "cross-reporting." The purpose of these rules are to define when and how a report received by the Department alleging child abuse or neglect must be provided to a Law Enforcement Agency.

(2) Cross reporting is primarily the responsibility of the DHS employee who has determined that a report they received is a report of alleged child abuse or neglect. This person is usually a Department CPS Screener.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 419B.015 - ORS 419B.045

Hist.: CWP 17-2003(Temp), f. & cet. ef. 1-23-03 thru 3-18-03

## 413-020-0280

### Definitions

(1) "CPS" means Child Protective Services.

(2) "Department" means the Department of Human Services.

(3) "Face to Face" means within each other's presence allowing for verbal and non-verbal communication.

(4) "FACIS" means Family And Child Information System.

(5) "Immediately" means to direct one's attention, without undue delay, to the issue at hand.

(6) "Immediate Response" means Face to Face response to a report of alleged child abuse/neglect the same day the report is received by the Department.

(7) "LEA" means Law Enforcement Agency and refers to the LEA within the county where the alleged abuse occurred or the local law enforcement agency where the child welfare office that receives a report of alleged abuse/neglect is located.

(8) "MDT" means Multi-Disciplinary Team and is a county investigative/assessment team for child abuse. Pursuant to ORS 418.747(1), the team shall include, but not be limited to, law enforcement personnel, child protective service workers, district attorneys, school officials, health department staff and personnel from the courts.

(9) "Non-Immediate Response" means Face to Face response to a report of child abuse/neglect when it is determined at screening the child is not in immediate danger. Face to face contact will occur within the time frames set forth in OAR 413-020-0400 through 0435 (CAF Policy I-B.2.2. CPS Assessment).

(10) "Screening" means the process by which the Department receives referrals, determines whether the referral is a report of child abuse/neglect, and decides the agency response and the urgency of that response. Screening also involves determining eligibility for other Department services, and may initiate an assessment described in OAR 413-020-0400 through 0435 (CAF Policy I-B.2.2. CPS Assessment).

(11) "Third Party Abuse" means abuse by a person who is not the child's parent; not the child's caregiver or other member of the child's household; or not responsible for the child's care, custody and control. Examples of persons who could be treated as third party abusers under this definition include but are not limited to: school personnel, day care providers, coaches, and church personnel.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.746-751, ORS 419B.004 - ORS 419B.045, ORS 109.610 & ORS 109.112

Hist.: CWP 17-2003(Temp), f. & cet. ef. 1-23-03 thru 3-18-03

## 413-020-0285

### Policy Cross Reporting

(1) When it is determined through a complete screening process that a report of child abuse or neglect has been received, the screener or designee will submit a brief written report of the initial information received by the Department to either the LEA within the county where the alleged abuse occurred or the LEA where the child welfare office receiving a report is located. If the Department screener or designee determines that it is appropriate to send a report to more than one LEA, the names of the LEA's to which the report is submitted shall be noted on the report. Cross the reporting will be completed the same work day the screening is completed in accordance with OAR 413-020-0 through 0 (CAF Policy I-B.2.1. CPS Screening), but no later than 48 clock hours of the receipt of the ini-

tial report to the Department. A written report will be made, even if a joint response is planned in a non-immediate response.

(2) Referrals received from mandatory or non-mandatory reporters that are determined by Department CPS screener not to be reports of child abuse or neglect should not be cross reported to a law enforcement agency. Reports alleging abuse or neglect that have previously been reported to law enforcement and offer no new information, and reports of abuse and neglect received from an LEA, do not need to be cross reported again.

(3) All reports of child abuse/neglect on open cases will be treated as new reports and these protocols will be followed.

(4) Subsequent reports on the same incident that contain new information shall be reported to the LEA in accordance with the time frames outlined below and established by level of response necessary to assure child safety:

(a) **Immediate Response.** Immediate response is required when the Department determines that a child faces an immediate safety threat or is in immediate danger today.

(A) Cross Reporting to LEA. When the Department that determines a report of alleged child abuse/neglect requires an Immediate Response, the Department screener or designee, will immediately contact the appropriate LEA by telephone to provide necessary information and request immediate assistance.

(B) If the Department responds without LEA or LEA responds without the Department, a written report of the initial information received by the Department will be submitted to LEA. This report will be submitted without undue delay, by fax or other expedited process, within the same work day that the report is received by the Department.

(C) If there is a joint LEA and Department response, a written report of the initial report to the Department is not necessary. The assigned CPS staff shall document on the record the name of the LEA and the officer who responded with the Department staff.

(b) **Non-Immediate Response.** A Non-Immediate Response is required when the Department determines that a child faces a safety threat that is not current, but is likely to become so in the near future.

(c) **No Response indicated.** When a report of child abuse or neglect is received, but the information indicates a Face to Face contact is unnecessary or not possible, a written report will be submitted to LEA within five (5) working days of the completion of the screening activities. Examples include: a report of abuse that occurred in years past and either alleged perpetrator is deceased or the Department is unable to determine the name or location of victim, the allegation is of minor abuse which happened in years past and no recent abuse has occurred, or the victim is now an adult.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 419B.015 - ORS 419B.045

Hist.: CWP 17-2003(Temp), f. & cet. ef. 1-23-03 thru 3-18-03

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**Adm. Order No.:** CWP 18-2003(Temp)

**Filed with Sec. of State:** 1-23-2003

**Certified to be Effective:** 1-23-03 thru 3-18-03

**Notice Publication Date:**

**Rules Adopted:** 413-020-0345

**Rules Amended:** 413-020-0335, 413-020-0395

**Rules Suspended:** 413-020-0335(T), 413-020-0395(T)

**Subject:** In October 2002, Department of Human Services Child Welfare Program filed emergency rules that revised the Screening Activities to include Cross Reporting. After using these temporary rules in this interim period, child welfare staff and law enforcement agencies believe it is important to adopt revisions to make these rules more effective. The Cross Reporting section has been deleted from these rules and is being filed as OAR 413-020-0275, 413-020-0280 and 413-020-0285. Child welfare staff and law enforcement agencies believe it is important to adopt Third Party Abuse rules during this interim period. Child welfare staff and law enforcement agencies believe it is important to revise the Supervisor Review and Approval of Child Abuse/Neglect Reports rules during this interim period. Permanent rules will be adopted by March 18, 2003.

**Rules Coordinator:** Barbara J. Carranza—(503) 945-6649

## 413-020-0335

### Screening Activities

A screening of all referrals, requests for service or reports of suspected abuse, shall be made to determine if the child/family is eligible for serv-

## ADMINISTRATIVE RULES

ice from SOSCF. The screener begins this determination process by gathering and recording information including, but not limited to:

(1) Interview the referring party and determine the legal jurisdiction of the family's place of residence as well as the area in which a reported crime may have occurred. Obtain information to complete the FACIS Document. The "Screening Guidelines" shall be used to guide the interview. (Attachment A.)

(2) Research previous history. This should be done by reviewing IIS/Facis information and reviewing any previous case history recorded in the case record.

(3) Search other agencies' data screens, i.e., AFS and SED. This may provide essential family data and may assist the screener in determining other agencies' involvement with the child or family.

(4) Contact LEA, if appropriate, to obtain historical information, including domestic disturbance calls, arrests or temporary restraining orders.

(5) Make collateral calls suggested by the nature of the information reported. Possibilities may include, but not be limited to: the caretakers, schools, physicians, mental health professionals, corrections, AFS, OYA, etc.

(6) Immediately notify the Child Care Division, as per statute, if the report involves abuse or neglect in a registered day care home, or in a licensed day care center.

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

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.746 - ORS 418.751, ORS 419B.004 - ORS 419B.045, ORS 109.610 & ORS 109.112

Hist.: SOSCF 1-1999, f. & cert. ef. 2-2-99; SOSCF 12-2002(Temp), f. 9-30-02, cert. ef. 10-1-02 thru 3-18-03; CWP 18-2003(Temp), f. & cert. ef. 1-23-03 thru 3-18-03

### 413-020-0345

#### Third Party Abuse

Third-Party abuse. Upon receipt of a report of alleged child abuse involving a third party, the Department shall:

(1) Notify the appropriate LEA within the time frame established by the level of response necessary to assure the child's safety. (e.g., Immediate response, Non-Immediate response, No Response indicated.) The level of response needed will be determined as part of the screening process. This information shall be reported to LEA as a report of child abuse or neglect by a third party.

(2) To the extent possible, this report to LEA will include the name and address of the victim, the name of the reporting party, the name (and address if possible) of the alleged abuser and a brief description of the incident and location, including when, where and what happened.

(3) The local Department office will implement written internal protocols that will prescribe the handling of reports of child abuse or neglect by individuals who are known as Third-Party abusers. The safety status of children will be determined by specific written protocols. These protocols shall include the following specific steps to be taken at Screening, but shall not delay a report of Third-Party abuse to LEA.

(a) Determine the need to conduct a child safety assessment of the child victim(s);

(b) Identify and determine the safety status, if possible, of any children or minor siblings of the alleged abuser;

(c) Determine the alleged abuser's access to the victim and/or other children;

(d) Determine the need for the Department to conduct a child safety assessment on other siblings of the child victim, children or siblings of the alleged abuser, and other children to whom the alleged abuser may have access.

(e) The local Department office will work with local MDTs and LEAs to implement a written agreement to assure tracking of reports sent and received by each other, as required by ORS 419B.015.

(f) All reports submitted to law enforcement agencies under this rule shall, at minimum, contain the information required under ORS 419B.015. Reports to LEAs shall be done using the Department Form DHS 311.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.746-751, ORS 419B.004 - ORS 419B.045, ORS 109.610 & ORS 109.112

Hist.: CWP 18-2003(Temp), f. & cert. ef. 1-23-03 thru 3-18-03

### 413-020-0395

#### Supervisor Review and Approval of Child Abuse/Neglect Reports

(1) Child Welfare Supervisory Review and FACIS approval of all reports of child abuse/neglect referrals will occur within three calendar days of completion of screening activities which identify a report to be closed at screening or by noon on the following business day, if the third calendar day falls on a weekend or holiday.

(2) For reports involving third party abuse, the following activities are required to be completed by a CPS core trained supervisor:

(a) Review and write his/her initials with time and date on a hard copy of the Department Form DHS 307, that verifies Initial Screening is complete and a Level of Response is indicated.

(b) Review and initial a log of reports sent to Law Enforcement Agencies each day.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.746 - ORS 418.751, ORS 419B.004 - 419B.045, ORS 109.610 & ORS 109.112

Hist.: SOSCF 12-2002(Temp), f. 9-30-02, cert. ef. 10-1-02 thru 3-18-03; CWP 18-2003(Temp), f. & cert. ef. 1-23-03 thru 3-18-03

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**Adm. Order No.:** CWP 19-2003(Temp)

**Filed with Sec. of State:** 1-23-2003

**Certified to be Effective:** 1-23-03 thru 6-20-03

**Notice Publication Date:**

**Rules Adopted:** 413-070-0980

**Rules Amended:** 413-070-0945

**Subject:** This temporary rule revision and adoption of a new temporary rule establishes the process by which the Department of Human Services (DHS) will implement budget reductions in the Guardianship Assistance Program, in the event of legislative or executive branch actions that will impact DHS budget or expenditure authority. The agency must file this rule to be effective on February 1, in the event that state budgetary reductions are required.

**Rules Coordinator:** Barbara J. Carranza—(503) 945-6649

### 413-070-0945

#### Annual Reviews

(1) Eligibility reviews for Guardianship Assistance shall be conducted on an annual basis.

(a) The guardian shall file a written report annually. The guardian shall file the report with the court within 30 days after each anniversary of the court appointment of guardianship;

(b) Guardians shall annually submit to DHS Central Office Adoption Unit a copy of the guardianship report required by the court within 30 days after each anniversary date of the court's appointment of the guardian(s);

(c) DHS shall hold the Guardianship Assistance check if the guardian does not submit to DHS the court report within 30 days after each anniversary date of the court's appointment of the guardian(s).

(2) The DHS local office Personal Care Services Registered Nurse shall assess Children receiving Personal Care Services Guardianship Assistance Payments annually. Personal Care assessments shall not be conducted on more than an annual basis except under extreme circumstances. Upon receiving a request from the Central Office Adoption Assistance Unit, the RN providing local Personal Care Services shall complete and submit an assessment of the child's current personal care needs to the Central Office Adoption Unit.

(3) The basic Guardianship Assistance rate shall not automatically increase. Guardians may request an increase in the child's subsidy up to the current rate of pay for the child's age, or up to the current rate of pay given cost of living increases or other legislatively approved increases for the basic foster care rate. Retroactive increases will not be authorized beyond the first of the month in which the request is made.

(4) The Guardianship Assistance basic rate may increase when the guardian payee does not receive the child benefits in the amount calculated and deducted as an offset to the basic Guardianship Assistance monthly payment.

(5) A review of the child's continuing Title IV-E eligibility status is not required for 12 months after the guardianship assistance application is signed, and during this time period it is not necessary to confirm ongoing parental deprivation in the home from which the child was removed as long as the child remains otherwise eligible to receive Guardianship Assistance. Ideally, the assistance application should be signed no earlier than 60 days prior to the anticipated hearing date on which the court will order guardianship.

Stat. Auth.: ORS 418.005

Stats. Implemented: Title IV-E, Title IV-B & PL 103-432

Hist.: SOSCF 18-1999(Temp), f. & cert. ef. 9-14-99 thru 3-12-00; SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 14-2003, f. & cert. ef. 1-9-03; CWP 19-2003(Temp), f. & cert. ef. 1-23-03 thru 6-20-03

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413-070-0980

## Budgetary Reductions of Guardianship Assistance

(1) In the event that legislative or executive branch actions impacting DHS's budget or expenditure authority makes it necessary for DHS to implement budget reduction to the Guardianship Assistance Program, DHS shall notify all recipients of Guardianship Assistance of the following:

- (a) The reason for the reduction;
- (b) The percentage or amount that the Guardianship Assistance will be reduced; and
- (b) The effective date of the reduced Guardianship Assistance payment.

(2) Reductions to Guardianship Assistance payments pursuant to this rule shall be applied uniformly to all recipients of Guardianship Assistance.

(3) Reductions to Guardianship Assistance payments pursuant to this rule shall not be subject to negotiation between DHS and the guardian family.

(4) Reduction to Guardianship Assistance payments pursuant to this rule are not subject to a contested case hearing.

(5) Reductions to Guardianship Assistance pursuant to this rule shall not constitute a change in circumstances warranting a change in the recipient's Guardianship Assistance benefits.

(6) It is the intent of DHS to restore as much as possible any Guardianship Assistance which has been reduced by operations of this rule. If additional funding becomes available to DHS to restore, in whole or in part, the reductions to Guardianship Assistance payments required by this rule, DHS shall notify all recipients of Guardianship Assistance the percentage of or amount of the increase and the effective date of the increase. Any payment increase under this rule shall be applied uniformly to all recipients of Guardianship Assistance.

Stat. Auth.: ORS 418.005

Stats. Implemented: Title IV-E, Title IV-B & PL 103-432

Hist.: CWP 19-2003(Temp), f. & cert. ef. 1-23-03 thru 6-20-03

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**Adm. Order No.:** CWP 20-2003(Temp)

**Filed with Sec. of State:** 1-31-2003

**Certified to be Effective:** 2-1-03 thru 7-30-03

**Notice Publication Date:**

**Rules Adopted:** 413-070-0981, 413-130-0126

**Rules Amended:** 413-090-0010, 413-090-0160

**Subject:** Rule 413-090-0010 is being amended by adding new language to section (1)(b) which identifies the established rates for regular foster care services. The regular foster care rates are based upon the age of the child and established by the Department subject to the availability of funds and are uniformly applied throughout the state, effective February 1, 2003.

Rule 413-090-0160 is being amended by adding new language, section (5) which identifies the hourly rate for supervision, transportation and other allowable costs associated with the Special Rate/Personal Care plan, effective February 1, 2003.

Rule 413-130-0126 is being adopted to implement reductions in adoption assistance agreements that were in effect on January 31, 2003.

Rule 413-070-0981 is being adopted to implement a 7.5% reduction in the base rate of guardianship assistance agreements that were in effect on January 31, 2003.

**Rules Coordinator:** Barbara J. Carranza—(503) 945-6649

413-070-0981

## Reductions Effective February 1, 2003

Effective February 1, 2003, the monthly payments payable under all Guardianship Assistance agreements in effect on January 31, 2003, are reduced as follows:

(1) A 7.5% reduction to the base rate of Guardianship Assistance payments is applied uniformly to all recipients of Guardianship Assistance. Oregon's new monthly basic rates are:

- (a) Child's Age — 0-5 — 6-12 — 13-18;
- (b) Base rate — \$350 — \$364 — \$449.

(2) The Personal Care Rate portion of Guardianship Assistance, which provides payment for additional support and supervision of the child, is reduced by 10% to \$4.15 per hour.

Stat. Auth.: ORS 418.005

Stats. Implemented: Title IV-E, Title IV-B & PL 103-432

Hist.: CWP 20-2003(Temp), f. 1-31-03, cert. ef. 2-1-03 thru 7-30-03

413-090-0010

## Payments — General Guidelines

### (1) Family Foster Care:

(a) Payment by the Department to foster parents for a child's room, food, clothing, incidentals and cash allowance (known as the regular foster care rate) will be made on a monthly basis, or prorated for portions of a month, after the period during which care has been provided. It will include the day the child enters the home, but exclude the day the child leaves the home. Costs of special care or service in accordance with a written Department service plan may also be provided if essential for the child's well being and if specifically authorized by the Department. See the OAR 413-090-0100 through 0210 Special Rate Policy (CAF Policy I-E.5.1.2);

(b) Regular foster care rates are based upon the age of the child and the type of program services they are receiving — Family Foster Care, Family Shelter Care, or Family Group Home. The rate structure is established by the Department subject to the availability of funds and are uniformly applied throughout the state. The current monthly reimbursed rates are effective February 1, 2003;

### (A) Monthly Family Foster Care Rates:

- (i) Child's Age — 0-5 — 6-12 — 13-18;
- (ii) Room/Board/Other — \$300 — \$298 — \$354;
- (iii) Clothing Replacement \$42 — \$47 — \$68;
- (iv) Personal Allowance — \$8 — \$19 — \$27;
- (v) Total — \$350 — \$364 — \$449.

### (B) Family Shelter Care — \$18.71.

### (C) Foster Family Group Home — \$1100.

(c) Payments to foster parents certified by the agency shall be inalienable by any assignment or transfer and exempt from execution, levy, attachment, garnishment and other legal process under the laws of this state.

(2) **Residential Treatment.** Payment by the Department to purchase of care providers will be made as stipulated in signed contracts.

### (3) Payments Prohibited:

(a) Payment will not be made for two simultaneous 24 hour out-of-home care services, such as foster care, relative care, family group homes, or residential treatment at the same time;

(b) Neither payment nor utilization credit will be given for duplicate simultaneous contracted treatment services, such as day treatment and residential treatment;

(c) Payment by the Department will not be authorized for the care of children in a home or facility supported by public funds and maintained only as a secure facility under the jurisdiction of a juvenile court;

(d) Any exceptions to these rules must be approved in writing by the director, or if for a Target Planning Child, by the CAF Target Planning and Consultation Committee. Exceptions will be considered only when federal funds will not be claimed.

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

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.470

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 2-1999, f. & cert. ef. 3-5-99; SOSCF 20-1999, f. 9-15-99, cert. ef. 9-20-99; CWP 9-2003, f. & cert. ef. 1-7-03; CWP 20-2003(Temp), f. 1-31-03 thru 7-30-03

413-090-0160

## Costs Reimbursable by DHS

(1) The agency will reimburse costs by the foster parent(s) for extraordinary services and supplies that are required on a daily, weekly, monthly or other continuing basis. The costs are separated into three areas: Costs which are reimbursable to the state under Title IV-E eligible federal guidelines, (CF 172A, Part A); costs paid with state general funds and TANF (CF 172A, Part B); Title XIX eligible federal guidelines, (CF 172A, Part C).

(2) Supervision costs above standard maintenance costs may be paid according to a combination of Title IV-E and TANF or Title XIX allowable costs.

(3) Supervision costs above standard maintenance costs include one or more of the following:

(a) Supervision Eligible for Title IV-E Funding (Part A - 172NPC). Supervision eligible for Title IV-E funding is only for behaviors or direct care needs that are beyond the normal requirements for a child of a similar age and the child does not have a documented diagnosis;

(b) Supervision Eligible for Title XIX (Part C - 172A). Supervision eligible for Title XIX is for behaviors or direct care needs that are beyond the normal requirements for a child of a similar age and the child has a documented diagnosis and an RN assessment and Care Plan has been completed;

(c) Relief Care is only for a child whose documented behavioral supervision needs exceed the normal requirements for a child of a similar

# ADMINISTRATIVE RULES

age and additional supervision is necessary to the maintenance of the child in the home.

(4) The narrative for any supervision costs must:

(a) Document the behaviors and direct care and supervision needs the child has that are beyond the normal requirements for a child of a similar age;

(b) Describe the necessary interventions and services the foster parent(s) must provide for each special need, including expected outcome which, if not achieved, would require that the child would need placement in a higher level of care program;

(c) Describe the foster parents' skill and experience which enable them to provide appropriate care for the child's special needs and behaviors.

(5) Reimbursement rate structure effective February 1, 2003; A rate structure is established to provide rate parity for similar type activities and equitable rates for similar types of special needs of children. An exception to the rates in this rule may be granted through documentation and approval (OAR 413-090-0200).

(a) Hourly Rate for Supervision — \$4.15;

(b) Transportation Cost — Per Mile — \$.36;

(c) Laundry — Per Additional Load — \$1.00;

(d) Relief Care — Hourly Rate — \$4.15;

(e) Program Educational Expenses — Direct Cost Incurred — (Prior Approval Required);

(f) Diet Cost — Direct Cost Incurred — (Prior Approval Required).

Stat. Auth.: ORS 418.005

Stats. Implemented: Title IV-E, Title XIX

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 19-1999, f. 9-15-99, cert. ef. 9-20-99; SOSCF 6-2002, f. 3-28-02, cert. ef. 4-1-02; CWP 20-2003(Temp), f. 1-31-03 thru 7-30-03

## 413-130-0126

### Adoption Assistance Reductions

Effective February 1, 2003, the monthly payments payable under all Adoption Assistance agreements in effect on January 31, 2003, are reduced by 7.5%.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.330 - ORS 418.340, PL96-272, 99-514, ACYF-CB-PA-01-01

Hist.: CWP 20-2003(Temp), f. 1-31-03 thru 7-30-03

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

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

**Filed with Sec. of State:** 1-31-2003

**Certified to be Effective:** 2-1-03

**Notice Publication Date:** 12-1-02

**Rules Amended:** 410-121-0000, 410-124-0000, 410-124-0020, 410-124-0040, 410-124-0140, 410-124-0160, 410-127-0000, 410-127-0020, 410-127-0080, 410-129-0260, 410-142-0080, 410-142-0100, 410-142-0200, 410-142-0240, 410-142-0320

**Subject:** Administrative Rules govern Office of Medical Assistance Programs (OMAP) payments for services provided to clients. Rule 410-121-0000 is revised to remove reference to the Point of Sale Manual. Other rules listed above are revised to take care of minor housekeeping corrections, most as a result of agency reorganization and name changes.

**Rules Coordinator:** Darlene Nelson—(503) 945-6927

## 410-121-0000

### Foreword

(1) The Pharmaceutical Services Guide is a user's manual designed to assist providers in preparing claims for services provided to Office of Medical Assistance Programs (OMAP) fee-for-service clients. This guide must be used in conjunction with the General Rules for Oregon Medical Assistance Programs, and the Oregon Health Plan Administrative Rules.

(2) The Office of Medical Assistance Programs (OMAP) endeavors to furnish medical providers with up-to-date billing, procedural information, and guidelines to keep pace with program changes and governmental requirements.

(3) The administrative rules in this Pharmaceutical Services Guide pertain to pharmaceutical services delivered to OMAP fee-for-service clients. Pharmaceutical services delivered through managed health care plans contracted with the Office of Medical Assistance Programs, under the

Oregon Health Plan, are subject to the policies and procedures established in the Oregon Health Plan Administrative Rules, and by the specific managed health care plans.

(4) Note: Administrative rules and billing guidelines for Home Enteral/Parenteral Nutrition and IV services are included in the Home Enteral/Parenteral Nutrition and IV Services guide. Administrative rules and billing guidelines for Durable Medical Equipment is included in the Durable Medical Equipment guide. To request a copy of these guides, call OMAP.

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

Stat. Auth.: ORS 184

Stats. Implemented: ORS 414.065

Hist.: HR 29-1990, f. 8-31-90, cert. ef. 9-1-90; OMAP 1-1999, f. & cert. ef. 2-1-99; OMAP 31-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 1-2003, f. 1-31-03, cert. ef. 2-1-03

## 410-124-0000

### Transplant Services

(1) The Office of Medical Assistance Programs (OMAP) will make payment for prior authorized and emergency transplant services identified in these rules as covered for eligible clients receiving the Basic Benefit Health Care Package and when OMAP transplant criteria described in OAR 410-124-0010 and 410-124-0060 through 410-124-0160 is met. All other Benefit Packages do not cover transplant.

(2) OMAP will only prior authorize and reimburse for transplants if:

(a) All OMAP criteria are met; and

(b) Both the transplant center's and the specialist's evaluations recommend that the transplant be authorized; and

(c) The ICD-9-CM diagnosis code(s) and CPT transplant procedure code(s) are paired on the same currently funded line on the Prioritized List of Health Services adopted under OAR 410-141-0520.

(3) Simultaneous multiple organ transplants are covered only if specifically identified as paired on the same currently funded line on the Oregon Health Plan (OHP) Prioritized List of Health Services whether the transplants are for the same underlying disease or for unrelated, but concomitant, underlying diseases.

(4) Not Covered Transplant Services: The following types of transplants are not covered by OMAP:

(a) Transplants which are considered experimental or investigational or which are performed on an experimental or investigational basis, as determined by OMAP;

(b) Transplant services which are contraindicated, as described in OAR 410-124-0060 through 410-124-0160;

(c) Transplants which have not been prior authorized for payment by OMAP or the client's managed health care plan;

(d) Transplants which do not meet the guidelines for an emergency transplant in OAR 410-124-0040;

(e) Transplants which are not described as covered in OAR 410-141-0480 and 410-141-0520.

(5) Selection of Transplant Centers: Transplant services will be reimbursed only when provided in a transplant center that provides quality services, demonstrates good patient outcomes and compliance with all OMAP facility criteria. The transplant center must have provided transplant services for a period of at least two years and must have completed a minimum of 12 cases in the most recent year. The patient-and-graft-survival rates must be equal to or greater than the appropriate standard indicated in this rule. A transplant center which has had at least two years of experience in transplantation of any solid organ (heart, liver, lung, pancreas) and which has met or exceeded the appropriate standards may be considered for reimbursement for the transplantation of other solid organs and/or autologous or allogeneic bone marrow transplantation:

(a) An experienced and proficient transplant team and a well established transplant support infrastructure at the same physical location as the transplant service is required for transplant services rendered to OMAP clients. These transplant criteria are crucial to successful transplant outcome. Therefore, consortia will not be approved or contracted with for the provision of transplant services for OMAP clients. No OMAP transplant contract, prior approval or reimbursement will be made to consortia for transplant services where, as determined by OMAP, there is no assurance that the individual facilities that make up the consortia independently meet OMAP criteria. OMAP transplant criteria must be met individually by a facility to demonstrate substantial experience with the procedure;

(b) Once a transplant facility has been approved and contracted for OMAP transplant services, it is obliged to report immediately to OMAP any events or changes that would affect its approved status. Specifically, a transplant facility is required to report, within a reasonable period of time, any significant decrease in its experience level or survival rates, the departure of key members of the transplant team or any other major changes that

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could affect the performance of transplants at the facility. Changes from the terms of approval may lead to prospective withdrawal of approval for OMAP coverage of transplants performed at the facility;

(c) Fully Capitated Health Plans (FCHPs) that contract with non-OMAP contracted facilities for Basic Health Care Package clients will develop and use appropriate transplant facility criteria to evaluate and monitor for quality services at the transplant facility;

(d) Transplant centers which have less than two years experience in solid organ transplant may be reimbursed, at OMAP's discretion, for allogeneic or autologous bone marrow transplants upon completion of two years of experience in bone marrow transplantation with patient survival rates equal to or exceeding those defined in section (5) of this rule;

(e) OMAP will discontinue the contract with a transplant center when the graft and/or survival rates fall below the standards indicated in this rule for a period of two consecutive years.

(6) Standards for Transplant Centers:

(a) Heart, heart-lung and lung transplants:

(A) Heart: One-year patient survival rate of at least 80%;

(B) Heart-Lung: One-year patient survival rate of at least 65%;

(C) Lung: One-year patient survival rate of at least 65%.

(b) Bone Marrow (autologous and allogeneic), peripheral stem cell (autologous and allogeneic) and cord blood (allogeneic) transplants: One-year patient survival rate of at least 50%;

(c) Liver transplants: One year patient survival rate of at least 70% and one year graft survival rate of at least 60%;

(d) Simultaneous pancreas-kidney and pancreas-after-kidney transplants: One year patient survival rate of at least 90% and one year graft survival rate of at least 60%;

(e) Kidney transplants: One year patient survival rate of at least 92% and one year graft survival rate of at least 85%.

(7) Selection of transplant centers by geographic location: If the services are available in the state of Oregon, reimbursement will not be made to out-of-state transplant centers. Out-of-state centers will be considered only if:

(a) The type of transplant required is not available in the state of Oregon and/or the type of transplant (for example, liver transplant) is available in the state of Oregon but the Oregon transplant center does not provide that type of transplant for all clients or all covered diagnoses, (e.g., pediatric transplants); and

(b) An in-state transplant center requests the out-of-state transplant referral; and

(c) An in-state transplant facility recommends transplantation based on in-state facility and OMAP criteria; or

(d) It would be cost effective as determined by OMAP. For example, if the transplant service is covered by the client's benefit package and the client's primary insurer (i.e., Medicare) requires the use of an out-of-state transplant center; or

(e) It is a contiguous, out-of-state transplant center that has a contract or special agreement for reimbursement with OMAP.

(8) Professional and other services will be covered according to administrative rules in the applicable provider guides.

(9) Reimbursement for covered transplants and follow-up care for transplant services is as follows:

(a) For transplants for fee-for-service or Primary Care Case Manager (PCCM) clients:

(A) Transplant facility services — by contract with OMAP;

(B) Professional services — at OMAP maximum allowable rates;

(b) For emergency services, when no special agreement has been established, the rate will be:

(A) 75% of standard inpatient billed charge; and

(B) 50% of standard outpatient billed charge; or

(C) The payment rate set by the Medical Assistance program of the state in which the center is located, whichever is lower.

(c) For clients enrolled in FCHPs, reimbursement for transplant services will be by agreement between the FCHP and the transplant center.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 8-1990(Temp), f. 3-30-90, cert. ef. 4-1-90; HR 22-1990, f. & cert. ef. 7-17-90; HR 37-1990, f. 11-6-90, cert. ef. 11-9-90; HR 17-1992, f. & cert. ef. 7-1-92; HR 4-1994, f. & cert. ef. 2-1-94; HR 19-1995, f. 9-28-95, cert. ef. 10-1-95; HR 17-1997, f. & cert. ef. 7-11-97; OMAP 18-2000 f. 9-28-00, cert. ef. 10-1-00; OMAP 21-2001, f. 3-30-01, cert. ef. 4-1-01; OMAP 34-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 1-2003, f. 1-31-03, cert. ef. 2-1-03

### 410-124-0020

#### Prior Authorization for All Covered Transplants, Except Cornea and Kidney

(1) Prior authorization is required as follows:

(a) All non-emergency transplant services require prior authorization of payment, except for kidney alone and cornea transplants which require prior authorization only if performed out-of-state;

(b) Pre-transplant evaluations provided by the transplant center require prior authorization. Prior Authorization will only be made for evaluations for covered transplants.

(2) The prior authorization request for all covered transplants is initiated by the client's in-state referring physician or the transplant physician. The initial request should contain all available information outlined in subsection (3) of this rule, below:

(a) For fee-for-service and Primary Care Case Manager (PCCM) clients, the request should be sent to the Office of Medical Assistance Programs (OMAP);

(b) For clients enrolled in a Fully Capitated Health Plan (FCHP), requests for transplant services should be sent directly to the FCHP.

(3) A completed request for authorization must contain the following information. Failure to submit all the information will delay processing of the request. An optional form is provided at the end of the Transplant Services guide for provider convenience in submitting requests for evaluations only:

(a) The name, age, Medical Assistance Identification number, and birth date of the client;

(b) A description of the medical condition and full ICD-9-CM coding which necessitates a transplant;

(c) The type of transplant proposed, with CPT code;

(d) The results of a current HIV test, (completed within 6 months of request for transplant authorization);

(e) Any other evidence of contraindications for the type of transplant being considered (see contraindications under each transplant type);

(f) The client's prognosis, with and without a transplant, including estimated life expectancy with and without the transplant;

(g) Transplant treatment alternatives:

(A) A history of other treatments which have been tried;

(B) Treatments that have been considered and ruled out, including discussion of why they have been ruled out.

(h) An evaluation based upon a comprehensive examination completed by a board certified specialist in a field directly related to the condition of the client which necessitates the transplant;

(i) If already done before requesting prior authorization, the results of any medical and/or social evaluation completed by a transplant center should be included in the prior authorization request. The completion of an evaluation by a transplant center before receiving prior authorization from OMAP does not obligate OMAP to reimburse that transplant center for the evaluation or for any other transplant services not prior authorized.

(4) Prior authorization approval process and requirements:

(a) For clients receiving services on a fee-for-service basis and/or enrolled with a PCCM:

(A) After receiving a completed request, OMAP will notify the referring physician within two weeks if an evaluation at a transplant center is approved or denied;

(B) A final determination for the actual transplant requires an evaluation by a selected transplant center, which will include:

(i) A medical evaluation;

(ii) An estimate of the client's motivation and ability, both physical and psychological, to adhere to the post-transplant regimen;

(iii) The transplant center's assessment of the probability of a successful outcome, based on the type of transplant requested, the condition of the client, and the client's ability to adhere to the post-transplant regimen; and

(iv) A recommendation using both the transplant center's own criteria, and OMAP's criteria.

(b) For Oregon Health Plan (OHP) transplant eligible clients who are in an FCHP: Refer to the FCHP for approval process and requirements;

(c) The prior authorization request will be approved if:

(A) All OMAP criteria are met; and

(B) Both the transplant center's and the specialist's evaluations recommend that the transplant be authorized; and

(C) The ICD-9-CM diagnosis code(s) and CPT transplant procedure code(s) are paired on the same currently funded line on the Prioritized List of Health Services.

(5) The referring physician, transplant center, and the client will be notified in writing by OMAP or the FCHP of the prior authorization decision.

(6) Prior authorization of a transplant does not guarantee reimbursement for the services of any provider if, at the time the transplant is per-

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formed, intercurrent events have caused the individual's medical condition to deteriorate to the point at which survival with or without transplant for a period of more than sixty days is unlikely.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 8-1990(Temp), f. 3-30-90, cert. ef. 4-1-90; HR 22-1990, f. & cert. ef. 7-17-90; HR 17-1992, f. & cert. ef. 7-1-92; HR 4-1994, f. & cert. ef. 2-1-94; HR 19-1995, f. 9-28-95, cert. ef. 10-1-95; HR 17-1997, f. & cert. ef. 7-11-97; OMAP 18-2000 f. 9-28-00, cert. ef. 10-1-00; OMAP 21-2001, f. 3-30-01, cert. ef. 4-1-01; OMAP 34-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 1-2003, f. 1-31-03, cert. ef. 2-1-03

## 410-124-0040

### Emergency Transplants

(1) An Emergency Transplant is one in which medical appropriateness requires that a covered transplant be performed less than five days after determination of the need for a transplant.

(2) Emergency transplants are subject to post transplant review of the client's medical records by the Office of Medical Assistance Programs (OMAP), or the Fully Capitated Health Plan (FCHP), to determine if the client and the transplant center met the criteria in these rules at the time of the transplant. Related charges, including transportation, physician's services, and donor charges will be covered if payment is approved. OMAP will make payment as described in OAR 410-124-0000 (9) for OMAP-covered transplants. FCHPs will make payment as described in their contract.

(3) Transplants are not covered by Citizen/Alien-Waived Emergency Medical (CWM) clients, even when emergent.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 8-1990(Temp), f. 3-30-90, cert. ef. 4-1-90; HR 22-1990, f. & cert. ef. 7-17-90; HR 4-1994, f. & cert. ef. 2-1-94; OMAP 18-2000 f. 9-28-00, cert. ef. 10-1-00; OMAP 1-2003, f. 1-31-03, cert. ef. 2-1-03

## 410-124-0140

### Kidney Transplants

(1) Kidney transplants do not require prior authorization when accomplished in-state.

(2) Out-of-state kidney transplant services are prior authorized by the Office of Medical Assistance Programs or the Fully Capitated Health Plan (FCHP):

(a) Submit the request to the FCHP or OMAP;

(b) The request must contain the following information:

(A) Name and Medical Assistance Identification number of the client;

(B) A description of the condition which necessitates a transplant;

(C) The results of any evaluation performed by an in-state provider of kidney transplant services;

(D) An explanation of the reason out-of-state services are requested.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 8-1990(Temp), f. 3-30-90, cert. ef. 4-1-90; HR 22-1990, f. & cert. ef. 7-17-90; HR 4-1994, f. & cert. ef. 2-1-94; OMAP 1-2003, f. 1-31-03, cert. ef. 2-1-03

## 410-124-0160

### Cornea Transplants

(1) Cornea transplants do not require prior authorization when accomplished in-state.

(2) Out-of-state corneal transplant services are prior authorized by the Office of Medical Assistance Programs or the Fully Capitated Health Plan (FCHP):

(a) Submit the request to the FCHP or OMAP;

(b) The request must contain the following information:

(A) Name and Medical Assistance Identification number of the client;

(B) A description of the condition which necessitates a transplant;

(C) The results of any evaluation performed by an in-state provider of cornea transplant services;

(D) An explanation of the reason out-of-state services are requested.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 8-1990(Temp), f. 3-30-90, cert. ef. 4-1-90; HR 22-1990, f. & cert. ef. 7-17-90; HR 4-1994, f. & cert. ef. 2-1-94; OMAP 1-2003, f. 1-31-03, cert. ef. 2-1-03

## 410-127-0000

### Foreword

(1) The Home Health Care Services Guide is a user's manual designed to help providers prepare claims for services they provide to medical assistance clients.

(2) The guide is published by the Office of Medical Assistance Programs (OMAP) in an attempt to furnish medical providers with up-to-date information on program changes and governmental requirements.

(3) Use the guide along with the OMAP General Rules and the Oregon Health Plan Administrative Rules. The guide includes administra-

tive rules, procedures codes, instructions for completing claim forms, and examples of those forms.

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

Stat. Auth.: ORS 184.750 & ORS 184.770

Stats. Implemented: ORS 414.065

Hist.: HR 28-1990, f. 8-31-90, cert. ef. 9-1-90; OMAP 19-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 1-2003, f. 1-31-03, cert. ef. 2-1-03

## 410-127-0020

### Definitions

(1) Acquisition Cost — The purchase price plus shipping.

(2) Custodial Care — Care that is not related to a plan of care. Supervision is not required.

(3) Department — The Department of Human Services (DHS) which includes Children, Adults and Families (CAF), Seniors and People with Disabilities (SPD) and Health Services (HS). Included in HS is Health Planning and Community Relations, Public Health Systems, Family Health Services, Disease Prevention and Epidemiology, Office of Medical Assistance Programs (OMAP), Oregon State Public Health Laboratories, and the Office of Mental Health and Addiction Services.

(4) Home — A place of temporary or permanent residence used as a person's home. This does not include a hospital, nursing facility, or intermediate care facility, but does include assisted living facilities, residential care facilities and adult foster care homes.

(5) Home Health Agency — Any public or private agency which establishes, conducts or represents itself to the public as a home health agency or organization providing coordinated skilled home health services for compensation on a home visiting basis, and licensed by Health Services, Health Care Licensure and Certification as a Home Health Agency, and certified by Medicare Title XVIII. Home health agency does not include:

(a) Any visiting nurse service or home health service conducted by and for those who rely upon spiritual means through prayer alone for healing in accordance with tenets and practices of a recognized church or religious denomination;

(b) Health services offered by county health departments that are not formally designated and funded as home health agencies within the individual departments;

(c) Personal care services that do not pertain to the curative, rehabilitative or preventive aspect of nursing.

(6) Home Health Aide — A person who meets the criteria for Home Health Aide defined in the Medicare Conditions of Participation 42 CFR 484.36 and certified by the Board of Nursing.

(7) Home Health Aide Services — Services of a Home Health Aide must be provided under the direction and supervision of a registered nurse or licensed therapist. The focus of care shall be to provide personal care and/or other services under the plan of care which supports curative, rehabilitative or preventive aspects of nursing. These services are provided only in support of skilled nursing, physical therapy, occupational therapy, or speech therapy services. These services do not include custodial care.

(8) Home Health Services — Only the services described in the Office of Medical Assistance Programs (OMAP) Home Health Services provider guide.

(9) Medicaid Home Health Provider — A Home Health Agency licensed by Health Services, Health Care Licensure and Certification certified for Medicare and enrolled with OMAP as a Medicaid provider.

(10) Medical Supplies — Supplies prescribed by a physician as a necessary part of the plan of care being provided by the Home Health Agency.

(11) Occupational Therapy Services — Services provided by a registered occupational therapist or certified occupational therapy assistant supervised by a registered occupational therapist, due to the complexity of the service and client's condition. The focus of these services shall be curative, rehabilitative or preventive and must be considered specific and effective treatments for a client's condition under accepted standards of medical practice. Teaching the client, family and/or caregiver task oriented therapeutic activities designed to restore function and/or independence in the activities of daily living is included in this skilled service. Occupational Therapy Licensing Board ORS 675.210 - ORS 675.340 and the Uniform Terminology for Occupational Therapy established by the American Occupational Therapy Association, Inc. govern the practice of occupational therapy.

(12) Physical Therapy Services — Services provided by a licensed physical therapist or licensed physical therapy assistant under the supervision of a licensed physical therapist, due to the inherent complexity of the service and the client's condition. The focus of these services shall be curative, rehabilitative or preventive and must be considered specific and effective treatments for a patient's condition under accepted standards of medical practice. Teaching the client, family and/or caregiver the necessary

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techniques, exercises or precautions for treatment and/or prevention of illness or injury is included in this skilled service. Physical Therapy Licensing Board ORS 688.010 to 688.235 and Standards for Physical Therapy as well as the Standards of Ethical Conduct for the Physical Therapy Assistant established by the American Physical Therapy Association govern the practice of physical therapy.

(13) Plan of Care — Written instructions explaining how the client is to be cared for. The plan is initiated by the treating practitioner with assistance from Home Health Agency nurses and therapists. The plan must include but is not limited to:

- (a) All pertinent diagnoses;
- (b) Mental status;
- (c) Types of services;
- (d) Specific therapy services;
- (e) Frequency of service delivery;
- (f) Supplies and equipment needed;
- (g) Prognosis;
- (h) Rehabilitation potential;
- (i) Functional limitations;
- (j) Activities permitted;
- (k) Nutritional requirements;
- (l) Medications and treatments;
- (m) Safety measures;
- (n) Discharge plans;
- (o) Teaching requirements;
- (p) Goals;
- (q) Other items as indicated.

(14) Responsible Unit — The agency responsible for approving or denying payment authorization.

(15) Skilled Nursing Services — The client care services pertaining to the curative, restorative or preventive aspects of nursing performed by a registered nurse or under the supervision of a registered nurse, pursuant to the plan of care established by the prescribing practitioner in consultation with the Home Health Agency staff. Skilled nursing emphasizes a high level of nursing direction, observation and skill. The focus of these services shall be the use of the nursing process to diagnose and treat human responses to actual or potential health care problems, health teaching, and health counseling. Skilled nursing services include the provision of direct client care and the teaching, delegation and supervision of others who provide tasks of nursing care to clients, as well as phlebotomy services. Such services will comply with the Nurse Practice Act and administrative rules of the Oregon State Board of Nursing and Health Division — Division 27 — Home Health Agencies, which rules are by this reference made a part hereof.

(16) Speech and Language Pathology Services — Services provided by a licensed speech-language pathologist due to the inherent complexity of the service and the patient's condition. The focus of these services shall be curative, rehabilitative or preventive and must be considered specific and effective treatment for a patient's condition under accepted standards of medical practice. Teaching the client, family and/or caregiver task oriented therapeutic activities designed to restore function, and/or compensatory techniques to improve the level of functional communication ability is included in this skilled service. Speech-Language Pathology and Audiologist Licensing Board ORS 681.205 to 681.991 and the Standards of Ethics established by the American Speech and Hearing Association, govern the practice of speech and language pathology.

(17) Title XVIII (Medicare) — Title XVIII of the Social Security Act.

(18) Title XIX (Medicaid) — Title XIX of the Social Security Act.

(19) OASIS (Outcome and Assessment Information Set) - a client specific comprehensive assessment that identifies the client's need for home care and that meets the client's medical, nursing, rehabilitative, social and discharge planning needs.

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: SSD 4-1983, f. 5-4-83, ef. 5-5-83; SSD 10-1990, f. 3-30-90, cert. ef. 4-1-90; HR 28-1990, f. 8-31-90, cert. ef. 9-1-90; Renumbered from 411-075-0001; HR 12-1991, f. & cert. ef. 3-1-91; HR 14-1992, f. & cert. ef. 6-1-92; HR 15-1995, f. & cert. ef. 8-1-95; OMAP 4-1998(Temp), f. & cert. ef. 2-5-98 thru 7-15-98; OMAP 24-1998, f. & cert. ef. 7-15-98; OMAP 19-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 36-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 1-2003, f. 1-31-03, cert. f. 2-1-03

## 410-127-0080

### Payment Authorization

Payment authorization (PA) is approval by the responsible unit for services:

(1) Payment authorization is required for home health services as indicated in the Revenue Code section of the Home Health Care Services

provider guide. For services requiring authorization, providers must contact the responsible unit for authorization within five working days following initiation or continuation of services. The FAX or postmark date on the request will be honored as the request date. It is the provider's responsibility to obtain payment authorization.

(2) A payment authorization number must be present on all claims for home health services which require payment authorization or the claim will be denied.

(3) An initial authorization is given for 60 days. Each continuation of an authorization is for a period of 60 days.

(4) Where to request payment authorization:

(a) Managed health care clients - Services for clients identified on their Office Medical Assistance Programs (OMAP) Medical Care Identification as having an "OMAP Contracted Plan" will be authorized by the plan. Contact the plan to determine their procedures;

(b) Children, Adults and Families (CAF) clients (formerly known as Adult and Family Services and State Office for Services to Children and Families): Services for clients identified on Medical Care Identification as AFS or CSD clients are authorized by OMAP;

(c) Seniors and People with Disabilities (SPD) clients (formerly Senior and Disabled Services Division): Services for clients identified on the OMAP Medical Care Identification as SSD clients will be authorized by the local branch designated on their Medical Care Identification;

(d) Medically Fragile Children's Unit (MFCU) clients: Services for clients identified as Medically Fragile Children will be authorized by MFCU:

(A) For enteral/parenteral IV services, call OMAP;

(B) Services for clients utilizing a Group 2 pressure-reducing support service will be authorized by OMAP.

(5) Each payment authorization must include:

(a) Client's name;

(b) Medicaid recipient ID number;

(c) Revenue codes;

(d) Date range;

(e) Frequency of service;

(f) Performing provider number;

(g) Medical justification;

(h) Diagnosis and Primary ICD-9-CM code; (as indicated as the reason for the request);

(i) Goals and Objectives;

(j) Assessment of availability of other resources to care for the client.

(6) OASIS documentation does not need to be submitted with PA request.

(7) To continue an authorization, submit the most current visit notes and justification for continuing services.

(8) Changing a payment authorization - Requests to change an existing payment authorization should be mailed or FAXed to the responsible unit which issued the original authorization. Include the following information:

(a) Client's name;

(b) Medicaid recipient ID number;

(c) Payment authorization number;

(d) Change requested;

(e) Visit notes to support the change.

(9) Payment authorization does not guarantee eligibility or payment.

It is the provider's responsibility to verify eligibility on the date of service.

(10) Payment authorization does not relieve the provider of the responsibility to follow all applicable rules regarding the provision of services.

(11) For skilled nursing visits involving home enteral/parenteral nutrition and IV services, refer to the OMAP Home Enteral/Parenteral Nutrition and IV Services provider guide.

(12) For skilled nursing visits involving a Group 2 pressure-reducing support surface, refer to the OMAP Durable Medical Equipment and Medical Supplies provider guide.

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: PWC 682, f. 7-19-74, ef. 8-11-74; PWC 798, f. & ef. 6-1-76; AFS 8-1979, f. 3-30-79, ef. 4-1-79; Renumbered from 461-019-0410 by Chapter 784, OL 1981 & AFS 69-1981, f. 9-30-81, ef. 10-1-81; SSD 4-1983, f. 5-4-83, ef. 5-5-83; SSD 6-1986, f. & ef. 4-24-86; SSD 10-1990, f. 3-30-90, cert. ef. 4-1-90; HR 28-1990, f. 8-31-90, cert. ef. 9-1-90; Renumbered from 411-075-0005; HR 12-1991, f. & cert. ef. 3-1-91; HR 30-1992(Temp), f. & cert. ef. 9-25-92; HR 2-1993, f. 2-19-93, cert. ef. 2-20-93; HR 15-1995, f. & cert. ef. 8-1-95; OMAP 15-1999, f. & cert. ef. 4-1-99; OMAP 19-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 1-2003, f. 1-31-03, cert. f. 2-1-03

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## 410-129-0260

### Hearing Aids and Hearing Aid Technical Service and Repair

(1) Hearing Aids must be billed to the Office of Medical Assistance Programs at the provider's Acquisition Cost, and will be reimbursed at such rate. For purposes of this rule, Acquisition Cost is defined as the actual dollar amount paid by the provider to purchase the item directly from the manufacturer (or supplier) plus any shipping and/or postage for the item.

(2) Submit history of hearing aid use and an audiogram when requesting payment authorization for the first four codes in this rule. Table 129-0260. [Table not included. See ED. NOTE.]

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 5-1991, f. 1-18-91, cert. ef. 2-1-91; HR 11-1992, f. & cert. ef. 4-1-92; HR 27-1993, f. & cert. ef. 10-1-93; OMAP 36-1999, f. & cert. ef. 10-1-99; OMAP 38-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 20-2001, f. 3-30-01, cert. ef. 4-1-01; OMAP 39-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 10-2002, f. & cert. ef. 4-1-02; OMAP 1-2003, f. 1-31-03, cert. ef. 2-1-03

## 410-142-0080

### Informed Consent

A hospice must demonstrate respect for an individual's rights by ensuring that an informed consent form has been obtained for every individual, either from the individual or representative as defined in OAR 410-142-0020. The form must specify the type of care and services that may be provided as hospice care during the course of the illness.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 9-1994, f. & cert. ef. 2-1-94; HR 28-1997, f. 12-31-97, cert. ef. 1-1-98; OMAP 1-2003, f. 1-31-03, cert. ef. 2-1-03

## 410-142-0100

### Election of Hospice Care

(1) An individual who meets the eligibility requirements of OAR 410-142-0040 may file an election statement with a particular hospice. If the individual is physically or mentally incapacitated, his or her representative may file the election statement.

(2) The election statement must include the following:

(a) Identification of the particular hospice that will provide care to the individual;

(b) The individual's or representative's acknowledgment that he or she has been given a full understanding of the palliative rather than curative nature of hospice care, as related to the individual's terminal illness;

(c) Acknowledgment that certain otherwise covered services are waived by the election. Election of a hospice benefit means that OMAP will only reimburse the hospice for those services included in the hospice benefit;

(d) The effective date of the election, which may be the first day of hospice care or a later date, but may be no earlier than the date of the election statement;

(e) The signature of the individual or representative.

(3) Re-election of hospice benefits. If an election has been revoked in accordance with OAR 410-142-0160, the individual (or his or her representative if the individual is mentally or physically incapacitated) may at any time file an election, in accordance with this section, for any other election period that is still available to the individual.

(4) File the election statement in the medical record.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 9-1994, f. & cert. ef. 2-1-94; HR 28-1997, f. 12-31-97, cert. ef. 1-1-98; OMAP 1-2003, f. 1-31-03, cert. ef. 2-1-03

## 410-142-0200

### Interdisciplinary Group

The hospice must designate an interdisciplinary group or groups composed of individuals who provide or supervise the care and services offered by the hospice:

(1) Composition of Group. The hospice must have an interdisciplinary group or groups composed of or including at least the following individuals who are employees of the hospice, or, in the case of a doctor, be under contract with the hospice:

(a) A doctor of medicine or osteopathy;

(b) A registered nurse;

(c) A social worker;

(d) A pastoral or other counselor.

(2) Role of Interdisciplinary Group. Members of the group interact on a regular basis and have a working knowledge of the assessment and care of the patient/family unit by each member of the group. The interdisciplinary group is responsible for:

(a) Participation in the establishment of the plan of care;

(b) Provision or supervision of hospice care and services;

(c) Periodic review and updating of the plan of care for each individual receiving hospice care; and

(d) Establishment of policies governing the day-to-day provision of hospice care and services.

(3) If a hospice has more than one interdisciplinary group, it must document in advance the group it chooses to execute the functions described in Paragraph (1) of this section;

(4) Coordinator. The hospice must designate a registered nurse to coordinate the implementation of the plan of care for each patient.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 9-1994, f. & cert. ef. 2-1-94; HR 28-1997, f. 12-31-97, cert. ef. 1-1-98; OMAP 1-2003, f. 1-31-03, cert. ef. 2-1-03

## 410-142-0240

### Hospice Core Services

The following services are covered hospice services when consistent with the plan of care and must be provided in accordance with recognized standards of practice:

(1) Nursing Services. The hospice must provide nursing care and services by or under the supervision of a registered nurse:

(a) Nursing services must be directed and staffed to assure that the nursing needs of the patient are met;

(b) Patient care responsibilities of nursing personnel must be specified;

(c) Services must be provided in accordance with recognized standards of practice.

(2) Medical Social Services. Medical social services must be provided by a qualified social worker, under the direction of a physician;

(3) Physician Services. In addition to palliative and management of terminal illness and related conditions, physician employees of the hospice, including the physician member(s), of the interdisciplinary group, must also meet the general medical needs of the patient to the extent these needs are not met by the attending physician:

(a) Reimbursement for physician supervisory and interdisciplinary group services for those physicians employed by the hospice agency is included in the rate paid to the agency;

(b) Reimbursement of attending physician services for those physicians not employed by the hospice agency is according to the OMAP fee schedule. These physicians must bill OMAP for their services;

(c) Reimbursement of attending physician services (not including supervisory and interdisciplinary group services) for those physicians employed by the hospice agency is according to the OMAP fee schedule. These physicians must bill OMAP for their services;

(d) Reimbursement of the hospice for consulting physician services furnished by hospice employees or by other physicians under arrangements by the hospice is included in the rate paid to the agency.

(4) Counseling Services. Counseling services must be available to both the patient and the family. Counseling includes bereavement counseling provided after the patient's death as well as dietary, spiritual and any other counseling services for the patient and family provided while the individual is enrolled in the hospice;

(5) Short-Term Inpatient Care. Inpatient care must be available for pain control, symptom management and respite purposes;

(6) Medical Appliances and Supplies:

(a) Includes drugs and biologicals as needed for the palliation and management of the terminal illness and related conditions;

(b) Drugs prescribed for conditions other than for the palliation and management of the terminal illness are not covered under the hospice program.

(7) Home Health Aide and Homemaker Services;

(8) Physical Therapy, Occupational Therapy, and Speech-Language Pathology Services;

(9) Other services. Other services specified in the plan of care that are covered by OHP.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 9-1994, f. & cert. ef. 2-1-94; HR 28-1997, f. 12-31-97, cert. ef. 1-1-98; OMAP 1-2003, f. 1-31-03, cert. ef. 2-1-03

## 410-142-0320

### Instructions for Completing the UB-92

Required items:

(1) Provider Identification: Enter provider name, mailing address and zip code if billing paper claim;



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(2) Type of Bill: Enter the appropriate three-digit numeric code to identify the type of claim:

(a) Enter an "8" as the first digit;

(b) Enter a "1" as the second digit if the Hospice is non-hospital based, and a "2" if it is a hospital-based Hospice;

(c) The third digit identifies Frequency/ Definition:

(A) 1 — Admission through discharge claim: Encompasses an entire course of hospice treatment and no further bills will be submitted for this client (i.e. client revokes or expires within the first billing period);

(B) 2 — First Claim: Use this code for the first of an expected series of payment bills for course of treatment;

(C) 3 — Interim-Continuing Claim: Use when a bill has been submitted and further bills are expected to be submitted;

(D) 4 — Last Billing: Use for a bill which is the last of series for a hospice course of treatment. The through date of this bill (Form Locator 6) is the discharge date or the date of death.

(3) Statement Covers Period: Enter the beginning and ending dates of service covered by this claim as MMDDYY;

(4) Patient's Name: Enter the client's last name, first name and middle initial as it appears on the Medical Care Identification;

(5) Condition Codes: Enter A1 if EPSDT (Medicheck);

(6) Revenue Codes: Enter the Revenue Code which most accurately describes the service provided:

(a) 651 — Routine Home Care;

(b) 652 — Continuous Home Care (billed in hours, not days);

(c) 655 — Inpatient Respite Care;

(d) 656 — General Inpatient Care;

(e) 659 — Other Hospice — use for in-home respite care.

(7) Service Units: Enter total units of service (days or hours) for each type of service.

(8) Total Charges: Enter the total charges pertaining to the related code. At the bottom of Form Locator 42, enter Revenue Code 001. At the bottom of Form Locator 47, enter the total charge;

(9) Payer Identification (optional): Enter the names of up to three payer organizations in order:

(a) Primary payer;

(b) Secondary payer;

(c) Tertiary payer: If Medicaid is primary enter "Medicaid" on line A. If Medicaid is secondary or tertiary payer, enter the primary payer on line A and Medicaid on line B or C as appropriate.

(10) Provider Number: Enter your six-digit OMAP provider number on the line (A, B or C) which corresponds to the line you used to identify OMAP in Form Locator 50. Your OMAP provider number is required. OMAP does not require that you report your provider number for other payers listed in Form Locator 50;

(11) Prior Payments: Enter the amount of payments received from a third party resource on the same letter line listed in Form Locator 50;

(12) Cert-SSN-HIC-ID No.: Enter the patient's Medicaid Identification number on the same letter line (A, B or C) that corresponds to the line on which Medicaid payer information is shown in Form Locator 50;

(13) Principal Diagnosis Code: Enter the ICD-9-CM code describing the principal diagnosis (i.e., the condition for which the plan of treatment was established and the patient taken into service). The ICD-9-CM must be carried out to its highest degree of specificity — see General Rules for specific details. Do not enter decimal points or unnecessary characters.

(14) Attending Physician I.D.: Enter the attending physician's six-digit OMAP provider number or UPIN.

(15) Remarks: Use this space for Third Party Resource (TPR) explanation codes.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 16-1995, f. & cert. ef. 8-1-95; OMAP 1-2003, f. 1-31-03, cert. ef. 2-1-03

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

**Filed with Sec. of State:** 1-31-2003

**Certified to be Effective:** 2-1-03

**Notice Publication Date:** 12-1-02

**Rules Adopted:** 410-120-1190

**Subject:** General Rules program administrative rules govern Office of Medical Assistance Programs (OMAP) payments for services provided to clients. Due to DHS budget shortfall projections, Rule 410-120-1190 is adopted to eliminate the Medically Needy Program in preparation for the January 2003 vote and possible failure

to pass a tax package generated by HB 5100 from a 2002 Legislative Special Session. References to the Medically Needy Program exist in various rules, and these references will not be removed at this time, however, should the tax package fail to pass, the program will not be funded nor offered as a benefit beginning February 1, 2003.  
**Rules Coordinator:** Darlene Nelson—(503) 945-6927

## 410-120-1190

### Medically Needy Benefit Program

The Medically Needy Program is eliminated effective February 1, 2003. Although references to this benefit exist elsewhere in rule, the program currently is not funded and is not offered as a benefit.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: OMAP 2-2003, f. 1-31-03, cert. ef. 2-1-03

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

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**Notice Publication Date:** 9-1-02, 12-1-02, 1-1-03

**Rules Adopted:** 410-120-1235, 410-121-0153, 410-122-0701, 410-125-0055, 410-127-0055, 410-129-0195, 410-130-0965, 410-131-0275, 410-132-0055, 410-136-0045, 410-140-0115, 410-148-0090

**Rules Amended:** 410-120-0000, 410-120-1200, 410-120-1280, 410-120-1340, 410-123-1085, 410-123-1220, 410-123-1260, 410-146-0075, 410-146-0080, 410-147-0085, 410-147-0120, 410-148-0100

**Rules Repealed:** 410-123-1280, 410-123-1290, 410-123-1300, 410-123-1310, 410-123-1320, 410-123-1330, 410-123-1340, 410-123-1360, 410-123-1380, 410-123-1400, 410-123-1420, 410-123-1440, 410-123-1460, 410-123-1480, 410-123-1500

**Subject:** Administrative Rules govern Office of Medical Assistance Programs payment for health services provided to eligible clients. In response to Legislative mandate, OMAP restructured the Oregon Health Plan (OHP) benefit packages in order to sustain the current program, and expand coverage to reach more uninsured Oregonians. Rules listed above are adopted or amended or repealed to reflect these changes, clarify limitations related to the OHP benefit package coverage and give instructions regarding copayments. Amendments to rules beginning with 410-123, 410-146 and 410-147, listed above, reflect the new Standard Benefit package population, future Standard Benefit cuts, billing changes, updates with new or deleted CPT/HCPCS codes, and other necessary housekeeping corrections. Note: Rules indicate a variety of future revisions and corresponding effective dates. Rules in the Dental (410-123) program are repealed due to removing unnecessary information or combining information.

**Rules Coordinator:** Darlene Nelson—(503) 945-6927

## 410-120-0000

### Definitions

(1) AAA — Area Agency on Aging.

(2) Acupuncturist — A person licensed to practice acupuncture by the relevant State Licensing Board.

(3) Acupuncture Services — Services provided by a licensed Acupuncturist within the scope of practice as defined under state law.

(4) Acute — A condition, diagnosis or illness with a sudden onset and which is of short duration.

(5) Adequate Record Keeping — Documentation that supports the level of service billed. See 410-120-1360, Requirements for Financial, Clinical, and Other Records, and the individual provider guides.

(6) Administrative Medical Examinations and Reports — Examinations, evaluations, and reports, including copies of medical records, requested on the OMAP 729 form through the local AFS, SDS, MHDDSD or SCF (State Office of Services to Children and Families), formerly known as CSD, branch office or requested and/or approved by OMAP to establish client eligibility for a medical assistance program or for casework planning.

(7) Adult and Family Services (AFS) — A Division of the Oregon Department of Human Services.

(8) All Inclusive Rate — The nursing facility rate established for a facility. This rate includes all services, supplies, drugs and equipment as described in OAR 411-070-0085, and in the Pharmaceutical Services and

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the Home Enteral/Parenteral Nutrition and IV Services provider guides, except as specified in OAR 410-120-1340, Payment.

(9) Ambulance — A specially equipped and licensed vehicle for transporting sick or injured persons which meets the licensing standards of the Health Division of the Department of Human Services or the licensing standards of the state in which the provider is located.

(10) Ambulatory Surgical Center (ASC) — A facility licensed as an ASC by the Oregon State Health Division.

(11) American Indian/Alaska Native clinic — Clinics recognized under Indian Health Services (IHS) law or by the Memorandum of Agreement between IHS and the Health Care Financing Administration (HCFA).

(12) Ancillary Services — Services supportive of or necessary to the provision of a primary service (e.g., anesthesiology is an ancillary service necessary for a surgical procedure).

(13) Anesthesia Services — Administration of anesthetic agents to cause loss of sensation to the body or body part.

(14) Audiologist — A person licensed to practice audiology by the State Board of Examiners for Speech Pathology and Audiology.

(15) Audiology — The application of principles, methods and procedures of measurement, testing, appraisal, prediction, consultation, counseling and instruction related to hearing and hearing impairment for the purpose of modifying communicative disorders involving speech, language, auditory function, including auditory training, speech reading and hearing aid evaluation, or other behavior related to hearing impairment.

(16) Automated Information System (AIS) — A computer system that provides information on clients' current eligibility status under the Medical Assistance Program.

(17) Benefit Package — The "package" of covered medical services for which the client is eligible.

(18) Billing Provider (BP) — A person, business, corporation, clinic, group, institution, or other entity that submits claims to and/or receives payment from the Medical Assistance Program on behalf of a performing provider.

(19) Buying Up — The practice of obtaining client payment in addition to the OMAP or managed care plan payment to obtain a non-covered service or item. For example, an additional client payment to obtain a gold crown (not covered) instead of the stainless steel crown (covered); an additional client payment to obtain eyeglass frames not on the OMAP or plan contract. If a client wants to purchase a non-covered service or item, they must be responsible for full payment. OMAP or plan payment for a covered service cannot be credited toward the non-covered service.

(20) By Report (BR) — Services designated as "BR" require operative or clinical and other pertinent information to be submitted with the billing as a basis for payment determination. This information must include an adequate description of the nature, and extent of need for the procedure. Information such as complexity of symptoms, final diagnosis, pertinent physical findings, diagnostic and therapeutic procedures, concurrent problems, and follow-up care will facilitate evaluation.

(21) Children's Health Insurance Program (CHIP) — A Federal and State funded portion of the Medical Assistance Program established by Title XXI of the Social Security Act and administered in Oregon by the Department of Human Services Office of Medical Assistance Programs (see Medical Assistance Program).

(22) Chiropractor — A person licensed to practice chiropractic by the relevant State Licensing Board.

(23) Chiropractic Services — Services provided by a licensed Chiropractor within the scope of practice, as defined under State law and Federal regulation.

(24) Citizen/Alien-Waived Emergency Medical (CAWEM): Aliens granted lawful temporary resident status, or lawful permanent resident status under the Immigration and Nationality Act, are eligible only for emergency services and limited service for pregnant women. Emergency Services for CAWEM is defined in OAR 410-120-1200 (2)(b)(F).

(25) Claimant — a person who has requested a hearing.

(26) Clinical Social Worker — A person licensed to practice clinical social work pursuant to State law.

(27) Contiguous Area — The area up to 75 miles outside the border of the State of Oregon.

(28) Contiguous Area Provider — A provider practicing in a contiguous area.

(29) Copayments — The portion of a claim or medical expense that a client must pay out of their own pocket to a provider or a facility for each service. It is usually a fixed amount that is paid at the time service is rendered.

(30) Cost Effective — The lowest cost health care service or item which, in the judgment of Medical Assistance Program staff, meets the medical needs of the client.

(31) Current Dental Terminology (CDT) — A listing of descriptive terms identifying dental procedure codes used by the American Dental Association in the CDT-3.

(32) Current Procedural Terminology (CPT) — The Physicians' Current Procedural Terminology is a listing of descriptive terms and identifying codes for reporting medical services and procedures performed by physicians and other health care providers.

(33) Date of Receipt of a Claim — The date on which OMAP receives a claim, as indicated by the Internal Control Number (ICN) assigned to a claim. "Date of Receipt" is shown as the Julian date in the 5th through 7th position of the Internal Control Number (ICN).

(34) Date of Service — The date on which the client receives medical services or items, unless otherwise specified in the appropriate provider guides. For items which are mailed or shipped by the provider, the date of service is the date on which the order was received, the date on which the item was fabricated, or the date on which the item was mailed or shipped.

(35) Dental Emergency Services — Dental services provided for severe tooth pain, unusual swelling of the face or gums, or an avulsed tooth.

(36) Dental Services — Services provided within the scope of practice as defined under State law by or under the supervision of a dentist.

(37) Dentist — A person licensed to practice dentistry pursuant to State law of the state in which he/she practices dentistry, or a person licensed to practice dentistry pursuant to Federal law for the purpose of practicing dentistry as an employee of the Federal government.

(38) Denturist — A person licensed to practice denture technology pursuant to State law.

(39) Denturist Services — Services provided, within the scope of practice as defined under State law, by or under the personal supervision of a denturist.

(40) Department of Human Services (DHS) — The Oregon Department of Human Services or any of its divisions, programs, or offices.

(41) Diagnosis Code — As identified in the ICD-CM, the primary diagnosis code is shown in all billing claims, unless specifically excluded in an individual provider guide. Where they exist, diagnosis codes shall be shown to the degree of specificity outlined in OAR 410-120-1280, Billing.

(42) Disability Services Office (DSO) — Disability Services Office. A branch of Senior and Disabled Services Division.

(43) Division — The Office of Medical Assistance Programs of the Department of Human Services.

(44) Division Representative — A person who represents the Division in the hearing and presents the Division's position.

(45) Durable Medical Equipment and Supplies (DME) — Equipment that can stand repeated use and is primarily and customarily used to serve a medical purpose. Examples include wheelchairs, respirators, crutches and custom built orthopedic braces. Medical supplies are non-reusable items used in the treatment of illness or injury. Examples of medical supplies include diapers, syringes, gauze bandages and tubing.

(46) Electronic Eligibility Verification Service (EEVS) — Vendors of medical assistance eligibility information that have met the legal and technical specifications of OMAP in order to offer eligibility information to enrolled providers of OMAP.

(47) Emergency Room — The part of a licensed hospital facility open 24 hours a day to provide care for anyone in need of emergency treatment.

(48) Emergency Medical Services — The health care and services provided for diagnosis and treatment of a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in placing the health of the individual (or with respect to a pregnant woman, the health of both the woman and her unborn child) in serious jeopardy, serious impairment to bodily functions, or serious dysfunction of any bodily organ or part. If an emergency medical condition is found to exist, emergency medical services necessary to stabilize the condition must be provided. This includes all treatment that may be necessary to assure, within reasonable medical probability, that no material deterioration of the patient's condition is likely to result from, or occur during, discharge of the member or transfer of the member to another facility.

(49) Emergency Transportation — Transportation necessary when a sudden, unexpected occurrence creates a medical crisis requiring immediate transportation to a site, usually a hospital, where appropriate emergency medical care is available.

(50) EOB — Explanation of Benefits.

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(51) EPSDT (Medicheck) — The Title XIX program of Early and Periodic Screening, Diagnosis and Treatment Services for eligible clients under age 21. It is a comprehensive child health program to assure the availability and accessibility of required medically appropriate health care services and to help Medical Assistance Program recipients and their parents or guardians effectively use them.

(52) False Claim — A claim that a provider knowingly submits or causes to be submitted that contains inaccurate or misleading information, and such inaccurate or misleading information would result, or has resulted, in an overpayment.

(53) Family Planning — Services for clients of childbearing age (including minors who can be considered to be sexually active) who desire such services and which are intended to prevent pregnancy or otherwise limit family size.

(54) Federally Qualified Health Center (FQHC) — A federal designation for a medical entity which receives grants under Section 329, 330, or 340 of the "Public Health Service Act"; or a facility designated as a FQHC by the Health Care Financing Administration upon recommendation of the U.S. Public Health Service.

(55) Fee-for-Service Provider — A medical provider who is not reimbursed under the terms of an OMAP contract with a Prepaid Health Plan. A medical provider participating in a Prepaid Health Plan may be considered a Fee-for-Service provider when treating clients who are not enrolled in a Prepaid Health Plan.

(56) General Assistance (GA) — Medical Assistance administered and funded 100% with State of Oregon funds through the Oregon Health Plan.

(57) HCPCS — Health Care Financing Administration's Common Procedure Coding System is a method for reporting health care professional services, procedures, and supplies. HCPCS consists of the Level I — American Medical Association's Physician's Current Procedural Terminology (CPT), Level II — National codes, and Level III — Local codes. The Medical Assistance Program (OMAP) uses HCPCS codes; however, OMAP uses current Dental Terminology (CDT) codes for the reporting of dental care services and procedures.

(58) Health Maintenance Organization (HMO) — A public or private health care organization which is a federally qualified HMO under Section 1310 of the U.S. Public Health Services Act. HMOs provide health care services on a capitated, contractual basis.

(59) Hearing Aid Dealer — A person licensed by the Board of Hearing Aid Dealers to sell, lease or rent hearing aids in conjunction with the evaluation or measurement of human hearing and the recommendation, selection, or adaptation of hearing aids.

(60) Home Enteral Nutrition — Services provided in the client's place of residence to an individual who requires nutrition supplied by tube into the gastrointestinal tract, as described in the Home Enteral/Parenteral Nutrition and IV Services Guide.

(61) Home Health Agency — A public or private agency or organization which has been certified by Medicare as a Medicare Home Health Agency and which is licensed by the Oregon State Health Division as a home health agency in Oregon, and meets the surety bond and capitalization requirements as outlined in the Balanced Budget Act (BBA) of 1997.

(62) Home Health Services — Part-time or intermittent skilled nursing services, other therapeutic services (physical therapy, occupational therapy, speech therapy), and home health aide services made available on a visiting basis in a place of residence used as the client's home.

(63) Home Intravenous (IV) Services — Services provided in the client's place of residence to an individual who requires that medication (antibiotics, analgesics, chemotherapy, hydrational fluids, or other intravenous medications) be administered intravenously as described in the Home Enteral/Parenteral Nutrition and IV Services guide.

(64) Home Parenteral Nutrition — Services provided in the client's residence to an individual who is unable to absorb nutrients via the gastrointestinal tract, or for other medical reasons, requires nutrition be supplied parenterally as described in the Home Enteral/Parenteral Nutrition and IV Services guide.

(65) Hospital — A facility licensed by the Oregon Health Division as a general hospital which meets requirements for participation in the Medical Assistance Program under Title XVIII of the Social Security Act. Facilities licensed as Special Inpatient Care Facilities under the Oregon Health Division's definition of hospital are not considered hospitals by OMAP for reimbursement purposes; however, effective April 1, 2000, OMAP will reimburse a Special Inpatient Care Facility if the Health Care Financing Administration has certified the facility for participation in the Medicare Program as a hospital. Out-of-state hospitals will be considered

hospitals for reimbursement purposes if they are licensed as an acute care or general hospital by the appropriate licensing authority within that state, and if they are enrolled as a provider of hospital services with the Medicaid agency within that state.

(66) Hospital-Based Professional Services — Professional services provided by licensed practitioners or staff based on a contractual or employee/employer relationship and reported as a cost on the "Hospital Statement of Reasonable Cost" report for Medicare and the "Calculation of Reasonable Cost" (OMAP 42) report for the Office of Medical Assistance Programs.

(67) Hospital Laboratory — A laboratory providing professional technical laboratory services as outlined under "laboratory services", in a hospital setting, as either an inpatient or outpatient hospital service whose costs are reported on the hospital's cost report to Medicare and the Medical Assistance Program.

(68) ICD-9-CM — The ninth revision of the International Classification of Diseases Clinical Modification, including volumes 1, 2, and 3, as revised annually.

(69) Individual Adjustment Request — Form OMAP 1036 used to resolve an incorrect payment on a previously paid claim, including underpayments or overpayments.

(70) Inpatient Hospital Services — Services that are furnished in a hospital for the care and treatment of an inpatient. (See Hospital Services guide for definition of an inpatient.)

(71) Institution for Mental Diseases (IMD) — An institution whose overall character is that of a facility established and/or maintained primarily for the care and treatment of individuals with mental diseases. The following guidelines are used to assist in determining whether an institution is an IMD. No single guideline is necessarily determinative:

(a) The facility is licensed as a psychiatric facility for the care and treatment of individuals with mental diseases and/or alcohol and/or drug abuse problems;

(b) The facility advertises or holds itself out as a facility for the care and treatment of individuals with mental diseases and/or alcohol and/or drug abuse problems;

(c) The facility is accredited as a psychiatric facility by the JCAHO or is licensed by the State Health Division as a facility for the treatment of alcohol and drug abuse problems;

(d) The facility specializes in providing psychiatric/psychological care and treatment and/or rehabilitative treatment for alcohol and/or drug abuse problems;

(e) The facility is under the jurisdiction of the State's Mental Health and Developmental Disability Services Division;

(f) More than 50 percent of all the patients in the facility are being treated for mental diseases and/or alcohol and/or drug abuse problems;

(g) A large proportion of the patients in the facility have been transferred from a State mental institution for continuing treatment of their mental disorders;

(h) Independent review teams report a preponderance of mental illness and/or drug and alcohol abuse diagnoses for the patients in the facility;

(i) Part or all of the facility consists of locked wards.

(72) Institutional Level of Income Standards (ILIS) — Three times the amount SSI pays monthly to a person who has no other income and who is living alone in the community. (Example: If the SSI monthly payment amount were \$434.00, the ILIS would be \$1,302.) This is the standard used to calculate eligibility for long-term nursing care in a Nursing Home or eligibility for services under SDS's Home and Community Based Waiver.

(73) Institutionalized — A patient admitted to a nursing facility or hospital for the purpose of receiving nursing and/or hospital care for a period of 30 days or more.

(74) Laboratory — A facility licensed under ORS 438 and certified by the Health Care Financing Administration, DHHS, as qualified to participate under Medicare, to provide laboratory services within or apart from a hospital. An entity is considered a laboratory if materials are derived from the human body for the purpose of providing information for the diagnosis, prevention or treatment of any disease or impairment of, or the assessment of the health of, human beings. If an entity performs even one laboratory test, including waived tests for these purposes, it is considered under the Clinical Laboratory Improvement Act (CLIA), to be a laboratory.

(75) Laboratory Services — Those professional and technical diagnostic analyses of blood, urine, and tissue ordered by a physician or other licensed practitioner of the healing arts within his/her scope of practice as defined under State law and provided to a patient by or under the direction

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of a physician or appropriate licensed practitioner in an office or similar facility, hospital, or independent laboratory.

(76) Licensed Direct Entry Midwife — A practitioner licensed by the Oregon Health Division as a Licensed Direct Entry Midwife.

(77) Liability Insurance — Insurance that provides payment based on legal liability for injuries or illness. It includes, but is not limited to, automobile liability insurance, uninsured and underinsured motorist insurance, homeowners' liability insurance, malpractice insurance, product liability insurance, Worker's Compensation, and general casualty insurance. It also includes payments under state "wrongful death" statutes that provide payment for medical damages.

(78) Maternity Case Management — A program available to pregnant clients. The purpose of Maternity Case Management is to extend prenatal services to include non-medical services which address social, economic and nutritional factors. For more information refer to the Medical-Surgical Services guide.

(79) Medicaid — A Federal and State funded portion of the Medical Assistance Program established by Title XIX of the Social Security Act, as amended, administered in Oregon by the Department of Human Services (see Medical Assistance Program).

(80) Medical Assistance Program — A program for payment of health care provided to eligible Oregonians. Oregon's medical assistance program includes Medicaid Services, including the OHP Medicaid demonstration, and the Children's Health Insurance Program (CHIP):

(a) The Medical Assistance Program is administered by identified Divisions, and the Office of Medical Assistance Programs (OMAP), of the Department of Human Services;

(b) Coordination of the Medical Assistance Program is the responsibility of the Office of Medical Assistance Programs (OMAP).

(81) Medical Assistance Eligibility Confirmation — Verification through AIS, AIS Hot-Line, an authorized DHS representative, or through presentation of a valid Medical Care Identification that a client has an open assistance case which includes medical benefits.

(82) Medical Services — Care and treatment provided by a licensed medical provider directed at preventing, diagnosing, treating or correcting a medical problem.

(83) Medical Transportation — Transportation to or from covered medical services.

(84) Medically Appropriate — Services and medical supplies that are required for prevention, diagnosis or treatment of a health condition which encompasses physical or mental conditions, or injuries, and which are:

(a) Consistent with the symptoms of a health condition or treatment of a health condition;

(b) Appropriate with regard to standards of good health practice and generally recognized by the relevant scientific community and professional standards of care as effective;

(c) Not solely for the convenience of an Oregon Health Plan client or a provider of the service or medical supplies; and

(d) The most cost effective of the alternative levels of medical services or medical supplies which can be safely provided to an OMAP Member or PCCM Member in the PHP's or Primary Care Case Manager's judgment.

(85) Medicare — A federally administered program offering health insurance benefits for persons aged 65 or older and certain other aged or disabled persons. This program includes:

(a) Hospital Insurance (Part A) for inpatient services in a hospital or skilled nursing facility, home health care, and hospice care; and

(b) Medical Insurance (Part B) for physicians' services, outpatient hospital services, home health care, end-stage renal dialysis, and other medical services and supplies.

(86) Medichex for Children and Teens — See EPSDT.

(87) Mental Health and Developmental Disability Services Division (MHDDSD) — A Division of the Oregon Department of Human Services.

(88) MSO — Multiple Services Office. A branch of the Senior and Disabled Services Division.

(89) "Naturopath" — A person licensed to practice naturopathy pursuant to State law.

(90) "Naturopathic Services" — Services provided within the scope of practice as defined under State law.

(91) "Not Covered Services" — Services or items for which the Medical Assistance Program is not responsible for payment. Not-covered services are identified in:

(a) OAR 410-120-1200, Medical Assistance Benefits: Excluded Services and Limitations; and,

(b) 410-141-0480, Benefit Package of Covered Services;

(c) 410-141-0520, Prioritized List of Health Services; and

(d) The individual OMAP provider guides.

(92) Nurse Anesthetist, C.R.N.A. — A registered nurse licensed in the State of Oregon who is currently certified by the American Association of Nurse Anesthetists Council on Certification.

(93) Nurse Practitioner — A person licensed as a registered nurse and certified by the Board of Nursing to practice as a nurse practitioner pursuant to State law.

(94) Nurse Practitioner Services — Services provided within the scope of practice of a nurse practitioner as defined under State law and by rules of the Board of Nursing.

(95) Nursing Facility — A facility licensed and certified by the Senior and Disabled Services Division as defined in 411-070-0005.

(96) Nursing Services — Health care services provided to a patient by a registered professional nurse or a licensed practical nurse under the direction of a licensed professional within the scope of practice as defined by State law.

(97) Nutritional Counseling — Counseling which takes place as part of the treatment of a person with a specific condition, deficiency or disease such as diabetes, hypercholesterolemia, or phenylketonuria.

(98) Occupational Therapist — A person licensed by the State Board of Examiners for Occupational Therapy.

(99) Occupational Therapy — The functional evaluation and treatment of individuals whose ability to adapt or cope with the task of living is threatened or impaired by developmental deficiencies, physical injury or illness, aging process, or psychological disability; the treatment utilizes task-oriented activities to prevent or correct physical and emotional difficulties or minimize the disabling effect of these deficiencies on the life of the individual.

(100) Office of Drug and Alcohol Abuse Programs — An Office within the Department of Human Services.

(101) (The) Office of Medical Assistance Programs (OMAP) — An Office of the Oregon Department of Human Services. OMAP is responsible for coordinating the Medical Assistance Program within the State of Oregon.

(102) OMAP-- Office of Medical Assistance Programs (see Medical Assistance Programs).

(103) Optometric Services — Services provided, within the scope of practice of optometrists as defined under State law.

(104) Optometrist — A person licensed to practice optometry pursuant to State law.

(105) Oregon Medical Professional Review Organization (OMPRO) — OMPRO is the Oregon Professional Review Organization for Medicare and contracts with OMAP to provide hospital utilization review and other services for the Medical Assistance Program. A Professional Review Organization is an organization established under federal law by the Department of Health and Human Services for the purpose of utilization review and quality assurance.

(106) Oregon Youth Authority — The state department charged with the management and administration of youth correction facilities, state parole and probation services and other functions related to state programs for youth corrections.

(107) Out-of-State Providers — Any provider located outside the borders of Oregon:

(a) Contiguous area providers are those located no more than 75 miles from the border of Oregon;

(b) Non-contiguous area providers are those located more than 75 miles from the borders of Oregon.

(108) Outpatient Hospital Services — Services that are furnished in a hospital for the care and treatment of an outpatient. See Hospital Services guide for definition of outpatient.

(109) Overdue Claim — A valid claim which is not paid within 45 days of the date it was received.

(110) Overpayment — Payment(s) made by the Medical Assistance Program to a (11) Payment in Full — Medical Assistance Program payments, including contracted managed care plan payments, unless in error, constitute payment in full, except for limited instances involving allowable spenddown or copayments. For the Medical Assistance Program this includes:

(a) Zero payments for claims where a third party or other resource has paid an amount equivalent to or exceeding the Medical Assistance Program's allowable payment; and

(b) Denials of payment for failure to submit a claim in a timely manner, failure to obtain payment authorization in a timely and appropriate

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manner, or failure to follow other required procedures identified in the provider guides.

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: AFS 5-1981, f. 1-23-81, ef. 3-1-81; AFS 33-1981, f. 6-23-81, ef. 7-1-81; AFS 47-1982, f. 4-30-82 & AFS 52-1982, f. 5-28-82, ef. 5-1-82, for providers located in the geographical areas covered by the branch offices of North Salem, South Salem, Dallas, Woodburn, McMinnville, Lebanon, Albany and Corvallis, ef. 6-30-82 for remaining AFS branch offices; AFS 57-1982, f. 6-28-82, ef. 7-1-82; AFS 81-1982, f. 8-30-82, ef. 9-1-82; AFS 4-1984, f. & ef. 2-1-84; AFS 12-1984, f. 3-16-84, ef. 4-1-84; AFS 13-1984(Temp), f. & ef. 4-2-84; AFS 37-1984, f. 8-30-84, ef. 9-1-84; AFS 24-1985, f. 4-24-85, ef. 6-1-85; AFS 13-1987, f. 3-31-87, ef. 4-1-87; AFS 7-1988, f. & cert. ef. 2-1-88; AFS 69-1988, f. & cert. ef. 12-5-88; HR 2-1990, f. 2-12-90, cert. ef. 3-1-90, Renumbered from 461-013-0005; HR 25-1991(Temp), f. & cert. ef. 7-1-91; HR 41-1991, f. & cert. ef. 10-1-91; HR 32-1993, f. & cert. ef. 11-1-93; HR 2-1994, f. & cert. ef. 2-1-94; HR 31-1994, f. & cert. ef. 11-1-94; HR 40-1994, f. 12-30-94, cert. ef. 1-1-95; HR 5-1997, f. 1-31-97, cert. ef. 2-1-97; HR 21-1997, f. & cert. ef. 10-1-97; OMAP 20-1998, f. & cert. ef. 7-1-98; OMAP 10-1999, f. & cert. ef. 4-1-99; OMAP 31-1999, f. & cert. ef. 10-1-99; OMAP 11-2000, f. & cert. ef. 6-23-00; OMAP 35-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 42-2002, f. & cert. ef. 10-1-02; OMAP 3-2003, f. 1-31-03, cert. ef. 2-1-03

## 410-120-1200

### Medical Assistance Benefits: Excluded Services and Limitations

(1) Certain services or items are not covered under any program or for any group of eligible clients. If the client accepts financial responsibility for a non-covered service, payment is a matter between the provider and the client subject to the requirements of OAR 410-120-1280. No payment will be made for any expense incurred for any of the following services or items:

(a) That are not expected to significantly improve the basic health status of the client as determined by the Medical Assistance Program (e.g., OMAP's Medical Director, medical consultants or Peer Review Organization);

(b) That are not reasonable or necessary for the diagnosis and treatment of disability, illness, or injury;

(c) That are determined not medically appropriate by Medical Assistance Program staff or authorized representatives, including OMPRO or any contracted utilization review organization;

(d) That are not properly prescribed as required by law or administrative rule by a licensed practitioner practicing within his/her scope of practice or licensure;

(e) That are for routine checkups or examinations for individuals age 21 or older in connection with participation, enrollment, or attendance in a program or activity not related to the improvement of health and rehabilitation of the client. Examples include exams for employment or insurance purposes;

(f) That are provided by friends or relatives of eligible clients or members of his/her household, except when the friend, relative or household member is a health professional, acting in a professional capacity, or when the friend, relative or household member is directly employed by the client under Seniors & People with Disabilities (SPD) Home and Community Based Waiver;

(g) That are for services or items provided to a client who is in the custody of a law enforcement agency or an inmate of a nonmedical public institution, including juveniles in detention facilities, except such services as designated by federal statute or regulation as permissible for coverage under the Medical Assistance Program;

(h) Where the need for purchase, repair or replacement of materials or equipment is caused by adverse actions of clients to personally owned goods or equipment or to items or equipment rented or purchased by the Medical Assistance Program;

(i) That are related to a non-covered service; some exceptions are identified in the individual provider guides. If the provision of a service related to a non-covered service is determined by OMAP to be cost-effective, the related medical service may, at OMAP's discretion and with OMAP's prior authorization, be covered;

(j) Which are considered experimental or investigational or which deviate from acceptable and customary standards of medical practice or for which there is insufficient outcome data to indicate efficacy;

(k) That are identified in the provider guide appropriate Administrative Rules, including the Hospital guide, Revenue Codes Section, as not covered;

(l) That are requested by or for a client who has been determined by the Medical Assistance Program to be non-compliant with treatment and who is unlikely to benefit from additional related, identical, or similar services;

(m) That are for copying or preparing records or documents excepting those Administrative Medical Reports requested by the branch offices or OMAP for casework planning or eligibility determinations;

(n) Whose primary intent is to improve appearance;

(o) Which are similar or identical to services or items which will achieve the same purpose at a lower cost and where it is anticipated that the outcome for the client will be essentially the same;

(p) For the purpose of establishing or reestablishing fertility or pregnancy or for the treatment of sexual dysfunction, including impotence, except as specified by the Prioritized List of Health Services (OAR 410-141-0520);

(q) Items or services which are for the convenience of the client and are not medically appropriate;

(r) The collection, processing and storage of autologous blood or blood from selected donors unless a physician certifies that the use of autologous blood or blood from a selected donor is medically appropriate and surgery is scheduled;

(s) Educational or training classes which are not medically appropriate (Lamaze classes, for example);

(t) Outpatient social services except Maternity Case Management services and other social services described in the individual provider guides as covered;

(u) Plasma infusions for treatment of Multiple Sclerosis;

(v) Post-mortem exams or burial costs, or other services subsequent to the death of a client;

(w) Radial keratotomy;

(x) Recreational therapy;

(y) Telephone calls, including but not limited to telephone conferences between physicians or between a physician or other practitioner and a client or representative of the client, except for telephone calls for the purpose of tobacco cessation counseling, as described in OAR 410-130-0190, and Maternity Case Management as described in OAR 410-130-0100;

(z) Transsexual surgery or any related services or items;

(aa) Weight loss programs, including, but not limited to Optifast, Nutri-system, and other similar programs. Food supplements will not be authorized for use in weight loss;

(bb) Whole blood (whole blood is available at no cost from the Red Cross); the processing, storage and costs of administering whole blood are covered;

(cc) Immunizations prescribed for foreign travel;

(dd) Services which are requested or ordered but not provided (i.e., an appointment which the client fails to keep or an item of equipment which has not been provided to the client);

(ee) DUII-related services already covered by the Intoxicated Driver Program Fund as directed by OS 813.270(1) and (5);

(ff) For transportation to meet a client's personal choice of a provider;

(gg) Pain center evaluation and treatment.

(2) Medical Assistance Benefit Packages and the Medical Care Identification:

(a) Clients in some Medical Assistance Program categories have limited benefits. These limitations or exclusions are in addition to those limitations or exclusions described in these General Rules and in the individual provider guide. The Benefit Package Messages on the Medical Care Identification describe the "package" of medical benefits. Benefit Packages are as follows:

(A) Plus Benefit Package;

(B) Standard Benefit Package

(C) "Limited Medicaid";

(D) "QMB — Qualified Medicare Beneficiary";

(E) "QMB — Qualified Medicare Beneficiary + Plus Benefit Package";

(F) "QMB — Qualified Medicare Beneficiary + Limited Medicaid";

(G) CAWEM — Citizen/Alien-Waived Emergency Medical;

(H) Other client populations with restricted or limited services;

(b) Additional limitations by Benefit Package Title and program category are as follows:

(A) Plus Benefit Package:

(i) Service coverage for clients with this Package is based on the Prioritized List of Health Services;

(ii) Ancillary services, (see OAR 410-141-0480);

(iii) Chemical dependency services provided through local alcohol/drug treatment providers;

(iv) Mental health services based on the Prioritized List of Health Services, to be provided through Community Mental Health Programs or their subcontractors.

(B) Standard Benefit Package:

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(i) Service coverage for clients with this package is based on the Prioritized List of Health Services. Cost sharing and benefits limitations may apply to some covered services.

(ii) Ancillary services (see OAR 410-141-0480);

(iii) Chemical dependency services provided through local alcohol/drug treatment providers;

(iv) Mental health services based on the Prioritized List of Health Services, to be provided through Community Mental Health Programs or their subcontractors;

(v) The following services are not covered under the Standard Benefit Package:

(I) Non-Emergency medical transportation;

(II) Vision (frames, contacts, corrective devices, eye exams for the purpose of prescribing glasses/contacts);

(III) Selected Durable Medical Equipment and Supplies;

(IV) For other limitations, refer to OMAP provider guides.

(C) Limited Medicaid. These clients are Medically Needy clients.

These clients receive:

(i) Prescription drugs provided through a retail pharmacy or state contracted mail order pharmacy;

(ii) Chemical dependency services through a local alcohol/drug treatment provider;

(iii) Medical Transportation to services covered by medical assistance;

(iv) Over-the-counter drugs;

(v) Mental health services based on the Prioritized List of Health Services, to be provided through Community Mental Health Programs, or their subcontractors;

(D) QMB — Qualified Medicare Beneficiary:

(i) QMB clients are Medicare beneficiaries who have limited income but do not meet the income standard for full Medical Assistance Program coverage. QMB clients have coverage through Medicare Part A and B for most covered services. The Medical Assistance Program provides coverage only for those services which are also covered by Medicare;

(ii) Payment for services is the Medicaid allowed payment less the Medicare payment up to the amount of the coinsurance and deductible, but no more than the Medicare allowable;

(iii) QMB clients may be billed by the provider for services which are not covered by Medicare. QMB clients may not be billed by the provider for the deductible and coinsurance amounts due for services which are covered by Medicare.

(E) QMB — Qualified Medicare + Plus Benefit Package: These clients are Medicare beneficiaries. Their coverage includes:

(i) Any service covered by Medicare; and

(ii) Service coverage based on the Prioritized List of Health Services (OAR 410-141-0520);

(iii) Mental health services;

(iv) Payment for services is the Medicaid allowed payment less the Medicare payment up to the amount of co-insurance and deductible;

(v) Chemical dependency services provided through a local alcohol/drug treatment provider.

(F) QMB — Qualified Medicare + Limited Medicaid: These are also Qualified Medicare clients who are in the Medically Needy Program. Their coverage includes:

(i) All services covered by Medicare;

(ii) Prescription drugs through a retail pharmacy or state contracted mail order pharmacy;

(iii) Chemical dependency services provided through a local alcohol/drug treatment provider;

(iv) Medical transportation to services covered by the Medical Assistance Program;

(v) Mental Health Services based on the Prioritized List of Health Services and provided through Community Mental Health Programs or their subcontractors.

(G) Citizen/alien-waived Emergency Medical Assistance (CAWEM):

(i) The client receives a Medical Care Identification, which indicates coverage, and is limited to emergency medical needs or labor and delivery services;

(ii) Emergency medical services are covered when a client eligible under the CAWEM program has, after sudden onset, a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in: placing the patient's health in serious jeopardy, serious impairment to bodily functions, or serious dysfunctions of

any bodily organ or part. There may be other limitations depending on the eligibility category to which the client is assigned;

(iii) The following services are Not Covered for CAWEMS: Prenatal or postpartum care; sterilization, family planning, preventive care, transplants or transplant related services, chemotherapy, hospice, home health, private duty nursing, dialysis, dental services provided outside of an emergency room/hospital setting, outpatient drugs or over-the-counter products, non-emergency medical transportation, therapy services, durable medical equipment and medical supplies, or rehab services.

(H) Other client populations with restricted or limited services:

(i) Fully Capitated Health Plans and Dental Care Organization Members:

(I) These clients are enrolled in a Prepaid Health Plan for their medical and dental care;

(II) Most non-emergency services are obtained from the Prepaid Health Plan or require a referral from the Prepaid Health Plan that is responsible for the provision and reimbursement for the medical or dental service;

(III) The name and phone number of the Plan appears on the Medical Care Identification.

(ii) Primary Care Case Managers:

(I) These clients are enrolled with a Primary Care Case Manager for their medical care;

(II) Most non-emergency services provided to clients enrolled with a Primary Care Case Manager (PCCM) require referral from the PCCM.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: PWC 683, f. 7-19-74, ef. 8-11-74; PWC 803(Temp), f. & ef. 7-1-76; PWC 812, f. & ef. 10-1-76, Renumbered from 461-013-0030; AFS 47-1982, f. 4-30-82 & AFS 52-1982, f. 5-28-82, ef. 5-1-82 for providers located in the geographical areas covered by the branch offices of North Salem, South Salem, Dallas, Woodburn, McMinnville, Lebanon, Albany and Corvallis, ef. 6-30-82 for remaining AFS branch offices; AFS 103-1982, f. & ef. 11-1-82; AFS 15-1983(Temp), f. & ef. 4-20-83; AFS 31-1983(Temp), f. 6-30-83, ef. 7-1-83; AFS 43-1983, f. 9-2-83, ef. 10-1-83; AFS 61-1983, f. 12-19-83, ef. 1-1-84; AFS 24-1985, f. 4-24-85, ef. 6-1-85; AFS 57-1986, f. 7-25-86, ef. 8-1-86; AFS 78-1986(Temp), f. 12-16-86, ef. 1-1-87; AFS 10-1987, f. 2-27-87, ef. 3-1-87; AFS 29-1987(Temp), f. 7-15-87, ef. 7-17-87; AFS 54-1987, f. 10-29-87, ef. 11-1-87; AFS 51-1988(Temp), f. & cert. ef. 8-2-88; AFS 53-1988(Temp), f. 8-23-88, cert. ef. 9-1-88; AFS 58-1988(Temp), f. & cert. ef. 9-27-88; AFS 70-1988, f. & cert. ef. 12-7-88; HR 2-1990, f. 2-12-90, cert. ef. 3-1-90, Renumbered from 461-013-0055; 461-013-0103, 461-013-0109 & 461-013-0112; HR 5-1990(Temp), f. 3-30-90, cert. ef. 4-1-90; HR 19-1990, f. & cert. ef. 7-9-90; HR 23-1990(Temp), f. & cert. ef. 7-20-90; HR 32-1990, f. 9-24-90, cert. ef. 10-1-90; HR 27-1991(Temp), f. & cert. ef. 7-1-91; HR 41-1991, f. & cert. ef. 10-1-91; HR 22-1993(Temp), f. & cert. ef. 9-1-93; HR 32-1993, f. & cert. ef. 11-1-93, Renumbered from 410-120-0420, 410-120-0460 & 410-120-0480; HR 2-1994, f. & cert. ef. 2-1-94; HR 31-1994, f. & cert. ef. 11-1-94; HR 40-1994, f. 12-30-94, cert. ef. 1-1-95; HR 6-1996, f. 5-31-96 & cert. ef. 6-1-96; HR 5-1997, f. 1-31-97, cert. ef. 2-1-97; HR 21-1997, f. & cert. ef. 10-1-97; OMAP 12-1998(Temp), f. & cert. ef. 5-1-98 thru 9-1-98; OMAP 20-1998, f. & cert. ef. 7-1-98; OMAP 10-1999, f. & cert. ef. 4-1-99; OMAP 31-1999, f. & cert. ef. 10-1-99; OMAP 35-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 22-2002, f. 6-14-02 cert. ef. 7-1-02; OMAP 42-2002, f. & cert. ef. 10-1-02; OMAP 3-2003, f. 1-31-03, cert. ef. 2-1-03

### 410-120-1235

#### Client Copayment — Standard Benefit Package

(1) Medical Assistance clients eligible for the standard benefit package shall be responsible for paying a copayment for some services. This copayment shall be paid directly to the provider.

(2) The following services are exempt from copayment:

(a) Family planning services and supplies;

(b) Pap smears;

(c) Mammograms;

(d) Fecal occult blood test;

(e) Diagnostic sigmoidoscopy (over age 50);

(f) Total blood cholesterol screenings (age 35–64, men age 45–64, women);

(g) Preventive dental exams;

(h) Rubella serology or vaccinations for women of childbearing age;

(i) Tetanus and diphtheria (Td) boosters;

(j) Influenza immunizations;

(k) Pneumococcal vaccinations;

(l) Mental Health dosing/dispensing/case management;

(m) Chemical dependency dosing/dispensing/case management;

(n) Hospice services

(o) Administrative medical exams;

(p) Venipuncture;

(q) Women's annual health examinations;

(r) Any service not listed in (6) below.

(3) American Indian/Alaska Native (AI/AN) clients who are members of a federally recognized Indian tribe or receive services through Indian Health Services (IHS) tribal organization, or services provided at an Urban

# ADMINISTRATIVE RULES

Tribal Health Clinic as provided under P.L. 93-638, are exempt from copayment requirements.

(4) It is the client's responsibility to pay the copayment at the time service is provided unless exempted. The provider may refuse services or request to reschedule the appointment if the client does not pay the copayment.

(5) The provider should not deduct the copayment amount from the usual and customary fee submitted on the claim. DHS will deduct the amount of the copayment from the amount paid to the provider (whether or not provider collects the copayment from the client. If the OMAP paid amount is less than the required copayment, the copayment amount will be equal to what OMAP would have paid, unless the client or services is exempt according to exclusions listed in (2) and (3) above.

(6) Services which require copayment are listed in Table 120-1235-1. [Table not included. See ED. NOTE.]

[ED. NOTE: Tables referenced in this rule are available from the agency.]  
Stat. Auth.: ORS 409  
Stats. Implemented: 414.065  
Hist.: OMAP 3-2003, f. 1-31-03, cert. ef. 2-1-03

## 410-120-1280

### Billing

#### (1) Medicaid Covered Services:

(a) A provider enrolled with the Office of Medical Assistance Programs or a Managed Care Plan under the Oregon Health Plan must not seek payment from a client eligible for Medical Assistance benefit, or from a financially responsible relative or representative of that individual, for any services covered by Medicaid fee-for-service or through contracted managed care plans, including any coinsurance, co-pays, and deductibles, except under the circumstances described below:

(A) The client did not inform the provider of Medical Assistance Program eligibility, of OHP managed health plan enrollment, or of other third party insurance coverage, either at the time the service was provided or subsequent to the provision of the service or item, and as a result the provider could not bill the Medical Assistance Program, the managed health care plan, or third party payer for any reason, including timeliness of claims, lack of prior authorization, etc. The provider must document attempts to obtain information on eligibility or enrollment;

(B) The client became eligible for Medical Assistance benefits retroactively but did not meet other established criteria described in these General Rules and the appropriate Provider Guides (i.e., retroactive authorization);

(C) A third party resource made payments directly to the client for services provided;

(D) The client did not have full Medical Assistance benefits. Clients receiving limited Medicaid coverage through the Medically Needy Program (for example, when payment is the financial responsibility of the client due to spend-down) or the Citizen Alien Waived Emergency Medical Program may be billed for services that are not benefits of those programs. The provider must document that the client was informed that the service or item would not be paid for by the medical assistance program;

(E) The client has requested continuation of benefits during the Administrative Hearing process and final decision was not in favor of the client. The client will be responsible for any charges since the effective date of the initial notice of denial;

(F) A client cannot be billed for services/treatment that has been denied due to provider error (i.e. required documentation not submitted, prior authorization not obtained, etc.);

(G) The charge is for a copayment when a client is required to make a copayment as outlined in OMAP General Rules (410-120-ohpe) and individual provider guides;

(H) In exceptional circumstances, a client may request to be able to receive a covered service while asserting the right to privately pay for that service. Under this exceptional circumstance, a client can be billed for a covered service if the client is informed in advance of receiving the specific service of all of the following:

(i) That the requested service is a covered service and that the provider would be paid in full for the covered service if the claim is submitted to OMAP or the client's managed care plan, if the client is a member of a managed care plan;

(ii) The estimated cost of the covered service, including all related charges, the amount that OMAP or the client's managed care plan would pay for the service, and that the client cannot be billed for an amount greater than the maximum OMAP reimbursable rate or managed care plan rate, if the client is a member of a managed care plan;

(iii) That the provider cannot require the client to enter into a voluntary payment agreement for any amount for the covered service;

(iv) And that, if the client knowingly and voluntarily agrees to pay for the covered service, the provider will not be able to submit a claim for payment to OMAP or the client's managed care plan.

(1) Provider must be able to document in writing, signed by the client or the client's representative, that the client was provided the information described above; that the client was provided an opportunity to ask questions, obtain additional information and consult with the client's caseworker or client representative; and the client agreed to be responsible for payment by signing an agreement incorporating all of the information described above. The client shall be given a copy of the signed agreement. A provider may not submit a claim for payment for covered services to OMAP or to the client's managed care plan that are subject to such agreement.

#### (2) Non-Covered Medicaid Services:

(a) A client may be billed for services that are not covered by the Medical Assistance Program or Managed Care Plan. However, the client must be informed in advance of receiving the specific service that it is not covered, the estimated cost of the service, and that the client or client's representative is financially responsible for payment for the specific service. Providers must be able to document in writing signed by the client or client's representative, that the client was provided this information and the client knowingly and voluntarily agreed to be responsible for payment;

(b) Services which are considered non-covered are (in rule precedence order):

(A) OAR 410-141-0480, Benefit Package of Covered Services; and

(B) OAR 410-141-0520, Prioritized List of Health Services, and

(C) OAR 410-120-1200, Medical Assistance Benefits: Excluded services and limitations.

(3) All claims must be billed on the appropriate form as described in the individual provider guide.

(4) Upon submission of a claim to OMAP for payment, the provider agrees that it has complied with all rules of the Medical Assistance Program. Submission of a claim, however, does not relieve the provider from the requirement of a signed provider agreement.

(5) All billings must be for services provided within the provider's licensure or certification.

(6) It is the responsibility of the provider to submit true and accurate information when billing the Medical Assistance Program. Use of a billing provider does not abrogate the performing provider's responsibility for the truth and accuracy of submitted information.

(7) A claim may not be submitted prior to delivery of service. A claim may not be submitted prior to dispensing, shipment or mailing of the item unless specified otherwise in OMAP's individual provider guide.

(8) A claim is considered a "valid claim" only if all required data is entered on or attached to the claim form. See the appropriate provider guide for specific instructions and requirements. Also, see "Valid Claim" in the Definitions section of these rules.

(9) For claims requiring a procedure code the provider must bill as instructed in the appropriate Medical Assistance provider guide and must use the appropriate CPT, HCPCS, ICD-9-CM, ADA CDT, NDC, or OMAP unique code which best describes the specific service or item provided. For claims which require the listing of a diagnosis and/or procedure code as a condition of payment, the code listed on the claim form must be the code which most accurately describes the client's condition and the service(s) provided. Providers must use the ICD-9-CM diagnosis coding system when a diagnosis is required unless otherwise specified in the appropriate individual provider guide. Hospitals must follow national coding guidelines:

(a) Where there is no appropriate descriptive procedure code to bill the Medical Assistance Program the provider must use the code for "Unlisted Services". Instructions on the specific use of "unlisted services" are contained in the individual provider guide. A complete and accurate description of the specific care, item, or service must be documented on the claim;

(b) Where there is one CPT, CDT or HCPCS code that according to CPT, CDT and HCPCS coding guidelines or standards, describes an array of services the provider must bill the Medical Assistance Program using that code rather than itemizing the services under multiple codes. Providers must not "unbundle" services in order to increase payment by the Medical Assistance Program.

(10) No person shall submit or cause to be submitted to the Medical Assistance Program:

(a) Any false claim for payment;

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(b) Any claim altered in such a way as to result in a payment for a service which has already been paid;

(c) Any claim upon which payment has been made or is expected to be made by another source unless the amount paid or to be paid by the other party is clearly entered on the claim form;

(d) Any claim for furnishing specific care, item(s), or service(s) which have not been provided.

(11) The provider is required to submit an Individual Adjustment Request on any claim where the provider identifies an overpayment made by the Medical Assistance Program or to refund the amount of the overpayment.

(12) A provider who, after having been previously warned in writing by the Medical Assistance Program or the Department of Justice about improper billing practices, is found to have continued such improper billing practices and has had an opportunity for a contested case hearing, shall be liable to the Medical Assistance Program for up to triple the amount of the Medical Assistance Program established overpayment received as a result of such violation.

(13) Billing and Payment from Other Resources and Potential Third Party Coverage:

(a) When the client has third party medical coverage indicated on the Medical Care Identification or through AIS, or other coverage which is known to the provider, the provider must bill the third party resource prior to billing the Medical Assistance Program, except under the following circumstances:

(A) When another party may be liable for an injury or illness (see definition of Liability Insurance), the provider may bill the insurer or liable party or place a lien against a settlement or the provider may bill the Medical Assistance Program. The provider may not both place a lien against a settlement and bill the Medical Assistance Program. The provider may withdraw the lien and bill the Medical Assistance Program within 12 months of the date of service. If the provider bills the Medical Assistance Program, the provider must accept payment made by the Medical Assistance Program as payment in full. The provider must not return the payment made by the Medical Assistance Program in order to accept payment from a liability settlement or liability insurer or place a lien against that settlement;

(B) The provider may bill the Medical Assistance Program for the following items and services and the Medical Assistance Program will bill the third party resource:

(i) Drugs other than home parenteral, home enteral and home intravenous therapy;

(ii) Intermediate Care Facility Services for the mentally retarded;

(iii) Institutional services for the mentally and emotionally disturbed;

(iv) Prenatal and preventive pediatric services;

(v) Services covered by a third party insurer through an absent parent where the medical coverage is administratively or court ordered. The provider must first bill the third party insurer. The provider may bill the Medical Assistance Program when payment by the insurer is not made within 30 days of the date of service (see Table 1280 - TPR codes) in the provider guide.

(C) The provider may bill the Medical Assistance Program directly for services which are never covered by Medicare or another insurer on the appropriate form identified in the relevant provider guide. Documentation must be on file in the provider's records indicating this is a non-covered service. See the individual provider guide for further information on services which must be billed to Medicare first.

(b) When a provider receives a payment from any source prior to the submission of a claim to the Medical Assistance Program, the amount of the payment must be shown as a credit on the claim in the appropriate field;

(c) Except as described in (13), any provider who accepts third party payment for furnishing a service or item to a Medical Assistance client shall:

(A) Submit an Individual Adjustment Request per instructions in the individual provider guide, indicating the amount of the third party payment; or

(B) Make direct payment of the amount of the third party payment to the Medical Assistance Program. When the provider chooses to directly repay the amount of the third party payment to the Medical Assistance program, the provider must indicate the reason the payment is being made and must submit the check:

(i) An Individual Adjustment Request which identifies the original claim, name and number of the client, date of service and item(s) or service(s) for which the repayment is made; or

(ii) A copy of the Remittance Advice showing the original payment by the Medical Assistance Program.

(d) Providers are required to submit an Individual Adjustment Request showing the amount of the third party payment or to refund the amount received from another source within 30 days of the date the payment is received. Failure to submit the Individual Adjustment Request within 30 days of receipt of the third party payment or to refund the appropriate amount within this time frame is considered concealment of material facts and grounds for recovery and/or sanction;

(e) The Medical Assistance Program reserves the right to make a claim against any third party payer after making payment to the provider of service. The Medical Assistance Program may pursue alternate resources following payment if it deems this a more efficient approach.

(14) Full Use of Alternate Resources:

(a) The Medical Assistance Program will generally make payment only when other resources are not available for the client's medical needs. Full use must be made of reasonable alternate resources in the local community. Pursuant to 42 CFR 35.61 subpart G and the Memorandum of Agreement in OAR 310-146-0000, Indian Health Services facilities and tribal facilities operating under a section 638 agreement are payors of last resort, and are not considered an alternate resource or third party resource;

(b) Alternate resources may be available:

(A) Under a federal or state worker's compensation law or plan;

(B) For items or services furnished by reason of membership in a prepayment plan;

(C) For items or services provided or paid for directly or indirectly by a health insurance plan or as health benefits of a governmental entity, excluding Indian Health Services or Tribal Health Facilities, such as:

(i) Veterans Administration;

(ii) Armed Forces Retirees and Dependents Act (CHAMPVA);

(iii) Armed Forces Active Duty and Dependents Military Medical Benefits Act (CHAMPUS); and

(iv) Medicare Parts A and B.

(D) To residents of another state under that state's Title XIX or State funded Medical Assistance Program; or

(E) Through other reasonably available resources.

(15) Diagnosis Code Requirement:

(a) A primary diagnosis code is required on all claims, unless specifically excluded in an individual OMAP medical assistance programs' provider guide;

(b) When billing using ICD-9-CM codes, all diagnosis codes are required to the highest degree of specificity;

(c) Hospitals are always required to bill using the 5th digit, in accordance with methodology used in the Medicare Diagnosis Related Groups. Table 1280 -TPR Codes. [Table not included. See ED. NOTE.]

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: PWC 683, f. 7-19-74, ef. 8-11-74; PWC 803(Temp), f. & ef. 7-1-76; PWC 812, f. & ef. 10-1-76; AFS 5-1981, f. 1-23-81, ef. 3-1-81, Renumbered from 461-013-0050, 461-013-0060, 461-013-0090 & 461-013-0020; AFS 47-1982, f. 4-30-82, & AFS 52-1982, f. 5-28-82, ef. 5-1-82 for providers located in the geographical areas covered by the branch offices of North Salem, South Salem, Dallas, Woodburn, McMinnville, Lebanon, Albany and Corvallis, ef. 6-30-82 for remaining AFS branch offices; AFS 117-1982, f. 12-30-82, ef. 1-1-83; AFS 42-1983, f. 9-2-83, ef. 10-1-83; AFS 45-1983, f. 9-19-83, ef. 10-1-83; AFS 6-1984(Temp), f. 2-28-84, ef. 3-1-84; AFS 36-1984, f. & ef. 8-20-84; AFS 24-1985, f. 4-24-85, cert. ef. 6-1-85; AFS 33-1986, f. 4-11-86, ef. 6-1-86; AFS 43-1986, f. 6-13-86, ef. 7-1-86; AFS 57-1986, f. 7-25-86, ef. 8-1-86; AFS 14-1987, f. 5-31-87, ef. 4-1-87; AFS 38-1988, f. 5-17-88, cert. ef. 6-1-88; HR 2-1990, f. 2-12-90, cert. ef. 3-1-90, Renumbered from 410-0140, 461-013-0150, 461-013-0175 & 461-013-0180; HR 19-1990, f. & cert. ef. 7-9-90; HR 41-1991, f. & cert. ef. 10-1-91; HR 32-1993, f. & cert. ef. 11-1-93, Renumbered from 410-120-0040, 410-120-0260, 410-120-0280, 410-120-0300 & 410-120-0320; HR 31-1994, f. & cert. ef. 11-1-94; HR 5-1997, f. 1-31-97, cert. ef. 2-1-97; HR 21-1997, f. & cert. ef. 10-1-97; OMAP 20-1998, f. & cert. ef. 7-1-98; OMAP 10-1999, f. & cert. ef. 4-10-99; OMAP 31-1999, f. & cert. ef. 10-1-99; OMAP 35-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 30-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 23-2002, f. 6-14-02 cert. ef. 8-1-02; OMAP 42-2002, f. & cert. ef. 10-1-02; OMAP 73-2002, f. 12-24-02, cert. ef. 1-1-03; OMAP 3-2003, f. 1-31-03, cert. ef. 2-1-03

## 410-120-1340

### Payment

(1) The Medical Assistance Program will make payment only to the enrolled provider who actually performs the service or the provider's enrolled billing provider for covered services rendered to eligible clients. Federal regulations prohibit OMAP from making payment to collection agencies. The Medical Assistance Program may require that payment for services be made only after review by the Medical Assistance Program.

(2) Fee-for-service payment rates are set by the Office of Medical Assistance Programs and/or the Division administering the program under which the billed services or items are provided.



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(3) Payment rates will be the lesser of the amount allowed by the Medical Assistance Program or the provider's usual charge, except for reimbursement under the DRG methodology for inpatient hospital services. Reimbursement for services, including claims paid at DRG rates, will not exceed any Upper Limits established by Federal regulation.

(4) All out-of-state hospital services are reimbursed at Oregon DRG or fee-for-service rates as published in the Hospital Services Guide unless the hospital provides highly specialized services and has a contract or service agreement with the Office of Medical Assistance Programs for those services.

(5) Payment rates for in-home services provided through SDS D will not be greater than the current Medical Assistance rate for nursing facility payment.

(6) Payment rates for out-of-state institutions and similar facilities, such as skilled nursing care facilities, psychiatric and rehabilitative care facilities will be set by Department of Human Resource staff at a rate:

(a) That is consistent with similar services provided in the State of Oregon; and

(b) Is the lesser of the rate paid to the most similar facility licensed in the State of Oregon or the rate paid by the Medical Assistance Program in that state for that service; or

(c) Is the rate established by SDS D for out-of-state nursing facilities.

(7) The Medical Assistance Program will not make payment on claims which have been assigned, sold, or otherwise transferred or on which the billing provider receives a percentage of the amount billed or payment authorized. This includes, but is not limited to, transfer to a collection agency or individual who advances money to a provider for accounts receivable.

(8) The Medical Assistance Program will not make a separate payment or co-payment to a nursing facility or other provider for services included in the nursing facility's All-Inclusive Rate. The following services are not included in the All-Inclusive Rate and may be separately reimbursed:

(a) Legend drugs, biologicals and hyperalimentation drugs and supplies, and enteral nutritional formula as addressed in the Pharmaceutical Services and Home Enteral/Parenteral Nutrition and IV Services provider guides;

(b) Physical therapy, speech therapy, and occupational therapy provided by a non-employee of the nursing facility within the rules of the appropriate provider guide;

(c) Continuous oxygen which exceeds 1,000 liters per day by lease of a concentrator or concentrators as addressed in the Durable Medical Equipment and Medical Supplies provider guide;

(d) Influenza immunization serum as described in the Pharmaceutical Services provider guide;

(e) Podiatry services provided under the rules in the Medical-Surgical Services provider guide;

(f) Medical services provided by physician or other provider of medical services, such as radiology and laboratory, as outlined in the Medical-Surgical Services provider guide;

(g) Certain custom fitted or specialized equipment as specified in the Durable Medical Equipment and Medical Supplies provider guide.

(9) Payment for clients with Medicare:

(a) Payment from the Medical Assistance Program is limited to the Medicare allowed amount less the Medicare payment up to the Medical Assistance Program allowable rate. The amount paid by the Medical Assistance Program cannot exceed the co-insurance and deductible amounts due;

(b) Payment from the Medical Assistance Program for services which are covered Medical Assistance services but are not covered by Medicare is made at the Medical Assistance Program allowable rate.

(10) Payment for clients with other third-party resources. Payment is the Medical Assistance Program rate less the third party payment but not to exceed the billed amount.

(11) Payment in Full — Medical Assistance Program payments, including contracted managed care plan payments, unless in error, constitute payment in full, except for limited instances involving allowable spenddown or copayments. For the Medical Assistance Program this includes:

(a) Zero payments for claims where a third party or other resource has paid an amount equivalent to or exceeding the Medical Assistance Program's allowable payment; and

(b) Denials of payment for failure to submit a claim in a timely manner, failure to obtain payment authorization in a timely and appropriate

manner, or failure to follow other required procedures identified in the provider guides.

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: PWC 683, f. 7-19-74, ef. 8-11-78; PWC 803(Temp), f. & ef. 7-1-76; PWC 812, f. & ef. 10-1-76; Renumbered from 461-013-0061; PWC 833, f. 3-18-77, ef. 4-1-77; Renumbered from 461-013-0061; AFS 5-1981, f. 1-23-81, ef. 3-1-81; Renumbered from 461-013-0060; AFS 47-1982, f. 4-30-82 & AFS 52-1982, f. 5-28-82, ef. 5-1-82 for providers located in the geographical areas covered by the branch offices of North Salem, South Salem, Dallas, Woodburn, McMinnville, Lebanon, Albany and Corvallis, ef. 6-30-82 for remaining AFS branch offices; AFS 117-1982, f. 12-30-82, ef. 1-1-83; AFS 24-1985, f. 4-24-85, ef. 6-1-85; AFS 50-1985, f. 8-16-85, ef. 9-1-85; HR 2-1990, f. 2-12-90, cert. ef. 3-1-90; Renumbered from 461-013-0081, 461-013-0085, 461-175 & 461-13-180; HR 41-1991, f. & cert. ef. 10-1-91; HR 32-1993, f. & cert. ef. 11-1-93; Renumbered from 410-120-0040, 410-120-0220, 410-120-0200, 410-120-0240 & 410-120-0320; HR 2-1994, f. & cert. ef. 2-1-94; HR 5-1997, f. 1-31-97, cert. ef. 2-1-97; OMAP 10-1999, f. & cert. ef. 4-1-99; OMAP 3-2003, f. 1-31-03, cert. ef. 2-1-03

## 410-121-0153

### Copayment for the Standard Benefit Package

(1) A client receiving the Standard Benefit Package is subject to a copayment for the Pharmaceutical Services program. Copayment Required:

(a) Tier A:

(A) \$2.00 for generic drugs;

(B) \$3.00 for Mental Health, Cancer and HIV brand name drugs;

(C) \$15.00 for all other brand name drugs.

(b) Tier B:

(A) \$5.00 for generic drugs;

(B) \$10.00 for Mental Health, Cancer and HIV brand name drugs;

(C) \$25.00 for all other brand name drugs;

(2) See General Rules, 410-120-1235 for additional information.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: OMAP 3-2003, f. 1-31-03, cert. ef. 2-1-03

## 410-122-0701

### Standard Benefit Package Copayments and Limitations

(1) DMEPOS that are shown in Table 122-0701 are covered for clients on the Standard Benefit Package. DMEPOS providers must use the criteria and limitations shown for each code in division 122.

(2) DMEPOS that are not shown in Table 122-0701 are not covered on the Standard Benefit Package and are billable to the client.

(3) Copayment Requirements for Standard Benefit Package Clients:

(a) A client must pay a \$2.00 copayment for each durable medical equipment, prosthetics, orthotics, and supplies (DMEPOS) shown in Table 122-0701 that is delivered, shipped, or picked up monthly, except A4253, A4259, and all ostomy supplies which may be provided and billed every three months;

(b) Table 122-0701. [Table not included. See ED. NOTE.]

(4) Other Information — See General Rules 410-120-1230 for more information.

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: OMAP 3-2003, f. 1-31-03, cert. ef. 2-1-03

## 410-123-1085

### Client Copayments for Oregon Health Plan Standard and Plus Benefit Packages

(1) OHP Plus: Copayments may be required for certain services. See OAR 410-120-1230 for specific details.

(2) OHP Standard:

(a) A client receiving the OHP Plus or Standard Benefit Package may be subject to copayments for dental program services. Select dental services are excluded from the OHP Plus and Standard Benefit Package. Refer to Table 123-1085, for specific code information.

(b) The client's Office of Medical Assistance Programs (OMAP) Medical Care ID will indicate if the client is enrolled in the OHP Plus or Standard Benefit Package.

(c) Dental OHP Standard Benefit limitations (see OAR 410-120-1235 and 410-123-1220):

(A) Clients are limited to a maximum of \$500.00 for dental services within a six month calendar year. A six month calendar year is defined as January 1 - June 30 and July 1 - December 31;

(B) \$500.00 maximum dental benefit is calculated based on the Dental Care Organization composite dental rates, minus copayment, minus third party resource payments. It is the responsibility of the provider to track dental expenditures for clients of record.

(d) Table 123-1085. [Table not included. See ED. NOTE.]

# ADMINISTRATIVE RULES

(e) Effective March 1, 2003, dental services are no longer covered under the OHP Standard Benefit Package. See OAR 410-120-1235 for details

[ED. NOTE: Tables referenced in this rule are available from the agency.]  
Stat. Auth.: ORS 409  
Stats. Implemented: ORS 414.065  
Hist.: OMAP 76-2002, f. 12-24-02, cert. ef. 1-1-03; OMAP 3-2003, f. 1-31-03, cert. ef. 2-1-03

## 410-123-1220

### Services Not Funded on the Health Services Commission's Prioritized List of Health Services

The following general categories of Dental Services are not funded on the Health Services Commission's (HSC) Prioritized List of Health Services (List) and are not covered for any client:

- (1) Desensitization;
- (2) Implant and implant services;
- (3) Mastic or veneer procedure;
- (4) Orthodontia (except when it is treatment for cleft palate with cleft lip);

- (5) Overhang removal;
- (6) Procedures, appliances or restorations solely for aesthetic/ cosmetic purposes;

- (7) Temporomandibular Joint Dysfunction treatment;

- (8) Tooth bleaching.

Stat. Auth.: ORS 409  
Stats. Implemented: ORS 414.065  
Hist.: HR 3-1994, f. & cert. ef. 2-1-94; HR 21-1994(Temp), f. 4-29-94, cert. ef. 5-1-94; HR 32-1994, f. & cert. ef. 11-1-94; HR 20-1995, f. 9-29-95, cert. ef. 10-1-95; HR 9-1996, f. 5-31-96, cert. ef. 6-1-96; OMAP 13-1998(Temp), f. & cert. ef. 5-1-98 thru 9-1-98; OMAP 28-1998, f. & cert. ef. 9-1-98; OMAP 23-1999, f. & cert. ef. 4-30-99; OMAP 8-2000, f. 3-31-00, cert. ef. 4-1-00; OMAP 17-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 48-2002, f. & cert. ef. 10-1-02; OMAP 3-2003, f. 1-31-03, cert. ef. 2-1-03

## 410-123-1260

### Dental Exams, Diagnostic and Procedural Services

- (1) Exams:

(a) Codes are based on the American Dental Association CDT-4, except where noted for restorations. Refer to the CDT-4 publication for code descriptions;

(b) Exams (billed as D0120, D0150 or D0160) by the same practitioner are payable once every twelve months;

(c) For each emergent episode use D0140 for the initial exam. For related follow-up exams use D0170.

- (2) Radiographs:

(a) Routine radiographs are limited to once every 12 months, except panoramic and intraoral complete series (D0210) which are payable once every five years. The exception to these limitations is if the client is new to the office or clinic and the office or clinic was unsuccessful in obtaining radiographs from the previous dental office or clinic. Supporting documentation outlining the provider's attempts to receive previous records must be included in the client's records. A maximum of six radiographs are payable for any one emergency;

(b) When billing for radiographs, use tooth number "33" and tooth surface code "A" for all films;

(c) The minimum age for billing code D0210 is six years. For clients under age six, radiographs may be billed separately as follows:

- (A) D0220 — once;
- (B) D0230 — a maximum of five times;
- (C) D0270 — a maximum of twice, or D0272 once.

(d) The minimum standards for payment of intraoral complete services are:

(A) For clients age six through 11, a minimum of 10 periapicals and two bitewings for a total of 12 films;

(B) For clients age 12 and older, a minimum of 10 periapicals and four bitewings for a total of 14 films.

(e) If fees for multiple single radiographs exceed the allowable reimbursement for a full mouth complete series (D0210), the Office of Medical Assistance Programs (OMAP) will pay for complete series;

(f) Bitewing radiographs for routine screening are payable every 12 months;

(g) Payment for routine panoramic films is limited to one every five years. Additional films are covered when medically justified, e.g., fractures;

(h) Payment for some or all multiple radiographs of the same tooth or area may be denied if OMAP determines the number to be excessive;

(i) Note: When billing additional films (D0230 and D0260), do not use a separate line for each additional film. Use only one line: add up the

total additional films being billed and enter this number under the Quantity column, or create a "Q" column, depending on which form you use.

- (3) Tests and laboratory examinations — Code DO402 — By Report.

- (4) Preventive Services:

(a) Prophylaxis — Limited to once every 12 months. Additional prophylaxis benefit provisions are available for persons with high risk oral conditions due to disease process, medications or other medical treatments, severe periodontal disease, rampant caries and/or for persons with disabilities who cannot perform adequate daily oral health care;

- (b) Topical Fluoride Treatment (Office Procedure):

(A) The limitations described for prophylaxis also apply to topical fluoride;

- (B) These services are not covered for clients over 18 years of age;

- (c) Sealants:

(A) Sealants are covered for permanent molars only for children 15 or younger;

(B) Limited to one treatment per tooth every five years except for visible evidence of clinical failure;

(d) Space Management — Removable space maintainers will not be replaced if lost or damaged.

- (5) Tobacco Cessation

(a) Use CDT-3 code D1320 on an American Dental Association (ADA) claim form when billing for tobacco cessation services as outlined. Maximum of 10 services within a three month period.

- (b) Follow criteria outlined in OAR 410-130-0190.

- (6) Restorations — Amalgam and Composite:

(a) Payment for restorations is limited to the maximum restoration fee of four surfaces per tooth. Refer to American Dental Association Current Dental Terminology for definitions of restorative procedures;

(b) All surfaces must be combined and billed one line per tooth using the appropriate code. For example, tooth #30 has a buccal amalgam and an MOD amalgam — bill MOD, B, using code D2161;

(c) Payment for an amalgam or composite restoration and a crown on the same tooth will be denied;

(d) Payment is made for a surface once in each treatment episode regardless of the number or combination of restorations;

(e) Payment for occlusal adjustment and polishing of the restoration is included in the restoration fee;

(f) Composite or similar restorations in posterior teeth will be reimbursed at the amalgam rate. Use codes D2380-D2388.

- (7) Crowns:

(a) Acrylic Heat or Light Cured Crowns — allowed for anterior permanent teeth only;

(b) Prefabricated Plastic Crowns — allowed for anterior teeth only, permanent or primary;

(c) Permanent crowns — allowed for anterior permanent teeth only. Clients must be 16 or older. Radiographs required; history, diagnosis, and treatment plan may be requested;

(d) Payment for crowns for posterior teeth, permanent or primary is limited to stainless steel crowns;

(e) Payment for preparation of the gingival tissue is included in the fee for the crown;

- (f) Payment for retention pins is limited to four per tooth.

(g) Crowns are covered only when there is significant loss of clinical crown and no other restoration will restore function. Endodontic therapy alone (with or without a post) is not a consideration, nor are aesthetics;

(h) Crown replacement is limited to one every five years per tooth. Exceptions to this limitation may be made for crown damage due to trauma, based on the following factors:

- (A) Extent of crown damage;
- (B) Extent of damage to other teeth or crowns; and
- (C) Extent of impaired mastication.

(i) Crowns will not be covered in cases of advanced periodontal disease or when a poor crown/root ratio exists for any reason;

(j) The client's records must include appropriate documentation to support the service and level of care rendered;

- (k) Codes:

- (A) D2721 — Prior Authorization (PA) required;

- (B) D2722 — PA required;

- (C) D2751 — PA required;

- (D) D2752 — PA required.

- (8) Endodontics:

(a) Pulp Capping: Direct and indirect pulp caps are included in the restoration fee — no additional payment will be made;

- (b) Endodontic Therapy:

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(A) Endodontics are covered only if the crown-to-root ratio is 50:50 or better and the tooth is restorable without other surgical procedures;

(B) Separate reimbursement for open-and-drain as a palliative procedure is allowed only when the root canal is not completed on the same date of service, or if the same practitioner or dental practitioner in the same group practice did not complete the procedure;

(C) The client's record must include appropriate documentation to support the services and level of care rendered;

(D) Root canal therapy is not covered for third molars.

(c) Endodontic Therapy on Permanent Teeth — Apexification is limited to a maximum of five treatments on permanent teeth only.

(9) Periodontics:

(a) When billing for quadrants, use quadrant UL, LL, UR or LR to define tooth number. No surface code is necessary;

(b) Gingivectomy or Gingivoplasty (D4210) — covered for severe gingival hyperplasia where enlargement of gum tissue occurs that prevents access to oral hygiene procedures, e.g., dilantin hyperplasia;

(c) Curettage, Surgical (D4220) — allowed once in a two-year period;

(d) Gingival Flap (D4240) and Osseous Surgery (D4260) — allowed once every three years unless there is a documented medical/dental indication;

(e) Periodontal Scaling and Root Planing (D4341) — allowed once every two years. A maximum of two quadrants on one date of service is payable, except in extraordinary circumstances. Quadrants are not limited to physical area, but are further defined by the number of teeth with pockets 5 mm or greater;

(f) Periodontal Maintenance Procedures (D4910) — allowed once every six months. For further consideration of more frequent periodontal maintenance benefits, office records must clearly reflect clinical indication, i.e., chart notes, pocket depths and radiographs;

(g) Records must clearly document the clinical indications for all periodontal procedures, including current pocket depth charting and/or radiographs;

(h) Surgical procedures include six months routine postoperative care;

(i) Note: The Office of Medical Assistance Programs (OMAP) will not reimburse for the following procedures if performed on the same date of service:

(A) D1110;

(B) D1120;

(C) D4210;

(D) D4220;

(E) D4260;

(F) D4341;

(G) D4355;

(H) D4910.

(j) Adjunctive periodontal services: Code — D4920 — By Report.

(10) Removable Prosthodontics:

(a) Removable cast metal prosthodontics and full dentures are limited to clients 16 or older;

(b) Adjustments to removable prosthodontics during the six-month period following delivery to clients are included in the fee.

(c) Replacement:

(A) Replacement of dentures and cast metal partials is limited to once every five years when dentally appropriate;

(B) The limitation of once every five years applies to the client regardless of Dental Care Organization (DCO) or Fee-for-Service (FFS) enrollment status. This includes clients that move from FFS to DCO, DCO to FFS, or DCO to DCO. For example: a client receives full dentures on February 1, 2000, while FFS and a year later enrolls in a DCO. The client would not be eligible for another full denture until February 2, 2005, regardless of DCO or FFS enrollment;

(C) Replacement of partial dentures with full dentures is payable five years after the partial denture placement. Exceptions to this limitation may be made in cases of trauma or catastrophic illness that directly or indirectly affects the oral condition and results in additional tooth loss. This pertains to, but is not limited to, cancer and periodontal disease resulting from pharmacological, surgical and/or medical treatment for aforementioned conditions. Severe periodontal disease due to neglect of daily oral hygiene will not warrant replacement.

(d) Relines:

(A) Reline of complete or partial dentures is allowed once every two years;

(B) Exceptions to this limitation may be made under the same conditions warranting replacement;

(C) Laboratory relines are not payable within five months after placement of an immediate denture.

(e) Tissue Conditioning:

(A) Tissue conditioning is allowed once per denture unit in conjunction with immediate dentures;

(B) One tissue conditioning is allowed prior to new prosthetic placement.

(f) Cast Partial Dentures:

(A) Cast partial dentures will not be approved if stainless steel crowns are used as abutments;

(B) Cast partial dentures must have one or more anterior teeth missing or four or more missing posterior teeth per arch with resulting space equivalent to that loss demonstrating inability to masticate. Third molars are not a consideration when counting missing teeth;

(C) Teeth to be replaced and teeth to be clasped are to be noted in the "remarks" section of the form;

(D) Codes:

(i) D5110 — Prior Authorization (PA) required;

(ii) D5120 — PA required;

(iii) D5130 — PA required;

(iv) D5140 — PA required;

(v) D5211 — Maxillary partial denture — resin base — covered for clients on OHP Standard only, effective February 1, 2003. Effective March 1, 2003, not covered — OHP Standard benefit package excludes all dental services;

(vi) D5212 — Mandibular partial denture — resin base — covered for clients on OHP Standard only, effective February 1, 2003. Effective March 1, 2003, not covered — OHP Standard benefit package excludes all dental services;

(vii) D5213 — PA required — Full mouth radiographs are required;

(viii) D5214 — PA required — Full mouth radiographs required.

(g) Denture Rebase Procedures:

(A) Rebase should only be done if a reline will not adequately solve the problem. Rebase is limited to once every three years;

(B) Exceptions to this limitation may be made in cases of trauma or treatment for diseases, such as cancer, that result in additional tooth loss.

(h) Laboratory Denture Reline Procedures — Limited to once every two years.

(11) Maxillofacial Prosthetics:

(a) For clients enrolled in managed care, maxillofacial prosthetics are to be billed using CPT or HCPCS coding on a CMS-1500 to the client's medical managed care organization (FCHP). Maxillofacial prosthetics are included in the FCHP capitation and are not the DCO's responsibility;

(b) For fee-for-service clients, bill the Office of Medical Assistance Programs (OMAP) using CPT or HCPCS coding on a CMS-1500. Payment is based on the physician fee schedule;

(c) Codes:

(A) D5911;

(B) D5912;

(C) D5913;

(D) D5915;

(E) D5916;

(F) D5919;

(G) D5922;

(H) D5923;

(I) D5924;

(J) D5925;

(K) D5926;

(L) D5928;

(M) D5929;

(N) D5931;

(O) D5932;

(P) D5933;

(Q) D5934;

(R) D5935;

(S) D5936;

(T) D5937;

(U) D5951;

(V) D5952;

(W) D5953;

(X) D5954;

(Y) D5955;

(Z) D5958;

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- (AA) D5959;
- (BB) D5960;
- (CC) D5983;
- (DD) D5984;
- (EE) D5985;
- (FF) D5986;
- (GG) D5987.

### (12) Fixed Prosthodontics — Other fixed prosthetic services —

#### Codes:

- (a) D6972 — Prior authorization required;
- (b) D6980 — By report.

### (13) Oral Surgery:

(a) Oral surgical services performed in a dental office setting do not require prior authorization (PA), and include, but are not limited to, all dental procedures, local anesthesia, surgical postoperative care, radiographs and follow-up visits;

(b) Oral surgical services performed in a dental office setting are billed on an American Dental Association (ADA) dental claim form. For clients enrolled in a Dental Care Organization (DCO), the oral surgical services are the responsibility of the DCO;

(c) Oral surgical services performed in an Ambulatory Surgical Center (ASC), inpatient or outpatient hospital setting and related anesthesia services require PA. Oral surgical procedures directly related to the teeth and supporting structures must be billed on an ADA claim form;

(d) If the services requiring hospital dentistry are the result of a medical condition/diagnosis (i.e., fracture, cancer), use appropriate American Medical Association (AMA) CPT-4 procedure codes and bill procedures on a CMS-1500 claim form. For clients enrolled in a Fully Capitated Health Plan (FCHP), the facility charge and anesthesia services are the responsibility of the FCHP. See rule 410-123-1490 Hospital Dentistry for requirements;

(e) All codes listed as By Report require an operative report;

(f) Payment for tooth reimplantation is covered only in cases of traumatic avulsion where there are good indications of success;

#### (g) Surgical Assistance:

(A) Reimbursement for surgical assistance is restricted to services provided by dentists and physicians;

(B) Surgical assistance will be reimbursed only when the assistant's services qualify as a dental or medical necessity;

(C) Only one surgical assistant will be reimbursed unless clinical justification is submitted for an additional assistant;

(D) Primary surgeons, assistant surgeons, anesthesiologists, and nurse anesthetists not in common practice must bill separately for their services.

(h) Extractions — Includes local anesthesia and routine postoperative care;

#### (i) Surgical Extractions:

(A) Includes local anesthesia and routine post-operative care;

(B) The following codes are limited to treatment for symptomatic pain, infection, bleeding, or swelling:

(i) D7220;

(ii) D7230;

(iii) D7240;

(iv) D7241 — By Report;

(v) D7250.

(j) Removal of tumors, cysts, and neoplasms — code D7465 — By Report;

(k) Note: The following procedures on the Health Services Commission's (HSC) Prioritized List of Health Services (List) are covered as medical procedures. Bill on a CMS-1500, using CPT coding. If a client is enrolled in a Fully Capitated Health Plan (FCHP) it is the responsibility of the provider to contact the FCHP for any required authorization before the service is rendered:

(A) D7430;

(B) D7431;

(C) D7460;

(D) D7461.

(l) Note: The following procedures on the HSC List are covered as medical procedures. Bill on a CMS-1500, using CPT coding. If a client is enrolled in an FCHP it is the responsibility of the provider to contact the FCHP for any required authorization before the service is rendered:

(A) D7810;

(B) D7820;

(C) D7830.

#### (m) Other Repair Procedures:

(A) D7920 — Prior authorization required;

(B) D7950 — By Report;

(C) D7981 — By Report.

### (14) Orthodontia:

(a) Orthodontia services are limited to eligible clients for the ICD-9-CM diagnosis of cleft palate with cleft lip;

(b) Prior authorization (PA) is required for orthodontia exams and records. A referral letter from a physician or dentist indicating diagnosis of cleft palate/lip must be included in the client's record and a copy sent with the PA request;

(c) Documentation in the client's record must include diagnosis, length and type of treatment;

(d) Payment for appliance therapy includes the appliance and all follow-up visits;

(e) Orthodontia treatment for cleft palate/cleft lip is evaluated as two phases. Each phase is reimbursed individually (separately);

(f) Payment for orthodontia will be made in one lump sum at the beginning of each phase of treatment. Payment for each phase is for all orthodontia-related services. If the client transfers to another orthodontist during treatment, or treatment is terminated for any reason, the orthodontist must refund to the Office of Medical Assistance Programs (OMAP) any unused amount of payment, after applying the following formula: Total payment minus \$300.00 (for Banding) multiplied by the percentage of treatment remaining;

(g) The length of the treatment plan from the original request for authorization will be used to determine the number of treatment months remaining;

(h) As long as the orthodontist continues treatment no refund will be required even though the client may become ineligible for medical assistance sometime during the treatment period;

#### (i) Code and Description:

(A) D8660, Pre-orthodontic treatment visit — for an orthodontic examination — PA required (reimbursement for required orthodontia records is included);

(B) Codes D8010-D8999 — Orthodontic treatment — PA required.

### (15) Anesthesia:

(a) General anesthesia or IV sedation is to be used only for those clients with concurrent needs: age, physical, medical or mental status, or degree of difficulty of the procedure (D9220, D9221, and D9240);

(b) General anesthesia is paid using D9220 for the first 30 minutes and D9221 for each additional 15 minutes up to three hours on the same day of service. When using D9221, use care when entering quantity. Each 15 minutes represents a quantity of one. Enter this number in the quantity column;

(c) Nitrous oxide is paid per date of service, not by time;

(d) IV sedation is paid per date of service;

(e) Oral premedication anesthesia for conscious sedation:

(A) Limited to clients through 12 years of age;

(B) Limited to four times per year;

(C) Monitoring and nitrous oxide included in the fee; and

(D) Use of multiple agents are required to receive payment.

(f) Upon request, providers must submit to the Office of Medical Assistance Programs (OMAP) a copy of their permit to administer anesthesia, analgesia and/or sedation;

(g) Anesthesia — For the purpose of Title XIX and Title XXI, D9630 is limited to those oral medications used during a procedure and is not intended for "take home" medication.

### (16) Adjunctive General Services:

(a) Professional visits — code D9430 is limited to three visits per year;

(b) Miscellaneous Services — codes:

(A) D9930 — By Report;

(B) D9999 — By Report.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 3-1994, f. & cert. ef. 2-1-94; HR 20-1995, f. 9-29-95, cert. ef. 10-1-95; OMAP 13-1998(Temp), f. & cert. ef. 5-1-98 thru 9-1-98; OMAP 28-1998, f. & cert. ef. 9-1-98; OMAP 23-1999, f. & cert. ef. 4-30-99; OMAP 8-2000, f. 3-31-00, cert. ef. 4-1-00; OMAP 17-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 48-2002, f. & cert. ef. 10-1-02; OMAP 3-2003, f. 1-31-03, cert. ef. 2-1-03

### 410-125-0055

#### Copayment for Standard Benefit Package

A client receiving the Standard Benefit Package may be subject to copayments for Hospital services. See General Rules, 410-120-1235 for additional information.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: OMAP 3-2003, f. 1-31-03, cert. ef. 2-1-03

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## 410-127-0055

### Copayment for Standard Benefit Package

A client receiving the Standard Benefit Package may be subject to copayments for Home Health Care services. See General Rules, 410-120-1235 for additional information.

Stat. Auth.: ORS 409  
Stats. Implemented: ORS 414.065  
Hist.: OMAP 3-2003, f. 1-31-03, cert. ef. 2-1-03

## 410-129-0195

### Copayment for Standard Benefit Package

(1) A client receiving the Standard Benefit Package may be subject to copayments for Speech-Language Pathology, Audiology and Hearing Aids services. Table 129-0195 lists applicable copayments. See General Rules 410-120-1235 for additional information.

(2) Speech services that are listed in Table 129-0195 are covered on the Standard Benefit Package.

(3) Speech services that are not listed in Table 129-0195 are not covered on the Standard Benefit Package.

(4) Hearing aids, hearing aid repairs, and examinations and audiological diagnostic services only performed to determine the need for or the appropriate type of hearing aid(s) are not covered under the Standard Benefit Package.

(5) Audiological services that are listed in Table 129-0195 are covered under the Standard Benefit Package except as described in (4) of this rule.

(6) Audiological services that are not listed in Table 129-0195 are not covered under the Standard Benefit Package. Table 129-0195. [Table not included. See ED. NOTE.]

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

Stat. Auth.: ORS 409  
Stats. Implemented: ORS 414.065  
Hist.: OMAP 3-2003, f. 1-31-03, cert. ef. 2-1-03

## 410-130-0965

### Copayment for Standard Benefit Package

(1) A client receiving the OHP Standard Benefit Package may be subject to copayments for Medical-Surgical services. See General Rules, 410-120-1235 for additional information.

(2) For procedure codes where there are both professional (modifier-26) and technical components (modifier-TC), there is a copayment for the technical component only if two different providers are billing for each component. There is no copayment for the professional component alone. The copayment applies only to the technical service. If both professional and technical components are performed by the same provider, the copayment applies.

Stat. Auth.: ORS 409  
Stats. Implemented: ORS 414.065  
Hist.: OMAP 3-2003, f. 1-31-03, cert. ef. 2-1-03

## 410-131-0275

### Copayment for Standard Benefit Package

A client receiving the Standard Benefit Package may be subject to copayments for Physical and Occupational Therapy services. See General Rules, 410-120-1235 for additional information.

Stat. Auth.: ORS 409  
Stats. Implemented: ORS 414.065  
Hist.: OMAP 3-2003, f. 1-31-03, cert. ef. 2-1-03

## 410-132-0055

### Copayment for Standard Benefit Package

A client receiving the Standard Benefit Package may be subject to copayments for Private Duty Nursing services. See General Rules, 410-120-1235 for additional information.

Stat. Auth.: ORS 409  
Stats. Implemented: ORS 414.065  
Hist.: OMAP 3-2003, f. 1-31-03, cert. ef. 2-1-03

## 410-136-0045

### Copayment for Standard Benefit Package

A client receiving the Standard Benefit Package may be subject to copayments for Medical Transportation services. See General Rules, 410-120-1235 for additional information.

Stat. Auth.: ORS 409  
Stats. Implemented: ORS 414.065  
Hist.: OMAP 3-2003, f. 1-31-03, cert. ef. 2-1-03

## 410-140-0115

### Copayment for Standard Benefit Package

(1) Visual services for the purpose of vision correction, including routine eye examinations, frames, lenses, contacts, vision aids, and orthoptic

and/or pleoptic training (vision therapy) are not covered under the OHP Standard Benefit Package.

(2) A client receiving the Standard Benefit Package may be subject to copayments for covered Visual services. See General Rules, 410-120-1235 for additional information.

Stat. Auth.: ORS 409  
Stats. Implemented: ORS 414.065  
Hist.: OMAP 3-2003, f. 1-31-03, cert. ef. 2-1-03

## 410-146-0075

### Client Copayments

(1) American Indian/Alaska Native (AI/AN) are not required to pay copayments for services provided through Indian Health Services (IHS), a Federally recognized Indian Tribe or Tribal Organization. This includes any health care services provided to the AI/AN member and is defined as provided directly, by referral, or under contracts or other arrangements between IHS, a Federally recognized Indian Tribe, Tribal Organization or an Urban Tribal Health Clinic and another health care provider.

(2) AI/AN are not required to pay copayments for services provided at an Urban Tribal Health Clinic.

(3) AI/AN Tribal Health Facilities may not charge copayments to non-AI/AN Medical Assistance Program Clients.

Stat. Auth.: ORS 409  
Stats. Implemented: ORS 414.065  
Hist.: OMAP 89-2002, f. 12-24-02, cert. ef. 1-1-03; OMAP 3-2003, f. 1-31-03, cert. ef. 2-1-03

## 410-146-0080

### Professional Services

(1) Medical, Diagnostic, Screening, Dental, Vision, Physical Therapy, Occupational Therapy, Podiatry, Mental Health, Alcohol and Drug, Maternity Case Management, Speech, Hearing, or, Home Health services are not limited except as directed by the General Rules — Medical Assistance Benefits: Excluded Services and Limitations and the Health Services Commission's (HSC) Prioritized List of Health Services (List) as follows:

(a) Coverage for diagnostic services and treatment for those services funded on the HSC List, and;

(b) Coverage for diagnostic services only, for those conditions that fall below the funded portion of the HSC List;

(c) The date of service determines the appropriate version of the General Rules and the HSC List to determine coverage.

(d) The OHP Standard Benefit Package is a limited benefit package. See OAR 410-120-1235 for details.

(2) American Indian/Alaska Native (AI/AN) Health Care Facilities are eligible under the Memorandum of Agreement (MOA) for reimbursement of professional services. These services are billed on a CMS-1500 using diagnoses that meet national coding standards, or as specifically directed in rule, the appropriate encounter code, and TOS "1."

(3) Encounter:

(a) An encounter is defined as "A face-to-face contact between a health care professional and an Indian Health Services (IHS) beneficiary eligible for the Medical Assistance Program for the provision of Title XIX/CHIP defined services in an AI/AN Health Care Facility within a 24-hour period ending at midnight, as documented in the client's medical record";

(b) An encounter can occur either within or through the AI/AN Health Care Facility;

(c) The following encounters are reimbursable under the MOA encounter rate: Physicians, Licensed Physician Assistants, Nurse Practitioners, Nurse Midwives, Dentists, Pharm D, or other health care professionals to provide: Medical, Diagnostic, Screening, Dental, Vision, Physical Therapy, Occupational Therapy, Podiatry, Mental Health, Alcohol and Drug, Maternity Case Management, Speech, Hearing, or Home Health Services;

(d) Drugs/biologicals and medical transportation services are outside the encounter rate and are reimbursed under the OMAP fee-for service system.

(e) Effective March 1, 2003, the OHP Standard Benefit Package will no longer cover Dental, Outpatient Mental Health, or Addiction Services. See OAR 410-120-1235 for details.

(4) Multiple Encounters:

(a) Multiple encounters may occur on the same date of service. Any of these encounters could occur and be reported separately:

- (A) Dental;
- (B) Mental Health;
- (C) Alcohol and Drug;

# ADMINISTRATIVE RULES

(D) Vision;

(E) Medical: More than one outpatient visit with a medical professional within a 24-hour period for the same diagnosis constitutes a single encounter. More than one outpatient visit with a medical professional within a 24-hour period for different diagnoses is reported as two or more encounters;

(F) Physical or Occupational Therapy.

(b) If a client has multiple encounters on the same date of service, list the appropriate codes on separate lines. For example, if a client comes into the clinic for a tetanus shot and has a vision exam on the same day, the office visit code is listed on line 1 in Field 24 and the vision exam code is listed on line 2 in Field 24;

(c) If a client has multiple medical professional encounters on the same date of service, then list the most appropriate Evaluation and Management code on line 1 in Field 24 and indicate the total number of encounters in Field 24G (Days or Units);

(d) In Field 21 of the CMS-1500, 1-4 (Diagnosis or Nature of Illness or Injury), code the medical diagnosis according to national coding guidelines to the highest degree of specificity available;

(e) When there are multiple encounters and one of the services is a medical service, always code that service first and then list any other diagnoses as space permits (there is a maximum of four diagnoses available on the CMS-1500). If the medical condition requires the use of all four diagnosis fields then do not code the other services. If there is not a medical service, for example the client had two encounters, dental and vision, no specific order for the diagnosis codes is required.

(5) Codes for AI/AN and Non-Native OMAP Client Encounters — Due to the unique billing and payment methodology and the implementation of the Health Insurance Portability and Accountability Act (HIPAA), OMAP has converted from using a single OMAP unique procedure code to report an encounter with selected CPT/HCPCS codes. The billing guidelines provided in the AI/AN billing guide limits AI/AN Health Care Facilities to specific CPT/HCPCS codes when reporting an encounter that may not be consistent with national coding standards. This does not apply to ICD-9-CM diagnosis coding. Bill OMAP with the procedure codes indicated in each service category for services included in the AI/AN encounter rate. For services that are not included in the encounter rate or under the MOA please refer to the Services Not Eligible Under the MOA section of the AI/AN billing guide for billing instructions:

(a) OMAP unique encounter codes are no longer valid;

(b) When billing for a clinic visit, select the most appropriate CPT/HCPCS procedure code ranges shown in the following categories. If a procedure code is listed within a category that defines the level of service provided, the expectation is to use National Coding Standards in that situation. For categories that are not listed below use an office visit code listed in the primary care services section;

(c) For primary care services: Use CPT codes 99201-99340, 99372 or 99381-99440 for most primary care services provided to all age groups including clozaril management services. Effective April 1, 2003, use CPT code 90862 for clozaril management services;

(d) For immunizations: Use CPT 90471 when administration of an immunization is the sole purpose of the clinic visit;

(e) For delivery services: Use CPT codes 59409, 59514, 59612 or 59620 to report delivery services. These codes cannot be used for prenatal, antepartum or postpartum services. When billing for prenatal, antepartum or postpartum visits select the most appropriate CPT code listed under primary care services;

(f) For maternity case management (MCM): Use HCPCS code G9012 to report all MCM encounters. This code cannot be used for any postpartum or newborn services;

(g) Ophthalmological services: Use CPT codes 92002-92014 for these services including routine eye exams for the purpose of glasses or contacts;

(h) Eye glasses: Use CPT codes 92340-92353 or 92370-92371 for the fitting, dispensing and repair of glasses;

(i) For physical therapy and occupational therapy: Use CPT codes 97001-97004 for all physical medicine and rehabilitation services;

(j) For dental services: Use HCPCS codes D0120-D0180 or D1110-D1203. Fluoride varnish treatment must be billed using D1201 or D1203;

(k) For mental health services: Use CPT codes 90801-90899 excluding clozaril management. For clozaril management see codes listed under primary care services. Effective April 1, 2003, use CPT 90862 for clozaril management;

(l) For alcohol and drug services: Use HCPCS codes H0001-H0007;

(m) Tobacco cessation: Use HCPCS codes S9075 or G9016 that meet the criteria outlined for tobacco cessation;

(n) It is the HSC's intent to cover reasonable diagnostic services to determine diagnoses on the HSC List, regardless of their placement on the HSC List.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: OMAP 2-1999, f. & cert. ef. 2-1-99; OMAP 25-2000, f. 9-28-00, cert. ef. 10-1-00;

OMAP 6-2001, f. 3-30-01, cert. ef. 4-1-01; OMAP 45-2001, f. 9-24-01, cert. ef. 10-1-01;

OMAP 59-2002, f. & cert. ef. 10-1-02; OMAP 3-2003, f. 1-31-03, cert. ef. 2-1-03

## 410-147-0085

### Client Copayments

(1) American Indian/Alaska Natives (AI/AN) are not required to pay copayments for services provided through Indian Health Services (IHS), a Federally recognized Indian Tribe, Tribal Organization or services provided at an Urban Tribal Health Clinic. This includes any health care services provided to the AI/AN member and is defined as provided directly, by referral, or under contracts or other arrangements between IHS, a Federally recognized Indian Tribe, Tribal Organization or an Urban Tribal Health Clinic and another health care provider. Refer to OAR 410-120-1230 and 410-120-1235 in the General Rules, and OAR 410-146-0075 in the AI/AN program administrative rules.

(2) Copayments for clients on the Oregon Health Plan (OHP) Plus benefit package:

(a) Copayments may be required for certain services. See OAR 410-120-1230 for specific details;

(b) Copayments for Federally Qualified Health Center (FQHC)/Rural Health Clinic (RHC) visits are \$3.00, except as excluded in OAR 410-120-1230.

(3) Copayments for clients on the OHP Standard benefit package:

(a) Clients on OHP Standard may be subject to copayments for services provided by an FQHC or RHC;

(b) The client's OMAP Medical Care ID will indicate if the client is covered on the OHP Standard benefit package;

(c) FQHCs and RHCs are required to collect copayments from OHP Standard clients, including those enrolled in managed care, for any services requiring a copayment.

(d) A client may have more than one copayment during a 24-hour period. For example, if a client is seen for a medical exam and also has a mental health appointment, the client would be required to pay a copayment for both services. The service categories in the FQHC and RHC Guide that can incur multiple copayments in a 24-hour period are:

(A) Primary care services;

(B) Ophthalmological services for medical reasons;

(C) Physical therapy;

(D) Occupational therapy;

(E) Dental services — Effective March 1, 2003, dental services are no longer covered in the OHP Standard benefit package;

(F) Outpatient mental health services — Effective March 1, 2003, outpatient mental health services are no longer covered in the OHP Standard benefit package; and

(G) Alcohol and drug treatment/counseling services — Effective March 1, 2003, alcohol and drug/counseling services are no longer covered in the OHP Standard benefit package.

(e) Excluded Services and Limitations — The following services are not covered for clients on the OHP Standard benefit package:

(A) Vision services for the purpose of prescribing glasses or contacts. Note: Eye exams used for medical reasons such as diabetes, glaucoma or trauma are covered;

(B) Glasses, contacts, or any repair or replacement;

(C) Select dental services — (See OAR 410-123-1085);

(i) Clients are limited to a maximum of \$500.00 for dental services within a six month calendar year. A six month calendar year is defined as January 1 through June 30 and July 1 through December 31;

(ii) \$500.00 maximum dental benefit is calculated based on OMAP dental fee-for-service rates, minus copayment, minus third party resource payments. It is the responsibility of the clinic to track dental expenditures for clients of record.

(D) Effective March 1, 2003, the following services are also no longer covered in the OHP Standard benefit package:

(i) Dental services;

(ii) Outpatient mental health services;

(iii) Alcohol and drug treatment/counseling services.

(E) All services listed in OAR 410-120-1200 and OHP Rule 410-141-0500.

(f) Copayment requirements for clients on the OHP Standard benefit package:

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## (A) Fee-for-service clients:

(i) All clinic encounters require a \$5.00 copayment, except dental encounter visits which are \$10.00;

(ii) Laboratory and radiology services require a \$3.00 copayment.

(B) Managed Care Organization (MCO) clients. It is the responsibility of the FQHC or RHC clinic to collect the appropriate copayment for clients enrolled in an MCO (see OAR 410-120-1235 and 410-123-1085).

(g) Services exempt from copayment requirements, see OAR 410-120-1235.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: OMAP 90-2002, f. 12-24-02, cert. ef. 1-1-03; OMAP 3-2003, f. 1-31-03, cert. ef. 2-1-03

## 410-147-0120

### Encounter

(1) Federally Qualified Health Center (FQHC) and Rural Health Clinic (RHC) encounters that are billed to the Office of Medical Assistance Programs (OMAP) must meet the definition below and are limited to services covered by OMAP. These services include ambulatory services included in the State Plan under Title XIX or Title XXI of the Social Security Act.

(2) An encounter is defined as: "A face-to-face contact (except for telephone contacts as outlined in OAR 410-147-0220 and 410-147-0200 — see section (3) for more information) between a health care professional and a beneficiary eligible for Medical Assistance Program coverage for the provision of Title XIX and Title XXI defined services through an FQHC or RHC within a 24-hour period ending at midnight, as documented in the client's medical record."

(3) Telephone contacts must include all the components of the service when provided face-to-face. Telephone contacts are not at the exclusion of face-to-face.

(4) See OAR 410-147-0140 for information about multiple encounters.

(5) The following services are considered reimbursable encounters and include any related medical supplies provided during the course of the encounter:

- (a) Medical;
- (b) Diagnostic;
- (c) Addiction, Dental, Medical and Mental Health Screenings;
- (d) Dental;
- (e) Vision;
- (f) Physical Therapy;
- (g) Occupational Therapy;
- (h) Podiatry;
- (i) Mental Health;
- (j) Alcohol and Drug;
- (k) Maternity Case Management;
- (l) Speech;
- (m) Hearing;

(n) Home Health (limited to areas in which the Secretary has determined that there is a shortage of home health agencies — Code of Federal Regulations, 405.2417). Home visits for assessment, diagnosis, treatment or Maternity Case Management are not considered home health services and are considered an encounter;

(o) Other Title XIX or XXI services as allowed under Oregon's Medicaid State Plan Amendment and OMAP Administrative Rules.

(6) The following practitioners are recognized by OMAP:

- (a) Physicians;
- (b) Licensed Physician Assistants;
- (c) Dentists;
- (d) Pharm Ds;
- (e) Nurse Practitioners;
- (f) Nurse Midwives;
- (g) Other specialized nurse practitioners;
- (h) Registered nurses under the supervision of an MD, and;
- (i) Other certified or licenced health care professionals or para-professionals including but not limited to mental health and alcohol and drug practitioners for services that are within the practitioner's scope of practice.

(7) Drugs or medication treatments provided during a clinic visit are part of the encounter rate. For example, a client has come into the clinic with high blood pressure and is treated at the clinic with a hypertensive drug or drug samples are included in the encounter rate. Prescriptions are not included in the encounter rate and must be billed through the pharmacy program by a qualified enrolled pharmacy.

(8) Encounters with a registered professional nurse or a licensed practical nurse and related medical supplies (other than drugs and biologicals)

furnished on a part-time or intermittent basis to home-bound clients (limited to areas in which the Secretary has determined that there is a shortage of home health agencies — Code of Federal Regulations 405.2417), and any other ambulatory services covered by OMAP are also reimbursable as permitted within the clinic's scope of services (see OAR 410-147-0020).

(9) Excluded from the definition of OMAP FQHC or RHC encounters are:

- (a) Lab and X-Ray services;
- (b) Durable medical equipment or medical supplies not generally provided during the course of a clinic visit. For example, diabetic supplies. However, gauze, band-aids, or other disposable products used during an office visit are considered as part of the cost of an encounter and cannot be billed separately under fee-for-service;

- (c) Pharmaceutical or biologicals not generally provided during the clinic visit. For example, sample medications are part of the encounter but dispensing a prescription is billed separately under the fee-for-service pharmacy program;

- (d) Administrative medical examinations and reports services;

- (e) Death with Dignity services;

- (f) Other services that are not defined in this rule or the State Plan under Title XIX or Title XXI of the Social Security Act.

(10) Encounters for MCO covered services provided to eligible Medical Assistance Program clients enrolled in MCOs except family planning services or HIV/AIDS prevention services may not be billed to OMAP as an encounter. However, MCO covered services are included in the MCO Supplemental Payment process done by OMAP quarterly. Refer to OAR 410-147-0460 for specific details.

(11) Codes for Encounters:

(a) Due to the unique billing and payment methodology and the implementation of the Health Insurance Portability Accountability Act (HIPAA), OMAP has converted from using a single OMAP unique procedure code to report an encounter to selected CPT/HCPCS codes. The billing guidelines provided in the FQHC and RHC guide limits FQHCs and RHCs to specific CPT/HCPCS codes when reporting an encounter that may not be consistent with national coding standards. This applies only to procedure codes not diagnosis codes. Bill OMAP with the procedure codes indicated in each service category for FQHC and RHC services included in the encounter rate. For services that are not included in the encounter rate, refer to the appropriate OMAP provider guide for billing instructions;

(b) When billing for a clinic visit, select the most appropriate CPT/HCPCS procedure code from the code ranges shown in the following categories. If a procedure code is listed within a category that defines the level of service provided, the expectation is to use National Coding Standards. For categories that are not listed below use an office visit code listed in the primary care services section:

(A) For primary care services: Use CPT codes 99201-99340, 99372 or 99381-99440 for most primary care services provided to all age groups including clozaril management services. Effective April 1, 2003, use CPT 90862 for clozaril management;

(B) For immunizations: Use CPT 90471 when administration of an immunization is the sole purpose of the clinic visit;

(C) For delivery services: Use CPT codes 59409, 59514, 59612 or 59620 to report delivery services. These codes cannot be used for prenatal, antepartum or postpartum services. When billing for prenatal, antepartum or postpartum visits select the most appropriate CPT code listed under primary care services;

(D) For maternity case management (MCM): Use HCPCS code G9012 to report all MCM encounters. See OAR 410-147-0200 for definition of services;

(E) Ophthalmological services: Use CPT codes 92002-92014 for these services including routine eye exams for the purpose of glasses or contacts;

(F) Eye glasses: Use CPT codes 92340-92353 or 92370-92371 for the fitting, dispensing and repair of glasses;

(G) For physical therapy and occupational therapy: Use CPT codes 97001-97004 for all physical medicine and rehabilitation services;

(H) For dental services: Use HCPCS codes D0120-D0180 or D1110-D1203. Fluoride varnish treatment must be billed using D1201 or D1203. Effective March 1, 2003, dental services are no longer covered in the OHP Standard Benefit Package;

(I) For outpatient mental health services: Use CPT codes 90801-90899 excluding clozaril management. For clozaril management see codes listed under primary care services. Effective March 1, 2003, outpatient mental health services are no longer covered in the OHP Standard Benefit Package. Effective April 1, 2003, use CPT 90862 for clozaril management;

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(J) For alcohol and drug services: Use HCPCS codes H0001-H0007. Effective March 1, 2003, alcohol and drug services are no longer covered in the OHP Standard Benefit Package;

(K) Tobacco cessation: Use HCPCS codes S9075 or G9016 that meet the criteria outlined for tobacco cessation;

(L) It is the Health Services Commission's (HSC) intent to cover reasonable diagnostic services to determine diagnoses on the HSC Prioritized List of Health Services (List), regardless of their placement on the HSC List.

Stat. Auth.: ORS 409  
Stats. Implemented: ORS 414.065  
Hist.: HR 13-1993, f. & cert. ef. 7-1-93; HR 7-1995, f. 3-31-95, cert. ef. 4-1-95; OMAP 19-1999, f. & cert. ef. 4-1-99; OMAP 35-1999, f. & cert. ef. 10-1-99; OMAP 20-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 21-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 37-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 62-2002, f. & cert. ef. 10-1-02, Renumbered from 410-128-0390; OMAP 63-2002, f. & cert. ef. 10-1-02, Renumbered from 410-135-0150; OMAP 3-2003, f. 1-31-03, cert. ef. 2-1-03

## 410-148-0090

### Standard Benefit Package

Some procedure codes/services are not covered for the Standard Benefit Package population. See General Rules 410-120-1235 for additional information.

Stat. Auth.: ORS 409  
Stat. Implemented: 414.065  
Hist.: OMAP 3-2003, f. 1-31-03, cert. ef. 2-1-03

## 410-148-0100

### Reimbursement

(1) Drug ingredients (medications) shall be reimbursed as defined in the Pharmaceutical Services Guide.

(2) The following service/goods will be reimbursed on a fee-for-service basis according to the OMAP Maximum Allowable Fees found in the Pharmaceutical Services Guide on OMAP's website: [www.omap.hr.state.or.us/providernfo/](http://www.omap.hr.state.or.us/providernfo/):

- (a) Enteral Formula;
- (b) Oral Nutritional Supplements;
- (c) Parenteral Nutrition Solutions;
- (d) Equipment;
- (e) Supplies;
- (f) Nursing Service Visits.

(3) Reimbursement for services covered by Medicare will be based on the lesser of Medicare's allowed amount or the Office of Medical Assistance Programs' (OMAP) maximum allowable rate minus applicable client copayments.

(4) Reimbursement for supplies that require authorization or services/supplies that are listed as NOC (Not Otherwise Classified) must be billed to OMAP at the providers' Acquisition Cost, and will be reimbursed at such rate minus applicable client copayments. For purposes of this rule, Acquisition Cost is defined as the actual dollar amount paid by the provider to purchase the item directly from the manufacturer (or supplier) plus any shipping and/or postage for the item. Submit documentation identifying acquisition cost with your authorization request.

(5) Reimbursement will not be made for the following:

- (a) Central Catheter insertion or transfusion of blood/blood products in the client's home;
- (b) Central Catheter insertion in the Nursing Facility;
- (c) Intradialytic parenteral nutrition in the client's home or Nursing Facility;
- (d) Oral Infant formula that is available through the WIC program;
- (e) Home Enteral/Parenteral Nutrition or IV services outside of the client's home or place of residence.

Stat. Auth.: ORS 184.750 & ORS 184.770  
Stats. Implemented: ORS 414.065  
Hist.: HR 26-1990, f. 8-31-90, cert. ef. 9-1-90; OMAP 46-2001, f. 9-24-01, cert. ef. 10-1-01, Renumbered from 410-121-0720; OMAP 3-2003, f. 1-31-03, cert. ef. 2-1-03

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**Adm. Order No.:** OMAP 4-2003  
**Filed with Sec. of State:** 1-31-2003  
**Certified to be Effective:** 2-1-03  
**Notice Publication Date:** 12-1-02  
**Rules Amended:** 410-141-0000, 410-141-0080, 410-141-0420, 410-141-0500

**Subject:** Administrative Rules govern Office of Medical Assistance Programs payment for health services provided to eligible clients. In response to Legislative mandate, OMAP restructured the Oregon Health Plan (OHP) benefit packages in order to sustain the current

program, and expand coverage to reach more uninsured Oregonians. Rules listed above are adopted and/or amended to reflect these changes, clarify limitations related to the OHP benefit package coverage and give instructions regarding copayments. Rule 410-141-0000 is revised to update definitions. Rule 410-141-0080 is revised to include language regarding members failing to pay a copayment, and reference 410-120-1235 and Rule 410-141-0420 is revised to change the language to ensure copayments will not be charged for exempted services.

**Rules Coordinator:** Darlene Nelson—(503) 945-6927

## 410-141-0000

### Definitions

(1) Administrative Hearing — A hearing related to a denial, reduction, or termination of benefits which is held when requested by the OHP Client or OMAP Member. A hearing may also be held when requested by an OHP Client or OMAP Member who believes a claim for services was not acted upon with reasonable promptness or believes the payor took an action erroneously.

(2) Advance Directive — A form that allows a person to have another person make health care decisions when he/she cannot make the decision and tells a doctor that the person does not want any life sustaining help if he/she is near death.

(3) Aged — Individuals who meet eligibility criteria established by the Senior and Disabled Services Division for receipt of medical assistance because of age.

(4) Americans with Disabilities Act (ADA) — Federal law promoting the civil rights of persons with disabilities. The ADA requires that reasonable accommodations be made in employment, service delivery, and facility accessibility.

(5) Alternative Care Settings — Sites or groups of practitioners which provide care to OMAP Members under contract with the PHP. Alternative Care Settings include but are not limited to urgent care centers, hospice, birthing centers, out-placed medical teams in community or mobile health care facilities, outpatient surgicenters.

(6) Ancillary Services — Those medical services under the Oregon Health Plan not identified in the definition of a Condition/Treatment Pair under the OHP Benefit Package, but Medically Appropriate to support a service covered under the OHP benefit package. A list of ancillary services and limitations is identified in OAR 410-141-0520, Prioritized List of Health Services, or specified in the Ancillary Services Criteria Guide.

(7) Automated Information System (AIS) — A computer system that provides information on the current eligibility status for clients under the Medical Assistance Program.

(8) Blind — Individuals who meet eligibility criteria established by the Senior and Disabled Services Division for receipt of medical assistance because of a condition or disease that causes or has caused blindness.

(9) Capitated Services — Those services that a PHP or Primary Care Case Manager agrees to provide for a Capitation Payment under an OMAP Oregon Health Plan contract.

(10) Capitation Payment — Monthly prepayment to a PHP for the provision of all Capitated Services needed by OHP Clients who are enrolled with the PHP. Monthly prepayment to a Primary Care Case Manager to provide Primary Care Case Management Services for an OHP Client who is enrolled with the PCCM. Payment is made on a per client, per month basis.

(11) Centers for Medicare and Medicaid Services (CMS); formerly HCFA. The federal agency under the Department of Health and Human Services, responsible for approving the waiver request to operate the Oregon Health Plan Medicaid Demonstration Project.

(12) Chemical Dependency Services — Assessment, treatment and rehabilitation on a regularly scheduled basis, or in response to crisis for alcohol and/or other drug abusing or dependent clients and their family members or significant others, consistent with Level I and/or Level II of the "Chemical Dependency Placement, Continued Stay, and Discharge Criteria."

(13) Chemical Dependency Organization (CDO) — a Prepaid Health Plan that provides and coordinates chemical dependency outpatient, intensive outpatient and opiate substitution treatment services as Capitated Services under the Oregon Health Plan. All chemical dependency services covered under the Oregon Health Plan are covered as Capitated Services by the CDO.

(14) Chemical Dependency Services — Assessment, treatment and rehabilitation on a regularly scheduled basis, or in response to crisis for alcohol and/or other drug abusing or dependent clients and their family members or significant others, consistent with Level I and/or Level II of the



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"Chemical Dependency Placement, Continued Stay, and Discharge Criteria."

(15) Children's Health Insurance Program (CHIP)— A Federal and State funded portion of the Medical Assistance Program established by Title XXI of the Social Security Act and administered in Oregon by the Department of Human Services, Office of Medical Assistance Programs (see Medical Assistance).

(16) Children Receiving CAFor OYA Services — Individuals who are receiving medical assistance under ORS 414.025(2)(f), (i), (j), (k) and (o), 418.034, and 418.187 to 418.970. These individuals are generally children in the care and/or custody of Children, Adults and Families Services, Department of Human Services or Oregon Youth Authority who are in placement outside of their homes.

(17) Clinical Record — The Clinical Record includes the medical, dental, or mental health records of an OHP Client or OMAP Member. These records include the PCP's record, the inpatient and outpatient hospital records and the BNCC, Complaint and Disenrollment for Cause records which may reside in the PHP's administrative offices.

(18) Comfort Care — The provision of medical services or items that give comfort and/or pain relief to an individual who has a Terminal Illness. Comfort care includes the combination of medical and related services designed to make it possible for an individual with Terminal Illness to die with dignity and respect and with as much comfort as is possible given the nature of the illness. Comfort Care includes but is not limited to care provided through a hospice program (see Hospice Guide), pain medication, and palliative services including those services directed toward ameliorating symptoms of pain or loss of bodily function or to prevent additional pain or disability. Comfort Care includes nutrition, hydration and medication for disabled infants with life-threatening conditions that are not covered under Condition/Treatment Pairs. These guarantees are provided pursuant to 45 CFR, Chapter XIII, 1340.15. Where applicable Comfort Care is provided consistent with Section 4751 OBRA 1990 - Patient Self-Determination Act and ORS 127 relating to health care decisions as amended by the Sixty-Seventh Oregon Legislative Assembly, 1993. Comfort Care does not include diagnostic or curative care for the primary illness or care focused on active treatment of the primary illness and intended to prolong life.

(19) Community Mental Health Program (CMHP) — The organization of all services for persons with mental or emotional disorders and developmental disabilities operated by, or contractually affiliated with, a local Mental Health Authority, operated in a specific geographic area of the state under an intergovernmental agreement or direct contract with the Mental Health and Developmental Disability Services Division.

(20) Comorbid Condition — A medical condition/diagnosis (i.e., illness, disease and/or disability) coexisting with one or more other current and existing conditions/diagnoses in the same patient. See OAR 410-141-0480(7).

(21) Complaint — An OMAP Member's, a PCCM Member's, or a Member's Representative's clear expression of dissatisfaction with the Prepaid Health Plan or the Primary Care Case Manager which addresses issues that are part of the Prepaid Health Plan or Primary Care Case Manager contractual responsibility. The expression may be in whatever form of communication or language that is used by the Member or the Member's Representative but must state the reason for the dissatisfaction.

(22) Community Standard — Typical expectations for access to the health care delivery system in the OMAP Member's or PCCM Member's community of residence. Except where the Community Standard is less than sufficient to ensure quality of care, OMAP requires that the health care delivery system available to OMAP Members in Prepaid Health Plans and to PCCM Members with Primary Care Case Managers take into consideration the Community Standard and be adequate to meet the needs of OMAP and PCCM Members.

(23) Condition/Treatment Pair — Diagnoses described in the International Classification of Diseases Clinical Modifications, 9th edition (ICD-9 CM), the Diagnostic and Statistical Manual of Mental Disorders, 4th edition (DSM-IV), and treatments described in the Current Procedural Terminology, 4th edition (CPT-4) or American Dental Association Codes (CDT-2), or Mental Health and Developmental Services Division Medicaid Procedure Codes and Reimbursement Rates, which, when paired by the Health Services Commission, constitute the line items in the Prioritized List of Health Services. Condition/Treatment Pairs may contain many diagnoses and treatments. The Condition/Treatment Pairs are listed in OAR 410-141-0520, Prioritized List of Health Services.

(24) Continuing Treatment Benefit — A benefit for OHP Clients who meet criteria for having services covered that were either in a course of

treatment or were scheduled for treatment on the day immediately prior to the date of conversion to the OHP Benefit Package of Covered Services and that treatment is not covered under the OHP Benefit Package of Covered Services.

(25) Copayment — The portion of a Covered Service that an OMAP Member must pay to a provider or a facility. This is usually a fixed amount that is paid at the time one or more services are rendered.

(26) Contract — The contract between the State of Oregon, acting by and through its Department of Human Services, Office of Medical Assistance Programs (OMAP) and a Fully Capitated Health Plan (FCHP), Dental Care Organization (DCO), or a Chemical Dependency Organization (CDO) for the provision of Covered Services to OMAP Members for a Capitation Payment. Previously referred to as a Service Agreement.

(27) Dentally Appropriate — Services that are required for prevention, diagnosis or treatment of a dental condition and that are:

(a) Consistent with the symptoms of a dental condition or treatment of a dental condition;

(b) Appropriate with regard to standards of good dental practice and generally recognized by the relevant scientific community and professional standards of care as effective;

(c) Not solely for the convenience of the Oregon Health Plan Member or a provider of the service;

(d) The most cost effective of the alternative levels of dental services that can be safely provided to an OMAP Member.

(28) \$500 Dental Benefit Calculation — Based on the OMAP Standard composite dental fee schedule, less copayments and TPR for Covered Services.

(29) \$500 Dental Benefit Period — Two periods from January 1 through June 30 and July 1 through December 31, regardless of the time frames of an eligibility period. The \$500 Benefit does not carry from one Benefit Period to another.

(30) Dental Care Organization (DCO)— A Prepaid Health Plan that provides and coordinates capitated dental services. All dental services covered under the Oregon Health Plan are covered as Capitated Services by the DCO; no dental services are paid by OMAP on a fee-for-service basis for Oregon Health Plan Clients enrolled with a DCO provider.

(31) Dental Case Management Services — Services provided to ensure that OMAP Members obtain dental services including a comprehensive, ongoing assessment of the dental and medical needs related to dental care of the Member plus the development and implementation of a plan to ensure that OMAP Members obtain Capitated Services.

(32) Dental Emergency Services — Dental services may include but are not limited to severe tooth pain, unusual swelling of the face or gums, and an avulsed tooth.

(33) Dental Practitioner — A practitioner who provides dental services to OMAP Members under an agreement with a DCO, or is a Fee-For-Service Health Care Practitioner. Dental practitioners are licensed and/or certified by the state in which they practice, as applicable, to provide services within a defined scope of practice.

(34) Department of Human Services (DHS) — The Department comprised of seven divisions and three major program offices: Administrative Services; Community Human Services; Continuous System Improvement; Finance and Policy Analysis; Children, Adults and Families; Health Services and Seniors and People with Disabilities; and within Health Services, the programs include the Office of Medical Assistance Programs and Mental Health and Addiction Services, as well as the Office of Vocational Rehabilitation Services within Community Human Services.

(35) Diagnostic Services — Those services required to diagnose a condition, including but not limited to radiology, ultrasound, other diagnostic imaging, electrocardiograms, laboratory and pathology examinations, and physician or other professional diagnostic or evaluative services.

(36) Disabled — Individuals who meet eligibility criteria established by the Senior and Disabled Services Division for receipt of Medical Assistance because of a disability.

(37) Disenrollment — The act of discharging an Oregon Health Plan Client from a Prepaid Health Plan's or Primary Care Case Manager's responsibility. After the effective date of Disenrollment an Oregon Health Plan Client is no longer required to obtain Capitated Services from the Prepaid Health Plan or Primary Care Case Manager, nor be referred by the Prepaid Health Plan for Medical Case Managed Services or by the Primary Care Case Manager for PCCM Case Managed Services.

(38) Dual Eligible — OHP Clients who are receiving both Medicaid and Medicare benefits.

(39) Emergency Services — The health care and services provided for diagnosis and treatment of a medical condition manifesting itself by acute

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symptoms of sufficient severity (including severe pain) such that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in placing the health of the individual (or with respect to a pregnant woman, the health of both the woman or her unborn child) in serious jeopardy, serious impairment to bodily functions or serious dysfunction of any bodily organ or part. If an emergency medical condition is found to exist, emergency medical services necessary to stabilize the condition must be provided. This includes all treatment that may be necessary to assure, within reasonable medical probability, that no material deterioration of the patient's condition is likely to result from, or occur during, discharge of the member or transfer of the member to another facility.

(40) Enrollment — Oregon Health Plan Clients, subject to OAR 410-141-0060 - Oregon Health Plan Managed Care Enrollment Requirements, become OMAP Members of a Prepaid Health Plan or PCCM Members of a Primary Care Case Manager that contracts with OMAP to provide Capitated Services. An OHP Client's Enrollment with a PHP indicates that the OMAP Member must obtain or be referred by the PHP for all Capitated Services and referred by the PHP for all Medical Case Managed Services subsequent to the effective date of Enrollment. An Oregon Health Plan Client's Enrollment with a Primary Care Case Manager indicates that the PCCM Member must obtain or be referred by the Primary Care Case Manager for preventive and primary care and referred by the Primary Care Case Manager for all PCCM Case Managed Services subsequent to the effective date of Enrollment.

(41) Enrollment Area — Client enrollment is based on the client's residential address and zip code. The address is automatically assigned a county code or Federal Information Processing Standard (FIPS) code by the system which indicates to the DHS worker which Plan(s) are in the area.

(42) Enrollment Year — A twelve month period beginning the first day of the month of Enrollment of the Oregon Health Plan Client in a PHP and, for any subsequent year(s) of continuous Enrollment, beginning that same day in each such year(s). The Enrollment Year of Oregon Health Plan Clients who re-enroll within a calendar month of Disenrollment shall be counted as if there were no break in Enrollment.

(43) End Stage Renal Disease (ESRD) — End stage renal disease is defined as that stage of kidney impairment that appears irreversible and requires a regular course of dialysis or kidney transplantation to maintain life. In general, 5% or less of normal kidney function remains. If the person is 36 or more months post-transplant, the individual is no longer considered to have ESRD.

(44) Exceptional Needs Care Coordination (ENCC) — A specialized case management service provided by Fully Capitated Health Plans to OMAP Members who are Aged, Blind or Disabled, consistent with OAR 410-141-0405, Oregon Health Plan Prepaid Health Plan Exceptional Needs Care Coordination (ENCC). ENCC includes:

(a) Early identification of those Aged, Blind or Disabled OMAP Members that have disabilities or complex medical needs;

(b) Assistance to ensure timely access to providers and Capitated Services;

(c) Coordination with providers to ensure consideration is given to unique needs in treatment planning;

(d) Assistance to providers with coordination of Capitated Services and discharge planning; and

(e) Aid with coordinating community support and social service systems linkage with medical care systems, as necessary and appropriate.

(45) Family Health Insurance Assistance Program (FHIAP) — A program in which the State subsidizes premiums in the commercial market for uninsured individuals and families with income below 185% of the FPL. FHIAP is funded with federal and states funds through either Title XIX, XXI or both.

(46) Family Planning Services — Services for clients of childbearing age (including minors who can be considered to be sexually active) who desire such services and which are intended to prevent pregnancy or otherwise limit family size.

(47) Fee-for-Service Health Care Providers — Health care providers who bill for each service provided and are paid by OMAP for services as described in OMAP provider guides. Certain services are covered but are not provided by Prepaid Health Plans or by Primary Care Case Managers. The client may seek such services from an appropriate Fee-For-Service provider. Primary Care Case Managers provide primary care services on a fee-for-service basis and might also refer PCCM Members to specialists and other providers for fee-for-service care. In some parts of the state, the State may not enter into contracts with any managed care providers. OHP

Clients in these areas will receive all services from Fee-For-Service providers.

(48) Free-Standing Mental Health Organization (MHO) — The single MHO in each county that provides only mental health services and is not affiliated with a Fully Capitated Health Plan for that service area. In most cases this "carve-out" MHO is a county Community Mental Health Program or a consortium of Community Mental Health Programs, but may be a private behavioral health care company.

(49) Fully Capitated Health Plan (FCHP) — Prepaid Health Plans that contract with OMAP to provide capitated services under the Oregon Health Plan. The distinguishing characteristic of FCHPs is the coverage of hospital inpatient services.

(50) Health Care Professionals — Persons with current and appropriate licensure, certification, or accreditation in a medical, mental health or dental profession, which include but are not limited to: Medical Doctors (including Psychiatrists), Dentists, Osteopathic Physicians, Psychologists, Registered Nurses, Nurse Practitioners, Licensed Practical Nurses, Certified Medical Assistants, Licensed Physicians Assistants, Qualified Mental Health Professionals (QMHPs), and Qualified Mental Health Associates (QMHAAs), Dental Hygienists, Denturists, and Certified Dental Assistants. These professionals may conduct health, mental health or dental assessments of OMAP members and provide Screening Services to OHP Clients within their scope of practice, licensure or certification.

(51) Health Insurance Portability and Accountability Act (HIPAA) of 1996 — HIPAA is a federal law (Public Law 104-191, August 21, 1996) with the legislative objective to assure health insurance portability, reduce health care fraud and abuse, enforce standards for health information and guarantee security and privacy of health information.

(52) Health Management Unit (HMU) — The OMAP unit responsible for adjustments to enrollments, retroactive disenrollment and enrollment of newborns.

(53) Health Plan New/Noncategorical Client (HPN) — A person who is 19 years of age or older, is not pregnant, is not receiving Medicaid through another program and who must meet eligibility requirements in OAR 461-136-1100(2), in addition to all other OHP eligibility requirements to become an Oregon Health Plan Client.

(54) Health Services Commission — An eleven member commission that is charged with reporting to the Governor the ranking of health benefits from most to least important, and representing the comparable benefits of each service to the entire population to be served.

(55) Hospice Services — A public agency or private organization or subdivision of either that is primarily engaged in providing care to terminally ill individuals, is certified for Medicare and/or accredited by the Oregon Hospice Association, is listed in the Hospice Program Registry, and has a valid provider agreement.

(56) Hospital Hold — A hospital hold is a process that allows a hospital to assist an individual who is admitted to the hospital for an inpatient hospital stay to secure a date of request when the individual is unable to apply for the Oregon Health Plan due to inpatient hospitalization. OHP clients shall be exempted from mandatory enrollment with an FCHP, if clients become eligible through a hospital hold process and are placed in the Adults/Couples category.

(57) Line Items — Condition/Treatment Pairs or categories of services included at specific lines in the Prioritized List of Services developed by the Health Services Commission for the Oregon Health Plan Medicaid Demonstration Project.

(58) Local and Regional Allied Agencies — Local and Regional Allied Agencies include the following: local Mental Health Authority; Community Mental Health Programs; local offices of DHS agencies (CAFS, SPD); Commission on Children and Families; OYA; Department of Corrections; Housing Authorities; local health departments, including WIC Programs; local schools; special education programs; law enforcement agencies; adult and juvenile criminal justices; developmental disability services; chemical dependency providers; residential providers; state hospitals, and other PHPs.

(59) Medicaid — A federal and state funded portion of the Medical Assistance Program established by Title XIX of the Social Security Act, as amended, and administered in Oregon by the Department of Human Services.

(60) Medical Assistance Program — A program for payment of health care provided to eligible Oregonians. Oregon's Medical Assistance Program includes Medicaid services including the OHP Medicaid Demonstration, and the Children's Health Insurance Program (CHIP). The Medical Assistance Program is administered by identified Divisions and the Office of Medical Assistance Programs (OMAP), of the Department of

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Human Services. Coordination of the Medical Assistance Program is the responsibility of the Office of Medical Assistance Programs.

(61) Medical Care Identification — The preferred term for what is commonly called the "medical card". It is a letter-sized document issued monthly to Medical Assistance Program clients to verify their eligibility for services and enrollment in PHPs.

(62) Medical Case Management Services — Medical Case Management Services are services provided to ensure that OMAP Members obtain health care services necessary to maintain physical and emotional development and health. Medical Case Management Services include a comprehensive, ongoing assessment of medical and/or dental needs plus the development and implementation of a plan to obtain needed medical or dental services that are Capitated Services or non-capitated services, and follow-up, as appropriate, to assess the impact of care.

(63) Medically Appropriate — Services and medical supplies that are required for prevention, diagnosis or treatment of a health condition which encompasses physical or mental conditions, or injuries, and which are:

(a) Consistent with the symptoms of a health condition or treatment of a health condition;

(b) Appropriate with regard to standards of good health practice and generally recognized by the relevant scientific community and professional standards of care as effective;

(c) Not solely for the convenience of an Oregon Health Plan Client or a provider of the service or medical supplies; and

(d) The most cost effective of the alternative levels of Medical services or medical supplies that can be safely provided to an OMAP Member or PCCM Member in the PHP's or Primary Care Case Manager's judgment.

(64) Medicare — The federal health insurance program for the aged and disabled administered by the Health Care Financing Administration under Title XVIII of the Social Security Act.

(65) Medicare HMO — A capitated health plan that meets specific referral guidelines and contracts with CMS to provide Medicare benefits to Medicare enrollees.

(66) Mental Health Assessment — The determination of an OMAP Member's need for mental health services. A Qualified Mental Health Professional collects and evaluates data pertinent to a Member's mental status, psychosocial history and current problems through interview, observation and testing.

(67) Mental Health Case Management — Services provided to OMAP Members who require assistance to ensure access to benefits and services from local, regional or state allied agencies or other service providers. Services provided may include: advocating for the OMAP Member's treatment needs; providing assistance in obtaining entitlements based on mental or emotional disability; referring OMAP Members to needed services or supports; accessing housing or residential programs; coordinating services, including educational or vocational activities; and establishing alternatives to inpatient psychiatric services. ENCC Services are separate and distinct from Mental Health Case Management.

(68) Mental Health Organization (MHO) — A Prepaid Health Plan under contract with the Office of Mental Health and Addiction Services that provides mental health services as capitated services under the Oregon Health Plan. MHOs can be Fully Capitated Health Plans, community mental health programs or private behavioral organizations or combinations thereof.

(69) Non-Capitated Services — Those OHP-covered services which are paid for on a fee-for-service basis and for which a capitation payment has not been made to a PHP.

(70) Non Covered Services — Services or items for which the Medical Assistance Program is not responsible for payment. Services may be covered under the Oregon Medical Assistance Program, but not covered under the Oregon Health Plan. Non-Covered Services for the Oregon Health Plan are identified in:

(a) OAR 410-141-0500, Excluded Services and Limitations for Oregon Health Plan Clients;

(b) Exclusions and limitations described in OAR 410-120-1200; and

(c) The individual provider guides.

(71) Non-Participating Provider — A provider who does not have a contractual relationship with the Prepaid Health Plan, i.e. is not on their panel of providers.

(72) Office of Medical Assistance Programs (OMAP) — The Office of the Department of Human Services responsible for coordinating Medical Assistance Programs, including the OHP Medicaid Demonstration, in Oregon and the Children's Health Insurance Program (CHIP). OMAP writes and administers the state Medicaid rules for medical services, con-

tracts with providers, maintains records of client eligibility and processes and pays OMAP providers.

(73) Office of Mental Health and Addiction Services (OMHAS); formerly MHDDSD and OADAP— The Department of Human Services agency responsible for the administration of the state's mental health and developmental disability services and which coordinates policy and programs for the state's chemical dependency prevention, intervention, and treatment services.

(74) OMAP Member — An Oregon Health Plan Client enrolled with a Prepaid Health Plan.

(75) Ombudsman Services — Services provided by DHS to Aged, Blind and Disabled Oregon Health Plan Clients by DHS Ombudsman Staff who may serve as the Oregon Health Plan Client's advocate whenever the Oregon Health Plan Client, Representative, a physician or other medical personnel, or other personal advocate serving the Oregon Health Plan Client, is reasonably concerned about access to, quality of or limitations on the care being provided by a health care provider under the Oregon Health Plan. Ombudsman Services include response to individual complaints about access to care, quality of care or limits to care; and response to complaints about Oregon Health Plan systems.

(76) Oregon Health Plan (OHP) — The Medicaid demonstration project which expands Medicaid eligibility to eligible Oregon Health Plan Clients. The Oregon Health Plan relies substantially upon prioritization of health services and managed care to achieve the public policy objectives of access, cost containment, efficacy, and cost effectiveness in the allocation of health resources.

(77) Oregon Health Plan (OHP) Plus Benefit Package — A benefit package available to eligible Oregon Health Plan clients as described in OAR 410-120-1200, Medical Assistance Benefits: Excluded Services and Limitations and in OAR 410-120-0520, Prioritized List of Health Services.

(78) Oregon Health Plan (OHP) Standard Benefit Package — A benefit package available to eligible Oregon Health Plan clients who are not otherwise eligible for Medicaid (including families, adults and couples) as described in OAR 410-120-1200, Medical Assistance Benefits: Excluded Services and Limitations and in OAR 410-141-0520, Prioritized List of Health Services.

(79) Oregon Health Plan Client — An individual found eligible by a DHS Division to receive services under the Oregon Health Plan. The individual might or might not be enrolled in a Prepaid Health Plan or with a Primary Care Case Manager. The OHP categories eligible to enroll in Prepaid Health Plans are defined as follows:

(a) Aid to Families with Dependent Children (AFDC) are categorical eligibles with income under current eligibility rules;

(b) Children's Health Insurance Program (CHIP) - children under one year of age who have income under 170% FPL and do not meet one of the other eligibility classifications;

(c) PLM (Poverty Level Medical) Adults under 100% Federal Poverty Level (FPL) are OHP recipients who are pregnant women with income under 100% of FPL;

(d) PLM Adults over 100% FPL are OHP recipients who are pregnant women with income between 100% and 170% of the FPL;

(e) PLM children under one year of age have family income under 133% FPL or were born to mothers who were eligible as PLM Adults at the time of the child's birth;

(f) PLM or CHIP children one through five years of age who have family income under 170% FPL and do not meet one of the other eligibility classifications;

(g) PLM or CHIP children six through eighteen years of age who have family income under 170% FPL and do not meet one of the other eligibility classifications;

(h) OHP Adults and Couples are OHP recipients aged 19 or over and not Medicare eligible, with income below 100% FPL who do not meet one of the other eligibility classifications, and do not have an unborn child or a child under age 19 in the household;

(i) OHP Families are OHP recipients, aged 19 or over and not Medicare eligible, with income below 100% of FPL who do not meet one of the other eligibility classifications, and [do not] have an unborn child or a child under the age of 19 in the household;

(j) GA (General Assistance) Recipients are OHP Clients who are eligible by virtue of their eligibility under the Oregon General Assistance program, ORS 411.710 et seq.;

(k) AB/AD (Assistance to Blind and Disabled) with Medicare Eligibles are OHP recipients with concurrent Medicare eligibility with income under current eligibility rules;

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(l) AB/AD without Medicare Eligibles are OHP recipients without Medicare with income under current eligibility rules;

(m) OAA (Old Age Assistance) with Medicare Eligibles are OHP recipients with concurrent Medicare Part A or Medicare Parts A & B eligibility with income under current eligibility rules;

(n) OAA with Medicare Part B only are OAA eligibles with concurrent Medicare Part B only income under current eligibility rules;

(o) OAA without Medicare Eligibles are OHP recipients without Medicare with income under current eligibility rules;

(p) CAF Children are OHP recipients who are children with medical eligibility determined by Children, Adults and Families or the Oregon Youth Authority receiving OHP under ORS 414.025 (2) (f), (l), (j), (k) and (e), 418.034 and 418.187 to 418.970. These individuals are generally in the care and/or custody of the Children, Adults and Families or the Oregon Youth Authority who are in placement outside of their homes.

(80) Oregon Youth Authority — The state department charged with the management and administration of youth correction facilities, state parole and probation services and other functions related to state programs for youth corrections.

(81) Participating Provider — An individual, facility, corporate entity, or other organization which supplies medical, dental, or mental health services or items who have agreed to provide those services or items and to bill in accordance with a signed agreement with a PHP.

(82) PCCM Case Managed Services — PCCM Case Managed Services include the following: Preventive Services, primary care services and specialty services, including those provided by physicians, nurse practitioners, physician assistants, naturopaths, chiropractors, podiatrists, Rural Health Clinics, Migrant and Community Health Clinics, Federally Qualified Health Centers, County Health Departments, Indian Health Service Clinics and Tribal Health Clinics, Community Mental Health Programs, Mental Health Organizations; inpatient hospital services; and outpatient hospital services except laboratory, X-ray, and maternity management services.

(83) PCCM Member — An Oregon Health Plan Client enrolled with a Primary Care Case Manager.

(84) Post Hospital Extended Care Benefit — A 20 day benefit for non-Medicare OMAP Members enrolled in a FCHP who meet Medicare criteria for a post-hospital skilled nursing placement.

(85) Practitioner — A person licensed pursuant to State law to engage in the provision of health care services within the scope of the practitioner's license and/or certification.

(86) Prepaid Health Plan (PHP) — A managed health, dental, or mental health care organization that contracts with OMAP and/or ONHAS on a case managed, prepaid, capitated basis under the Oregon Health Plan. Prepaid Health Plans may be Dental Care Organizations (DCOs), Fully Capitated Health Plans (FCHPs), Mental Health Organizations (MHOs), or Chemical Dependency Organizations (CDOs).

(87) Preventive Services — Those services as defined under Expanded Definition of Preventive Services for Oregon Health Plan clients in OAR 410-141-0480, The Oregon Health Plan Benefit Package of Covered Services, and OAR 410-141-0520, Prioritized List of Health Services.

(88) Primary Care Case Management Services — Primary Care Case Management Services are services provided to ensure PCCM Members obtain health care services necessary to maintain physical and emotional development and health. Primary Care Case Management Services include a comprehensive, ongoing assessment of medical needs plus the development, and implementation of a plan to obtain needed medical services that are preventive or primary care services or PCCM Case Managed Services and follow-up, as appropriate, to assess the impact of care.

(89) Primary Care Case Manager (PCCM) — A physician (MD or DO), nurse practitioner, physician assistant; or naturopath with physician backups, who agrees to provide Primary Care Case Management Services as defined in rule to PCCM Members. Primary Care Case Managers may also be hospital primary care clinics, Rural Health Clinics, Migrant and Community Health Clinics, Federally Qualified Health Centers, County Health Departments, Indian Health Service Clinics or Tribal Health Clinics. The PCCM provides Primary Care Case Management Services to PCCM Members for a Capitation Payment. The PCCM provides preventive and primary care services on a fee-for-service basis.

(90) Primary Care Provider (PCP) — A practitioner who has responsibility for supervising, coordinating initial and primary care within their scope of practice for OMAP Members, Primary care providers initiate referrals for care outside their scope of practice, consultations and special-care, and assure the continuity of medically or dental appropriate care.

(91) Prioritized List of Health Services — The listing of condition and treatment pairs developed by the Health Services Commission for the purpose of implementing the Oregon Health Plan Demonstration Project. See OAR 410-141-0520, Prioritized List of Health Services, for the listing of condition and treatment pairs.

(92) Proof of Indian Heritage — Proof of Native American and/or Alaska Native descent as evidenced by written identification that shows status as an "Indian" in accordance with the Indian Health Care Improvement Act (P.L. 94-437, as amended). This written proof supports his/her eligibility for services under programs of the Indian Health Service - services provided by Indian Health Service facilities, tribal health clinics/programs or urban clinics. Written proof may be a tribal identification card, a certificate of degree of Indian blood, or a letter from the Indian Health Service verifying eligibility for health care through programs of the Indian Health Service.

(93) Provider — An individual, facility, institution, corporate entity, or other organization which supplies medical, dental or mental health services or medical and dental items.

(94) Quality Improvement — Quality improvement is the effort to improve the level of performance of a key process or processes in health services or health care. A quality improvement program measures the level of current performance of the processes, finds ways to improve the performance and implements new and better methods for the processes. Quality Improvement (as used in these rules) includes the goals of quality assurance, quality control, quality planning and quality management in health care where "quality of care is the degree to which health services for individuals and populations increases the likelihood of desired health outcomes and are consistent with current professional knowledge."

(95) Representative — A person who can make Oregon Health Plan related decisions for Oregon Health Plan Clients who are not able to make such decisions themselves. A Representative may be, in the following order of priority, a person who is designated as the Oregon Health Plan Client's health care representative, a court-appointed guardian, a spouse, or other family member as designated by the Oregon Health Plan client, the Individual Service Plan Team (for developmentally disabled clients), a DHS case manager or other DHS designee.

(96) Rural — A geographic area 10 or more map miles from a population center of 30,000 people or less.

(97) Seniors and People with Disabilities (SPD) — The Division responsible for providing three types of services:

(a) Assistance with the cost of long-term care through the Medicaid Long Term Care Program and the Oregon Project Independence (OPI) Program;

(b) Cash assistance grants for persons with long-term disabilities through General Assistance and the Oregon Supplemental Income Program (OSIP); and

(c) Administration of the federal Older Americans Act.

(98) Service Area — The geographic area in which the PHP has identified in their Agreement to provide services under the Oregon Health Plan.

(99) Terminal Illness — An illness or injury in which death is imminent irrespective of treatment, where the application of life-sustaining procedures or the artificial administration of nutrition and hydration serves only to postpone the moment of death.

(100) Triage — Evaluations conducted to determine whether or not an emergency condition exists, and to direct the OMAP Member to the most appropriate setting for Medically Appropriate care.

(101) Urban — A geographic area less than 10 map miles from a population center of 30,000 people or more.

(102) Urgent Care Services — Covered services required in order to prevent a serious deterioration of an OMAP Member's or PCCM Member's health that results from an unforeseen illness or an injury. Services that can be foreseen by the individual are not considered Urgent Services.

(103) Valid Claim — An invoice received by the PHP for payment of covered health care services rendered to an eligible client which:

(a) Can be processed without obtaining additional information from the provider of the service or from a third party; and

(b) Has been received within the time limitations prescribed in these Rules; and

(c) A "valid claim" is synonymous with the federal definition of a "clean claim" as defined in 42 CFR 447.45(b).

(104) Valid Pre-Authorization — A request received by the PHP for approval of the provision of covered health care services rendered to an eligible client which:

(a) Can be processed without obtaining additional information from the provider of the service or from a third party; and

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(b) Has been received within the time limitations prescribed in these Rules.

[Publications: Publications referenced are available from the agency.]  
Stat. Auth.: ORS 409  
Stats. Implemented: ORS 414.065  
Hist.: HR 31-1993, f. 10-14-93, cert. ef. 2-1-94; HR 7-1994, f. & cert. ef. 2-1-94; OMAP 21-1998, f. & cert. ef. 7-1-98; OMAP 39-1999, f. & cert. ef. 10-1-99; OMAP 26-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 29-2001, f. 8-13-01, cert. ef. 10-1-01; OMAP 13-2002, f. & cert. ef. 4-1-02; OMAP 57-2002, f. & cert. ef. 10-1-02; OMAP 4-2003, f. 1-31-03, cert. ef. 2-1-03

## 410-141-0080

### Oregon Health Plan Disenrollment from Prepaid Health Plans

#### (1) Client Requests for Disenrollment:

(a) All Oregon Health Plan (OHP) Client-initiated requests for Disenrollment from Prepaid Health Plans (PHP) must be initiated by the primary person in the benefit group enrolled with a PHP, where primary person and benefit group are defined in OAR 461-110-0110 and OAR 461-110-0720, respectively. For OHP Clients who are not able to request Disenrollment on their own, the request may be initiated by the OHP Client's Representative;

(b) Primary person or Representative requests for Disenrollment shall be honored:

(A) After six months of OMAP Member's Enrollment without cause. The effective date of Disenrollment shall be the end of the month following the request for Disenrollment;

(B) Whenever OMAP Member eligibility is redetermined by Department of Human Services (DHS) and the Primary Person requests Disenrollment without cause. The effective date of Disenrollment shall be the end of the month following the date that the OMAP Member's eligibility is redetermined by DHS;

(C) OMAP Members who disenroll from a Medicare HMO shall also be Disenrolled from the corresponding PHP. The effective date of Disenrollment shall be the same date that their Medicare Health Maintenance Organization (HMO) disenrollment is effective;

(D) OMAP Members who are receiving Medicare and who are enrolled in a PHP that has a corresponding Medicare HMO may Disenroll from the PHP at any time if they also request disenrollment from the Medicare HMO. The effective date of Disenrollment from the PHP shall be the end of the month following the date of request for Disenrollment;

(E) At any other time with cause:

(i) OMAP shall determine if sufficient cause exists to honor the request for Disenrollment. The determination shall be made within ten working days;

(ii) Examples of sufficient cause include but are not limited to:

(I) The OMAP Member moves out of the PHP's service area;

(II) It would be detrimental to the OMAP Member's health to remain enrolled in the PHP;

(III) The OMAP Member is a Native American or Alaskan Native with Proof of Indian Heritage who wishes to obtain primary care services from his or her Indian Health Service facility, tribal health clinic/program or urban clinic and the Fee-For-Service delivery system;

(IV) Continuity of care that is not in conflict with any section of 410-141-0060 or 410-141-0080.

(F) If the following conditions are met:

(i) The Member is in the third trimester of her pregnancy and has just been determined eligible for OHP, or has just been redetermined eligible and was not enrolled in a Fully Capitated Health Plan (FCHP) within the past 3 months; and

(ii) The new FCHP the Member is enrolled with does not contract with the Member's current OB provider and the Member wishes to continue obtaining maternity services from that Non-Participating provider; and

(iii) The request to change plans or return to fee-for-service is made prior to the date of delivery.

(c) In addition to the Disenrollment constraints listed in (b), above, OMAP Member Disenrollment requests are subject to the following requirements:

(A) The OMAP Member shall join another PHP, unless the OMAP Member resides in a service area where Enrollment is voluntary, or the OMAP Member meets the exemptions to enrollment as stated in 410-141-0060(4);

(B) If the only PHP available in a mandatory service area is the plan from which the OMAP Member wishes to disenroll, the OMAP Member may not disenroll without cause;

(C) The effective date of Disenrollment shall be the end of the month in which Disenrollment was requested unless retroactive Disenrollment is approved by OMAP.

#### (2) Prepaid Health Plan requests for Disenrollment:

#### (a) Causes for Disenrollment:

(A) OMAP may Disenroll OMAP Members for cause when requested by the PHP subject to ADA requirements and approval by Centers for Medicare and Medicaid Services, formerly Health Care Financing Administration (HCFA), if a Medicare Member disenrolled in a PHP's Medicare HMO. Examples of cause include, but are not limited to the following:

(i) Missed appointments. The number of appointments are to be established by provider or PHP. The number must be the same as for commercial members or patients. The provider must document they have attempted to ascertain the reasons for the missed appointments and to assist the Member in receiving services. This rule does not apply to Medicare Members who are enrolled in a PHP's Medicare HMO;

(ii) Member's behavior is disruptive, unruly, or abusive to the point that his/her enrollment seriously impairs the provider's ability to furnish services to either the Member or other members;

(iii) Member commits or threatens an act of physical violence directed at a medical provider or property, the provider's staff, or other patients, or the PHP's staff;

(iv) Member commits fraudulent or illegal acts such as: permitting use of his/her medical ID card by others, altering a prescription, theft or other criminal acts committed in any provider's or Prepaid Health Plan's premises. The PHP shall report any illegal acts to law enforcement authorities or to the office for Children, Adults and Families (CAF), formerly Adult & Family Services, Fraud Unit as appropriate;

(v) Members who have been exempted from mandatory enrollment with a FCHP, due to the members eligibility through a hospital hold process and placed in the Adults/Couples category as required under 410-141-0060 (4) (b) (C).

(vi) Member fails to pay copayment(s) for Covered Services as described in OAR 410-121-0153.

(B) OMAP Members shall not be disenrolled solely for the following reasons:

(i) Because of a physical or mental disability;

(ii) Because of an adverse change in the Member's health;

(iii) Because of the Member's utilization of services, either excessive or lack thereof;

(iv) Because the Member requests a hearing;

(v) Because the Member has been diagnosed with end-stage renal disease;

(vi) Because the Member exercises his/her option to make decisions regarding his/her medical care with which the plan disagrees.

(C) Requests by the PHP for Disenrollment of specific OMAP Members shall be submitted in writing to their PHP Coordinator for approval. The PHP must document the reasons for the request, provide written evidence to support the basis for the request, and document that attempts at intervention were made as described below. The procedures cited below must be followed prior to requesting disenrollment of an OMAP Member (except in cases of threats or acts of physical violence, and fraudulent or illegal acts). In cases of threats or acts of physical violence, OMAP will consider an oral request for Disenrollment, with written documentation to follow: In cases of fraudulent or illegal acts, the PHP must submit written documentation for review by the PHP Coordinators:

(i) There shall be notification from the provider to the PHP at the time the problem is identified. The notification must describe the problem and allow time for appropriate intervention by the PHP. Such notification shall be documented in Member's clinical record. The PHP shall conduct provider education regarding the need for early intervention and the services they can offer the provider;

(ii) The PHP shall contact the Member either verbally or in writing, depending on the severity of the problem, to develop an agreement regarding the issue(s). If contact is verbal, it shall be documented in the Member's record. The PHP shall inform the Member that his/her continued behavior may result in disenrollment from the PHP;

(iii) The PHP shall provide individual education, counseling, and/or other intervention's in a serious effort to resolve the problem;

(iv) The PHP shall contact the Member's DHS caseworker regarding the problem and, if needed, involve the caseworker and other appropriate agencies' caseworkers in the resolution;

(v) If the severity of the problem and intervention warrants, the PHP shall develop a care plan that details how the problem is going to be addressed and/or coordinate a case conference. Involvement of provider, caseworker, Member, family, and other appropriate agencies is encouraged. If necessary, the PHP shall obtain a release of information to providers and

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agencies in order to involve them in the resolution of the problem. If the release is verbal, it must be documented in the Member's record;

(vi) If a Primary Care Provider (PCP) terminates the patient/provider relationship, the PHP shall attempt to locate another PCP on their panel who will accept the Member as their patient. If needed, the PHP shall obtain a release of information in order to share the information necessary for a new provider to evaluate if they can treat the Member. All terminations of provider/patient relationships shall be according to the PHP's policies and must be consistent with PHP's or PCP's policies for commercial members.

(D) If the problem persists, the PHP may request disenrollment of the Member by submitting a written request to disenroll the Member to the plans' PHP Coordinator, with a copy to the Member's caseworker. Documentation with the request shall include the following:

(i) The reason the PHP is requesting disenrollment; a summary of the PHP's efforts to resolve the problem and other options attempted before requesting disenrollment;

(ii) Documentation should be objective, with as much specific details and direct quotes as possible when problems involve disruptive, unruly, abusive or threatening behaviors;

(iii) Where appropriate, background documentation including a description of Member's age, diagnosis, mental status (including their level of understanding of the problem and situation), functional status (their level of independence) and social support system;

(iv) Where appropriate, separate statements from PCPs, caseworker and other agencies, providers or individuals involved;

(v) If reason for the request is related to the OMAP Member's substance abuse treatment, the PHP shall notify the OHP Coordinator in the Office of Alcohol and Drug Abuse Services;

(vi) If Member is disabled, the following documentation shall also be submitted as appropriate:

(I) A written assessment of the relationship of the behavior to the disability including: current medical knowledge or best available objective evidence to ascertain the nature, duration and severity of the risk to the health or safety of others; the probability that potential injury to others will actually occur; and whether reasonable modifications of policies, practices, or procedures will mitigate the risk to others;

(II) An interdisciplinary team review that includes a mental health professional and/or behavioral specialists to assess the behavior, its history, and previous history of efforts to manage behavior;

(III) If warranted, a clinical assessment that the behavior will not respond to reasonable clinical or social interventions;

(IV) Documentation of any accommodations that have been attempted;

(V) Any additional information or assessments requested by the PHP Coordinators.

(E) Requests will be reviewed according to the following process:

(i) If there is sufficient documentation, the request will be evaluated by a team of PHP Coordinators who may request additional information from Ombudsman, mental health or other agencies as needed;

(ii) If there is not sufficient documentation, the PHP Coordinator will notify the PHP what additional documentation is required before the request can be considered;

(iii) The PHP Coordinators will review the request and notify the PHP of the decision within ten working days of receipt. Written decisions, including reasons for denials, will be sent to the PHP within 15 working days from receipt of request;

(iv) If the request is approved, the Disenrollment date is 30 days after the date of approval, except as provided in (F) and (G) below. The PHP must send the Member a letter within 14 days after the request was approved, with a copy to the Member's DHS caseworker and OMAP's Health Management Unit (HMU), except in cases where the Member is also enrolled in a PHP's Medicare HMO. The letter must give the disenrollment date, the reason for disenrollment, and the notice of Member's right to an Administrative Hearing;

(v) In cases where the Member is also enrolled in a PHP's Medicare HMO, the letter shall be sent after the approval by CMS and the date of disenrollment shall be the date of disenrollment as approved by CMS. If CMS does not approve the disenrollment, the Member shall not be disenrolled from the PHP's OHP Plan;

(vi) If Member requests a hearing, the Member will continue to be Disenrolled until a hearing decision reversing that disenrollment has been mailed to the Member and the PHP;

(vii) The PHP Coordinators will determine when enrollment in another PHP or with a PCCM is appropriate. PHP Coordinator will contact Member's DHS caseworker to arrange enrollment;

(viii) When the disenrollment date has been determined, HMU sends a letter to the Member with a copy to the Member's DHS caseworker and the PHP. The letter shall inform Member of the requirement to be enrolled in another PHP.

(F) If the PHP Coordinators approve a PHP's request for Disenrollment because the OMAP Member threatens or commits an act of physical violence directed at a medical provider, the provider's staff, or other patients, the following procedures shall apply:

(i) OMAP shall inform the Member of the Disenrollment decision in writing, including the right to request an Administrative Hearing;

(ii) The OMAP Member shall be Disenrolled as of the date of the PHP's request for disenrollment;

(iii) All OMAP Members in the OMAP Member's benefit group, as defined in OAR 461-110-0720, may be Disenrolled if the PHP requests;

(iv) OMAP may require the OMAP Member and/or the benefit group to obtain services from fee-for-service providers or a PCCM until such time as they can be enrolled in another PHP;

(v) At the time of enrollment in another PHP, OMAP shall notify the new PHP that the Member and/or benefit group were previously Disenrolled from another PHP at that Plan's request.

(G) If the PHP Coordinator approves the PHP's request for Disenrollment because the OMAP Member commits fraudulent or illegal acts as stated in 410-141-0080(2)(a), the following procedures shall apply:

(i) The PHP shall inform the OMAP Member of the Disenrollment decision in writing, including the right to request an Administrative Hearing;

(ii) The OMAP Member shall be Disenrolled as of the date of the PHP's request for disenrollment;

(iii) At the time of enrollment in another PHP, OMAP shall notify the new PHP that the Member and/or benefit group were previously Disenrolled from another PHP at that Plan's request.

(iv) If an OMAP Member who has been disenrolled for cause is re-enrolled in the PHP, the PHP may request a disenrollment review by the plan's PHP Coordinator. A Member may not be disenrolled from the same PHP for a period of more than 12 months. If the Member is re-enrolled after the 12 month period and is again disenrolled for cause, the disenrollment will be reviewed by DHS for further action.

(b) Other Reasons for the PHP's Requests for Disenrollment include the following:

(A) If the OMAP Member is enrolled in the FCHP or MHO on the same day the Member is admitted to the hospital, the FCHP or MHO shall be responsible for said hospitalization. If the Member is enrolled after the first day of the inpatient stay, the Member shall be disenrolled, and the date of enrollment shall be the next available enrollment date following discharge from inpatient hospital services;

(B) The Member has surgery scheduled at the time their enrollment is effective with the PHP, the provider is not on the PHP's provider panel, and the Member wishes to have the services performed by that provider;

(C) The Medicare Member is enrolled in a Medicare Cost Plan and was in a hospice at the time of enrollment in the PHP;

(D) The Member had End Stage Renal Disease at the time of enrollment in the PHP;

(E) Excluding the DCO, the PHP determines that the OMAP Member has a third party insurer. If after contacting The Health Insurance Group, the Disenrollment is not effective the following month, PHP may contact HMU to request Disenrollment;

(F) If a PHP has knowledge of an OMAP Member's change of address, PHP shall notify DHS. DHS will verify the address information and disenroll the Member from the plan, if the Member no longer resides in the PHP's Service Area. Members shall be disenrolled if out of the PHP's service area for more than three (3) months, unless previously arranged with the PHP. The effective date of Disenrollment shall be the date specified by OMAP and OMAP will recoup the balance of that month's Capitation Payment;

(G) The OMAP Member is an inmate who is serving time for a criminal offense or confined involuntarily in State or Federal prisons, jails, detention facilities, or other penal facilities. This does not include Members on probation, house arrest, living voluntarily in a facility after their case has been adjudicated, infants living with an inmate, or inmates who become inpatients. PHP is responsible for identifying said clients and providing sufficient proof of incarceration to the Health Management Unit for review of the disenrollment request. OMAP will approve requests for disenrollment from PHPs for Members who have been incarcerated for at least fourteen (14) calendar days and are currently incarcerated. FCHP is responsible for inpatient services only during the time an OMAP Member was an inmate;

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(H) The Member is in a state psychiatric institution.

(3) OMAP Initiated Disenrollments:

(a) OMAP may initiate and disenroll OMAP Members as follows:

(A) If OMAP determines that the OMAP Member has sufficient third party resources such that health care and services may be cost effectively provided on a fee-for-service basis, OMAP may disenroll the OMAP Member. The effective date of Disenrollment shall be the end of the month in which OMAP makes such a determination. OMAP may specify a retroactive effective date of Disenrollment if the OMAP Member's third party coverage is through the PHP, or in other situations agreed to by the PHP and OMAP;

(B) If the OMAP Member moves out of the PHP's service area(s), the effective date of Disenrollment shall be the date specified by OMAP and OMAP will recoup the balance of that month's Capitation Payment;

(C) If the OMAP Member is no longer eligible under the Oregon Health Plan Medicaid Demonstration Project or Children's Health Insurance Program, the effective date of Disenrollment shall be the date specified by OMAP;

(D) If the OMAP Member dies, the effective date of Disenrollment shall be the end of the month following the date of death;

(E) When a non-Medicare Contracting PHP is assumed by another PHP that is a Medicare HMO, OMAP Members with Medicare shall be disenrolled from the existing PHP. The effective date of Disenrollment shall be the day prior to the month the new PHP assumes the existing PHP.

(b) Unless specified otherwise in these rules or in the OMAP notification of Disenrollment to the PHP, all Disenrollments are effective the end of the month after the request for Disenrollment is approved by OMAP;

(c) OMAP shall inform the Members of the Disenrollment decision in writing, including the right to request an Administrative Hearing. Oregon Health Plan Members may request an OMAP hearing if they dispute a disenrollment decision by OMAP;

(d) If Member requests a hearing, the Member will continue to be disenrolled until a hearing decision reversing that Disenrollment has been mailed to the Member.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 31-1993, f. 10-14-93, cert. ef. 2-1-94; HR 33-1994, f. & cert. ef. 11-1-94; HR 39-1994, f. 12-30-94, cert. ef. 1-1-95; HR 17-1995, f. 9-28-95, cert. ef. 10-1-95; HR 19-1996, f. & cert. ef. 10-1-96; HR 21-1996(Temp), f. & cert. ef. 11-1-96; HR 11-1997, f. 3-28-97, cert. ef. 4-1-97; HR 14-1997, f. & cert. ef. 7-1-97; HR 25-1997, f. & cert. ef. 10-1-97; OMAP 21-1998, f. & cert. ef. 7-1-98; OMAP 49-1998(Temp), f. 12-31-98, cert. ef. 1-1-99 thru 6-30-99; Administrative correction 8-9-99; OMAP 39-1999, f. & cert. ef. 10-1-99; OMAP 26-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 29-2001, f. 8-13-01, cert. ef. 10-1-01; OMAP 4-2003, f. 1-31-03, cert. ef. 2-1-03

## 410-141-0420

### Billing and Payment Under the Oregon Health Plan

(1) All billings for Oregon Health Plan Clients to Prepaid Health Plans (PHPs) and to OMAP, shall be submitted within four (4) months and twelve (12) months, respectively, of the date of service, subject to other applicable OMAP billing rules. Submissions shall be made to PHPs within the four (4) month time frame except in the following cases:

(a) Pregnancy;

(b) Eligibility issues such as retroactive deletions or retroactive enrollments;

(c) Medicare is the primary payor;

(d) Other cases that could have delayed the initial billing to the PHP (which does not include failure of Provider to certify Member's eligibility); or

(e) TPR. Pursuant to 42 CFR 36.61, subpart G: Indian Health Services and the amended Public Law 93-638 under the Memorandum of Agreement that Indian Health Service and 638 Tribal Facilities are the payor of last resort and is not considered an alternative resource or third party resource.

(2) Providers must be enrolled with OMAP to be eligible for fee-for-service payment by OMAP. Mental health providers, except Federally Qualified Health Centers, must be approved by the Local Mental Health Authority (LMHA) and the Mental Health and Developmental Disability Services Division (MHDDSD) before Enrollment with OMAP. Providers may be retroactively enrolled, in accordance with OAR 410-120-1260, Provider Enrollment.

(3) Providers, including mental health providers, do not have to be enrolled with OMAP to be eligible for payment for services by PHPs except that providers who have been excluded as Medicare/Medicaid providers by OMAP, HCFA or by lawful court orders are ineligible to receive payment for services by PHPs.

(4) Providers shall verify, before rendering services, that the client is eligible for the Medical Assistance Program on the date of service and that the service to be rendered is covered under the Oregon Health Plan Benefit

Package of Covered Services. Providers shall also identify the party responsible for covering the intended service and seek Pre-authorizations from the appropriate payor before rendering services. Providers shall inform OMAP Members of any charges for Non-Covered services prior to the services being delivered.

(5) Capitated Services:

(a) PHPs receive a Capitation Payment to provide services to OMAP Members. These services are referred to as Capitated Services;

(b) PHPs are responsible for payment of all Capitated Services. Such services should be billed directly to the PHP, unless the PHP or OMAP specifies otherwise. PHPs may require providers to obtain pre-authorization to deliver certain Capitated Services.

(6) Payment by the PHP to providers for Capitated Services is a matter between the PHP and the provider, except as follows:

(a) Pre-Authorizations:

(A) PHPs shall have written procedures for processing pre-authorization requests received from any provider. The procedures shall specify time frames for:

(i) Date stamping pre-authorizations requests when received;

(ii) Determining within a specific number of days from receipt whether a pre-authorization request is valid or non-valid;

(iii) The specific number of days allowed for follow up on pended pre-authorization requests to obtain additional information;

(iv) The specific number of days following receipt of the additional information that a redetermination must be made;

(v) Providing services after office hours and on weekends that require pre-authorization;

(vi) Sending notice of the decision with appeal rights to the OMAP Member when the determination is made to deny the requested service.

(B) PHPs shall make a determination on at least 95% of Valid Authorization requests, within two working days of receipt of an authorization or reauthorization request related to urgent services; alcohol and drug services; and/or care required while in skilled nursing facility. Authorizations for prescription drugs must be completed and the pharmacy notified within 24 hours. If an authorization for a prescription cannot be completed within the 24 hours, the PHP must provide for the dispensing of at least a 72 hour supply if the medical need for the drug is immediate. PHP shall notify providers of such determination within 2 working days of receipt of the request;

(C) For all other pre-authorization requests, PHPs shall notify providers of an approval, a denial or a need for further information within 14 calendar working days of receipt of the request. PHP must make reasonable efforts to obtain the necessary information during that fourteen (14) day period. However, the PHP may use an additional 14 days to obtain follow-up information, if the PHP justifies the need for additional information and how the delay is in the interest of the member. The PHP shall make a determination as the member's health condition requires, but no later than the expiration of the extension. PHPs shall notify OMAP Members of a denial within five (5) working days from the final determination using an OMAP or Division approved client notice format.

(b) Claims Payment:

(A) PHPs shall have written procedures for processing claims submitted for payment from any source. The procedures shall specify time frames for:

(i) Date stamping claims when received;

(ii) Determining within a specific number of days from receipt whether a claim is valid or non-valid;

(iii) The specific number of days allowed for follow up of pended claims to obtain additional information;

(iv) The specific number of days following receipt of additional information that a determination must be made; and

(v) Sending notice of the decision with appeal rights to the OMAP Member when the determination is made to deny the claim.

(B) PHPs shall pay or deny at least 90% of Valid Claims within 45 calendar days of receipt and at least 99% of Valid Claims within 60 calendar days of receipt. PHPs shall make an initial determination on 99% of all claims submitted within 60 calendar days of receipt;

(C) PHPs shall provide written notification of PHP determinations when such determinations result in a denial of payment for services, for which the OMAP Member may be financially responsible. Such notice shall be provided to the OMAP Member and the treating provider within fourteen (14) calendar days of the final determination. The notice to the Member shall be an OMAP or Division approved notice format and shall include information on the PHPs internal appeals process, and the Notice of

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Hearing Rights (OMAP 3030) shall be attached. The notice to the provider shall include the reason for the denial;

(D) PHPs shall not require providers to delay billing to the PHP;

(E) PHPs shall not require Medicare be billed as the primary insurer for services or items not covered by Medicare, nor require non-Medicare approved providers to bill Medicare;

(F) PHPs shall not deny payment of Valid Claims when the potential Third Party Resource is based only on a diagnosis, and no Third Party Resource has been documented in the OMAP Member's clinical record;

(G) PHPs shall not delay nor deny payments because a copayment was not collected at the time of service.

(c) FCHPs and MHOs are responsible for payment of Medicare coinsurances and deductibles up to the Medicare or PHP's allowable for covered services the OMAP Member receives within the plan, for authorized referral care, and for urgent or emergency services the OMAP Member receives from non-contracted providers. FCHPs and MHOs are not responsible for Medicare coinsurances and deductibles for non-urgent or non-emergent care OMAP Members receive from non-plan providers;

(d) FCHPs shall pay transportation, meals and lodging costs for the OMAP Member and any required attendant for out-of-state services (as defined in General Rules) that the FCHP has arranged and authorized when those services are available within the state, unless otherwise approved by OMAP;

(e) PHPs shall be responsible for payment of Covered Services provided by a Non-Participating Provider that were not pre-authorized if the following

conditions exist:

(A) It can be verified that the Participating Provider ordered or directed the Covered Services to be delivered by a Non-Participating Provider; and

(B) The Covered Service was delivered in good faith without the pre-authorization; and

(C) It was a Covered Service that would have been pre-authorized with a Participating Provider if the PHP's referral protocols had been followed;

(D) The PHP shall be responsible for payment to Non-Participating Providers (providers enrolled with OMAP that do not have a contract with the PHP) for covered services that are subject to reimbursement from the PHP, the amount that the provider would be paid from OMAP if the client was fee-for-service. This rule does not apply to providers that are Type A or Type B hospitals, as they are paid in accordance with ORS 414.727.

(7) Other Services:

(a) OMAP Members enrolled with PHPs may receive certain services on an OMAP fee-for-service basis. Such services are referred to as Non-Capitated Services;

(b) Certain services must be authorized by the PHP or the Community Mental Health Program (CMHP) for some mental health services, even though such services are then paid by OMAP on an OMAP fee-for-service basis. Before providing services, providers should contact the PHPs identified on the OMAP Member's Medical Care Identification or, for some mental health services, the CMHP. Alternatively, the provider may call the OMAP Provider Services Unit to obtain information about coverage for a particular service and/or pre-authorization requirements;

(c) Services authorized by the PHP or Community Mental Health Program are subject to the rules and limitations of the appropriate OMAP administrative rules and provider guides, including rates and billing instructions;

(d) Providers shall bill OMAP directly for Non-Capitated Services in accordance with billing instructions contained in the provider guides;

(e) OMAP shall pay at the Medicaid fee-for-service rate in effect on the date the service is provided subject to the rules and limitations described in the relevant rules, contracts, billing instructions and provider guides;

(f) OMAP will not pay a provider for provision of services for which a PHP has received a Capitation Payment unless otherwise provided for in OAR 410-141-0120;

(g) When an item or service is included in the rate paid to a medical institution, a residential facility or foster home, provision of that item or service is not the responsibility of OMAP, MHDDSD, nor a PHP except as provided for in OMAP rules and provider guides (e.g., Capitated Services that are not included in the nursing facility all-inclusive rate).

(h) FCHPs that contract with non-public teaching hospitals will reimburse those hospitals for Graduate Medical Education (GME), if the hospitals are:

(A) Neither type A nor type B hospitals;

(B) Not paid according to a type A or type B payment methodology; and,

(C) In remote areas greater than 60 miles from the nearest acute care hospital, with a graduate medical student teaching program.

(i) FCHPs that contract with FQHCs and RHCs shall negotiate a rate of reimbursement that is not less than the level and amount of payment which the FCHP would make for the same service(s) furnished by a provider, who is not an FQHC nor RHC, consistent with the requirements of BBA 4712(b)(2).

(8) Coverage of services through the Oregon Health Plan Benefit Package of Covered Services is limited by OAR 410-141-0500, Excluded Services and Limitations for OHP Clients.

(9) OHP Clients who are enrolled with a PCCM receive services on a fee-for-service basis:

(a) PCCMs are paid a monthly Capitation Payment to provide Primary Care Case Management Services, in accordance with OAR 410-141-0410, Primary Care Case Manager Medical Case Management;

(b) PCCMs provide Primary Care Case Management Services for Preventive Services, primary care services, specialty services, inpatient hospital services and outpatient hospital services. OMAP payment for these PCCM Case Managed Services is contingent upon PCCM authorization;

(c) All PCCM Case Managed Services and other services which are not case managed by the PCCM shall be billed directly to OMAP in accordance with billing instructions contained in the OMAP provider guides;

(d) OMAP shall pay at the OMAP fee-for-service rate in effect on the date the service is provided subject to the rules and limitations described in the appropriate provider guides.

(10) OHP Clients who are not enrolled with a PHP or a PCCM receive services on an OMAP fee-for-service basis:

(a) Services may be received directly from any appropriate enrolled OMAP provider;

(b) All services shall be billed directly to OMAP in accordance with billing instructions contained in the OMAP provider guides;

(c) OMAP shall pay at the OMAP fee-for-service rate in effect on the date the service is provided subject to the rules and limitations described in the appropriate provider guides.

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 31-1993, f. 10-14-93, cert. ef. 2-1-94; HR 7-1994, f. & cert. ef. 2-1-94; HR 17-1995, f. 9-28-95, cert. ef. 10-1-95; HR 19-1996, f. & cert. ef. 10-1-96; HR 25-1997, f. & cert. ef. 10-1-97; OMAP 21-1998, f. & cert. ef. 7-1-98; OMAP 39-1999, f. & cert. ef. 10-1-99; OMAP 26-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 15-2001, f. 3-30-01, cert. ef. 4-1-01; OMAP 52-2001, f. & cert. ef. 10-1-01; OMAP 57-2002, f. & cert. ef. 10-1-02; OMAP 4-2003, f. 1-31-03, cert. ef. 2-1-03

### 410-141-0500

#### Excluded Services and Limitations for Oregon Health Plan Clients

(1) The following services are excluded:

(a) Any service or item identified in OAR 410-120-1200, Excluded Services and Limitations. Services that are excluded under the Oregon Medical Assistance program shall be excluded under the Oregon Health Plan unless the services are specifically identified in OAR 410-141-0520, Prioritized List of Health Services;

(b) Any service or item identified in the appropriate provider guides as a non-covered service, unless the service is identified as specifically covered under the Oregon Health Plan Administrative Rules;

(c) Any treatment, service, or item for a condition that is not listed on the currently funded lines 1 through 574 of the Prioritized List of Health Services except as specified in OAR 410-141-0480, OHP Benefit Package of Covered Services, subsection (7);

(d) Services that are currently funded on the Prioritized List of Health Services that are not included in the client's OHP benefit package, are excluded.

(e) Any treatment, service, or item for a condition which is listed as a Condition/Treatment Pair in both currently funded and non-funded lines where the qualifying description of the diagnosis appears only on the non-funded lines of the Prioritized list of Health Services, except as specified in OAR 410-141-0480, OHP Benefit Package of Covered Services, subsection (7);

(f) Diagnostic services not reasonably necessary to establish a diagnosis for a covered or noncovered condition/Treatment Pair;

(g) Services requested by Oregon Health Plan (OHP) Clients in an emergency care setting which after a screening examination are determined not to meet the definition of Emergency Services and the provisions of 410-141-0140;



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(h) Services provided to an Oregon Health Plan Client outside the territorial limits of the United States, except in those instances in which the country operates a Medical Assistance (Title XIX) program;

(i) Services or items, other than inpatient care, provided to an Oregon Health Plan Client who is in the custody of a law enforcement agency or an inmate of a non-medical public institution, including juveniles in detention facilities, per OAR 410-141-0080(2)(b)(G);

(j) Services received while the OMAP Member is outside the Contractor's service area that were either:

(A) Not authorized by the OMAP Member's Primary Care Provider; or

(B) Not urgent or emergency services, subject to the Member's appeal rights, that the OMAP Member was outside Contractor's service area because of circumstances beyond the OMAP Member's control. Factors to be considered include but are not limited to death of a family member outside of Contractor's service area.

(2) The following services are limited or restricted:

(a) Any service which exceeds those Medically Appropriate to provide reasonable diagnosis and treatment or to enable the Oregon Health Plan Client to attain or retain the capability for independence or self-care. Included would be those services which, upon medical review, provide only minimal benefit in treatment or information to aid in a diagnosis;

(b) Diagnostic Services not reasonably required to diagnose a presenting problem, whether or not the resulting diagnosis and indicated treatment are on the currently funded lines under the Oregon Health Plan Prioritized List of Health Services;

(c) Services that are limited under the Oregon Medical Assistance program as identified in OAR 410-120-1200, Excluded Services and Limitations. Services that are limited under the Oregon Medical Assistance program shall be limited under the Oregon Health Plan unless the services are specifically identified in OAR 410-141-0520, Prioritized List of Health Services or elsewhere in this chapter of the Oregon Administrative Rules.

(3) In the case of non-covered condition/treatment pairs, providers shall ensure that Oregon Health Plan Clients are informed of:

(a) Clinically appropriate treatment that may exist, whether covered or not;

(b) Community resources that may be willing to provide non-covered services;

(c) Future health indicators that would warrant a repeat diagnostic visit.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 31-1993, f. 10-14-93, cert. ef. 2-1-94; HR 17-1995, f. 9-28-95, cert. ef. 10-1-95; HR 26-1995, f. 12-29-95, cert. ef. 1-1-96; HR 19-1996, f. & cert. ef. 10-1-96; HR 1-1997(Temp), f. 1-31-97, cert. ef. 2-1-97; HR 12-1997, f. 5-30-97, cert. ef. 6-1-97; HR 18-1997, f. 7-11-97, cert. ef. 7-12-97; OMAP 17-1998(Temp), f. & cert. ef. 5-1-98 thru 9-1-98; OMAP 32-1998, f. & cert. ef. 9-1-98; OMAP 39-1999, f. & cert. ef. 10-1-99; OMAP 26-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 29-2001, f. 8-13-01, cert. ef. 10-1-01; OMAP 53-2001, f. & cert. ef. 10-1-01; OMAP 88-2002, f. 12-24-02, cert. ef. 1-1-03; OMAP 4-2003, f. 1-31-03, cert. ef. 2-1-03

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**Adm. Order No.:** OMAP 5-2003

**Filed with Sec. of State:** 1-31-2003

**Certified to be Effective:** 2-1-03

**Notice Publication Date:** 6-1-02

**Rules Adopted:** 410-149-0000, 410-149-0020, 410-149-0040, 410-149-0060, 410-149-0080

**Subject:** ORS 414.432 established the Senior Prescription Drug Assistance Program. This program is for persons 65 years of age and older with limited income and resources who have had no drug benefit coverage for the preceding six months. One provision of the statute requires the Department to set a discounted rate at which pharmacies can charge seniors for prescription drugs. The applicant will pay an annual enrollment fee of \$50 and receive an enrollment card, which allows them to purchase prescription drugs at the Medicaid rate. The other provision allows the Department to subsidize up to 50% of the Medicaid price of the drug, using a sliding scale based on the income of the senior. These rules establish the policies to implement the first provision of the statute, defining terms and specifying requirements. The second provision is permissive and dependent upon funding through excess cigarette tax revenue or an appropriation. Funding is not now available. Eligibility requirements for applicants are outlined in revisions to the Oregon Administrative Rules Chapter 461.

**Rules Coordinator:** Darlene Nelson—(503) 945-6927

## 410-149-0000

### Definition of Terms

(1) Critical access pharmacies — Pharmacies in locations where, without this designation, access to the Senior Prescription Drug Assistance Program would otherwise be limited or unavailable.

(2) Department — The Department of Human Services.

(3) Discount price — The total cost to the customer for the prescription drug and the dispensing fee as determined by the Department. It also includes the additional fee charged by critical access pharmacies, if applicable.

(4) Enrollee — Any person who meets the eligibility requirements of the Senior Prescription Drug Assistance Program, pays the enrollment fee, and to whom the Department issues an enrollment card.

(5) Prescription drugs — Drugs that must legally be prescribed by a practitioner authorized to prescribe drugs (legend drugs).

(6) Pharmacy providers — Pharmacies that volunteer to participate in the Senior Prescription Drug Assistance Program and that register with the Department.

(7) SPDAP — The Senior Prescription Drug Assistance Program.

Stat. Auth.: ORS 414.346

Stats. Implemented: ORS 414.340 - ORS 414.348

Hist.: OMAP 5-2003, f. 1-31-03, cert. ef. 2-1-03

## 410-149-0020

### Pharmacy Providers

(1) Registration:

(a) To be a pharmacy provider, under the Senior Prescription Drug Assistance Program (SPDAP), the pharmacy must register with the Department of Human Services (Department), regardless of whether the pharmacy is enrolled with the Department in the Medicaid program;

(b) The registration authorizes the pharmacy to serve enrollees in SPDAP;

(c) To register, the pharmacy must be licensed to do business in Oregon or licensed to do business in a border state if the pharmacy location is within 75 miles of the Oregon border;

(d) To register for the SPDAP, the pharmacy must agree to:

(A) Accept the discount price as payment in full for the cost of the prescription drug;

(B) Keep sufficient documentation of transactions to resolve disagreements with the customer about the amount charged for the prescription drugs; and

(C) Repay the enrollee directly for overcharges.

(2) Advertising:

(a) A pharmacy provider may advertise that it participates in the SPDAP;

(b) The pharmacy must stop all advertisements pertaining to the program should the Department determine the pharmacy is not abiding by the conditions of the registration and the Department removes the pharmacy from the SPDAP. A pharmacy removed from the SPDAP has due process rights as outlined in OAR 410-149-0080.

(3) Other drug benefit coverage: If a pharmacy is aware that an enrollee has other drug benefit coverage, the pharmacy must notify the Department of the enrollee's other drug benefit coverage. The Department then will take any steps necessary to determine if the enrollee is still eligible for the SPDAP.

(4) Dispensing fee:

(a) Included in the discount price, pharmacies may charge, but are not required to charge, the enrollee a dispensing fee;

(b) The allowable dispensing fee and requirements are the same as set for Medicaid providers;

(c) If a pharmacy is enrolled in the SPDAP and must apply for review of the dispensing fee under ORS 410-121-0160, any change to the dispensing fee due to that review will also change for the SPDAP.

(5) Critical access pharmacies:

(a) Included in the discount price and in addition to the dispensing fee, critical access pharmacies may charge, but are not required to charge, the enrollee an additional fee per prescription;

(b) The purpose of designating pharmacies as critical access pharmacies is to provide incentives for pharmacies to participate in the SPDAP where access to the SPDAP would otherwise be limited or unavailable to enrollees;

(c) To be designated a critical access pharmacy, the pharmacy must provide the Department with sufficient information for the Department to decide if the designation is necessary. This information includes, but may not be limited to:

(A) How many seniors the pharmacy serves in its area;

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(B) The distance between the registering pharmacy and the nearest pharmacy serving that senior population; and

(C) How the registering pharmacy believes the designation will increase access to the SPDAP for seniors in its area.

(d) After granting the designation as a critical access pharmacy, the Department, annually, may review the designation to determine if the designation is still necessary;

(e) Pharmacies that apply for the critical access pharmacy designation may appeal the Department's denial of the designation. The appeal process is outlined in OAR 410-120-1560 through 410-120-1820;

(f) The fee is established as \$2 by ORS 414.342 commencing on July 30, 2001, and the Department annually will adjust this charge for inflation in April, beginning in April 2003.

(6) Pharmacies may not charge enrollees for costs incurred by the pharmacy for the electronic transmittal of the discount price from the Department to the pharmacy.

Stat. Auth.: ORS 414.346  
Stats. Implemented: ORS 414.340 - ORS 414.348  
Hist.: OMAP 5-2003, f. 1-31-03, cert. ef. 2-1-03

## 410-149-0040

### Discount Price and Allowable Prescription Drugs

(1) The price for a prescription drug a pharmacy can charge an enrollee, under the Senior Prescription Drug Assistance Program (SPDAP), is the lesser of the following:

(a) The Medicaid program price, as defined in OAR 410-121-0140 (9); or

(b) The pharmacy's usual and customary price.

(2) The Department of Human Services (Department) will transmit the Medicaid price of the prescription drugs to the pharmacies using the Point-of-Sale System, as defined by OAR 410-121-0140. The pharmacy is not required to submit any information back to the Department on this system.

(3) The SPDAP is limited to prescription drugs prescribed in the name of and for the use by the enrollee.

(4) No prescription drugs require prior approval from the Department to provide the discount price.

(5) The SPDAP does not include prescriptions for over-the-counter drugs.

(6) Enrollees must use their Medicare benefits rather than their SPDAP enrollment cards for any prescription drugs covered by Medicare. An example includes, but is not limited to, immunosuppressive drug therapy for transplant patients if Medicare paid for the transplant.

Stat. Auth.: ORS 414.346  
Stats. Implemented: ORS 414.340 - ORS 414.348  
Hist.: OMAP 5-2003, f. 1-31-03, cert. ef. 2-1-03

## 410-149-0060

### Problem Resolution

(1) The following apply when an enrollee notifies the Department of Human Services (Department) that (s)he believes a pharmacy has charged more than the Senior Prescription Drug Assistance Program (SPDAP) price for the prescription drug:

(a) The prescription drug purchase must have occurred in the previous 30 days;

(b) The enrollee must provide proof of the alleged overcharge to the Department. The Department will compare the price paid by the enrollee to the price transmitted to the pharmacy;

(c) If the Department determines the pharmacy overcharged the enrollee, the Department will notify the pharmacy in writing that it must reimburse the enrollee the amount overcharged or offer proof to the Department that the pharmacy did not charge more than the SPDAP price. Within 30 days of the date of the notification, the pharmacy must reimburse the enrollee and notify the Department of the reimbursement or submit the proof that it charged the SPDAP price.

(2) The following apply when the pharmacy elects, under section (1)(c) of this rule, to submit proof to the Department that it charged the SPDAP price:

(a) If the Department determines the pharmacy charged the SPDAP price, the Department will notify the enrollee of the decision;

(b) If the Department determines the pharmacy charged more than the SPDAP price, the Department will notify the pharmacy in writing of its obligation to reimburse the enrollee. Within 30 days of the date of the notification, the pharmacy must reimburse the enrollee and notify the Department of the reimbursement.

(3) Payment of the reimbursement is the responsibility of the pharmacy.

Stat. Auth.: ORS 414.346  
Stats. Implemented: ORS 414.340 - ORS 414.348  
Hist.: OMAP 5-2003, f. 1-31-03, cert. ef. 2-1-03

## 410-149-0080

### Provider Sanctions and Due Process Rights

(1) The Department of Human Services (Department) may, at its discretion, remove a pharmacy from the Senior Prescription Drug Assistance Program (SPDAP) if the pharmacy refuses to reimburse an enrollee or to reimburse the enrollee in the allotted time pursuant to OAR 410-149-0060. The Department also may remove a pharmacy from the SPDAP if the pharmacy no longer qualifies under OAR 410-149-0020 (1)(c) or if the pharmacy does not fulfill the agreement under OAR 410-149-0020 (1)(d).

(2) Notification to the pharmacy is outlined in OAR 410-120-1480.

(3) If the Department removes a pharmacy from the SPDAP, the pharmacy may appeal the decision as outlined in OAR 410-120-1560 through 410-120-1820.

Stat. Auth.: ORS 414.346  
Stats. Implemented: ORS 414.340 - ORS 414.348  
Hist.: OMAP 5-2003, f. 1-31-03, cert. ef. 2-1-03

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**Adm. Order No.:** OMAP 6-2003(Temp)

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**Notice Publication Date:**

**Rules Amended:** 410-121-0157

**Rules Suspended:** 410-121-0157(T)

**Subject:** The Pharmaceutical Rules govern Office of Medical Assistance Programs payment for pharmaceutical products provided to clients. Rule 410-121-0157 is amended to reference the updated Medicaid Drug Rebate information regarding participants in compliance with federal regulations.

**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 #120, dated November 21, 2002. This information is available on OMAP's website: [http://www.dhs.state.or.us/healthplan/data\\_pubs/guides/pharmacy/and](http://www.dhs.state.or.us/healthplan/data_pubs/guides/pharmacy/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;

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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

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**Adm. Order No.:** OMAP 7-2003(Temp)

**Filed with Sec. of State:** 2-14-2003

**Certified to be Effective:** 2-14-03 thru 7-1-03

**Notice Publication Date:**

**Rules Amended:** 410-121-0320

**Rules Suspended:** 410-121-0320(T)

**Subject:** The Pharmaceutical Rules govern Office of Medical Assistance Programs payment for pharmaceutical products provided to clients. Rule 410-121-0320 is revised to reference First Health Service's OMAC listings for December 1, 2002, January 1, 2003 and February 1, 2003.

**Rules Coordinator:** Darlene Nelson—(503) 945-6927

## 410-121-0320

### Oregon Maximum Allowable Cost (OMAC)

(1) The Oregon maximum allowable cost, or the maximum amount that the Office of Medical Assistance Programs (OMAP) will reimburse for prescribed drugs, is determined by OMAP's claims processing company, First Health Services. First Health Services determines the maximum allowable cost on selected multiple-source drug designation when a bio-equivalent drug product is available from at least two wholesalers serving the State of Oregon.

(2) First Health Services generates and maintains all official OMAC lists and provides a copy of each list to OMAP. OMAC lists are 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. For example: The OMAC list, January 1, 2003, includes the amounts OMAP will reimburse for products provided during the month of January 2003; the list, February 1, 2003, covers the month of February 2003, etc. OMAP includes in rule by reference the OMAC lists for December 1, 2002, January 1, 2003 and February 1, 2003.

(3) OMAC lists are available for review and/or downloading on OMAP's website: <http://www.dhs.state.or.us/policy/healthplan/rules/pharmacy/>.

(4) The OMAC list does not apply if a prescriber certifies that a single-source (brand) drug is medically necessary.

Stat. Auth.: ORS 184.750, ORS 184.770, ORS 411 & ORS 414

Stats. Implemented: ORS 414.065

Hist.: AFS 56-1989, f. 9-29-89, cert. ef. 10-1-89; HR 3-1990(Temp), f. & cert. ef. 2-23-90; HR 13-1990, f. & cert. ef. 4-20-90; Renumbered from 461-016-0340; HR 20-1990, f. & cert. ef. 7-9-90; HR 29-1990, f. 8-31-90, cert. ef. 9-1-90; OMAP 61-2001(Temp), f. 12-13-01, cert. ef. 12-15-01 thru 3-15-02; OMAP 1-2002, cert. ef. 2-15-02; OMAP 6-2002(Temp), f. & cert. ef. 3-5-02 thru 8-1-02; OMAP 17-2002(Temp), f. & cert. ef. 4-12-02 thru 9-1-02; OMAP 28-2002(Temp), f. 6-28-02, cert. ef. 7-1-02 thru 12-1-02; OMAP 35-2002(Temp), f. & cert. ef. 8-14-02 thru 1-1-03; OMAP 38-2002(Temp), f. & cert. ef. 8-30-02 thru 1-15-03; OMAP 40-2002(Temp), f. & cert. ef. 10-1-02 thru 2-15-03; OMAP 68-2002(Temp), f. & cert. ef. 11-15-02 thru 4-1-03; OMAP 7-2003, f. & cert. ef. 2-14-03 thru 7-1-03

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

**Adm. Order No.:** MHD 1-2003(Temp)

**Filed with Sec. of State:** 2-14-2003

**Certified to be Effective:** 3-10-03 thru 9-5-03

**Notice Publication Date:**

**Rules Amended:** 309-018-0120, 309-018-0130, 309-018-0180

**Subject:** These rule amendments reduce number of situations in which a national fingerprint check is required for providers of mental health and developmental disability services. The amendments include provisions that identify risk factors that indicated an need for a national fingerprint check and use these risk factors as triggers to require that the national fingerprint check be initiated. The amend-

ments also replace out-of-date language for example, references to "the Division" and references to other rules that do not exist.

**Rules Coordinator:** Pam Warren—(503) 945-6954

## 309-018-0120

### Process for Oregon Criminal Offender Information Record Checks

(1) A qualified entity will use criminal offender information in making decisions regarding the licensing, certification or registration or establishing other regulatory oversight of subject individuals.

(2) Criminal offender information will be obtained through the Oregon State Police LEDS program. In conducting Oregon criminal offender information record checks on subject individuals, the qualified entity shall act in accordance with the obligations under ORS 181.010 through 181.991, OAR 257-010-0110 through 257-010-0150, and the OSP agency agreement with the Department.

(3) Prior to conducting an Oregon criminal offender information records check, the qualified entity shall either:

(a) Obtain written consent from the subject individual to make a criminal offender information records check through the OSP; or

(b) Provide the subject individual notice that a criminal offender information records check may be made through the OSP. The notice shall include the manner in which the subject individual may be informed of the procedures adopted under ORS 181.555(3), OAR 257-010-0035, and as described in 309-018-0170(1)(a) and (b) of these rules for challenging inaccurate criminal offender information; notice of the manner in which the subject individual may become informed of the rights, if any, under Title VII of the Civil Rights Act of 1965; notice that discrimination by a qualified entity on the basis of arrest records alone may violate Federal civil rights law; and that the subject individual may obtain further information by contacting the Bureau of Labor and Industries.

(4) Before a qualified entity commences an Oregon criminal offender information records check, the subject individual shall complete and sign a statement that:

(a) Contains the name, address, date of birth, gender, race, Social Security Number and other identifying information about the subject individual;

(b) Affirms that the subject individual has not been convicted of a crime or if the subject individual has been convicted of a crime, contains a description of each crime and the particulars of each conviction;

(c) Notifies the subject individual of the subject individual's right:

(A) To inspect a copy of the subject individual's own Oregon criminal offender information records check; and

(B) To challenge the accuracy and completeness of any information contained in an Oregon criminal offender information records check obtained from the OSP as described by procedures adopted under ORS 181.555(3) and OAR 257-010-0035 and as described in 309-018-0170(1)(a) and (b) of these rules.

(d) Notifies the subject individual and the prospective employer that the subject individual may be hired on a probationary basis pending completion of Oregon criminal offender information records check. If hired on a probationary basis, the subject individual may participate in training, orientation and work activities pending completion of an initial record check through the Oregon Law Enforcement Data System, but must be supervised at all times when in contact with individuals receiving care. The subject individual may work unsupervised pending completion of any further record check using fingerprints, if the individual was not disqualified based on information found in the Oregon Law Enforcement Data System, and there are no other indications of criminal behavior. A qualified entity may choose to issue a license, certification or registration or establish other regulatory oversight of the individual pending the completion of an Oregon criminal offender information records check.

(5) An Oregon criminal offender information records check is subject to the following conditions:

(a) A subject individual who is applying for license, certification or registration or is subject to other regulatory oversight by a qualified entity to provide care shall be required to complete an Oregon criminal offender information records check application; and

(b) The Oregon criminal offender information records check shall be conducted solely for the purpose of determining whether the subject individual has been convicted of a crime that bears upon the subject individual's fitness to provide care.

(6) The Department may forward fingerprint cards to the OSP for a positive identification verification by the FBI when a subject individual's Oregon criminal offender information records check indicates a conviction of a crime listed in these rules.

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(7) The Department shall pay all costs associated with obtaining Oregon criminal offender information record checks.

Stat. Auth.: ORS 181.537

Stats. Implemented: ORS 181.537

Hist.: MHD 13-1998, f. & cert. ef. 7-1-98; MHD 19-1998(Temp), f. & cert. ef. 11-19-98 thru 5-17-99; MHD 2-1999, f. & cert. ef. 5-17-99; MHD 4-1999(Temp), f. & cert. ef. 6-1-99 thru 11-27-99, Administrative correction 11-17-99; MHD 4-2000, f. & cert. ef. 2-15-00; MHD 1-2003(Temp), f. 2-14-03, cert. ef. 3-10-03 thru 9-5-03

## 309-018-0130

### Process for Federal Criminal Offender Information System Record Checks

(1) The qualified entity shall conduct a federal criminal offender information system records check on any subject individual who meets any of the following circumstances:

(a) The subject individual has lived outside Oregon any time during the five years prior to applying for a license, certification or registration or other regulatory oversight by a qualified entity;

(b) The subject individual's Oregon criminal offender information records check indicates a criminal offender history outside Oregon or the subject individual self-discloses criminal history outside of Oregon; or

(c) The social security number is not provided by the subject individual or appears to not be valid, or the Oregon check reveals an out-of-state driver's license, or the Department has reason to question the identity or history of the subject individual.

(2) The federal criminal offender information system records check shall be conducted solely for the purpose of determining whether the subject individual has been convicted of a crime that bears upon the subject individual's fitness to provide care.

(3) In order that the qualified entity may conduct a federal criminal offender information system records check, the subject individual shall provide a set of fingerprints in a manner set forth by the Department and complete and sign a statement that:

(a) Contains the name, address, date of birth, gender, race, social security number and other identifying information about the subject individual;

(b) Affirms that the subject individual has not been convicted of a crime or, if the subject individual has been convicted of a crime, contains a description of each crime and the particulars of each conviction;

(c) Notifies the subject individual that the qualified entity may request a criminal offender information system records check under federal law;

(d) Notifies the subject individual of the subject individual's right to challenge the accuracy and completeness of any information contained in a federal background criminal offender information system records check conducted through the OSP;

(e) Notifies the subject individual that the subject individual shall not be permitted to review or obtain a copy of the federal criminal offender information system records check or any other FBI information received from the OSP or the Department; and

(f) Notifies the subject individual that pending the completion of a federal criminal offender information records check, a qualified entity may permit the subject individual to participate in training, orientation and work activities. Pending the completion of the federal criminal offender information records check, a subject individual must, at a minimum, be supervised at all times they are in contact with any individuals who receive care. A qualified entity may choose to issue a license, certification or registration or establish other regulatory oversight of the individual pending the completion of a federal criminal offender information records check as long as the Oregon LEDS criminal records check did not indicate any criminal behavior and did not result in the subject individual being disqualified.

(4) The subject individual or the prospective or current employer of the subject individual shall bear all costs associated with obtaining federal criminal offender information system record checks.

Stat. Auth.: ORS 181.537

Stats. Implemented: ORS 181.537

Hist.: MHD 13-1998, f. & cert. ef. 7-1-98; MHD 1-2003(Temp), f. 2-14-03, cert. ef. 3-10-03 thru 9-5-03

## 309-018-0180

### Rights for Review and Contested Case Hearings for Subject Individuals

(1) A subject individual may use the contested case process to appeal a fitness determination decision made by a qualified entity if the subject individual is disqualified as a result of that decision.

(2) The Department or other qualified entity is entitled to rely on the criminal offender information supplied by the OSP or the FBI until the OSP or the FBI information has been changed or corrected.

(3) The Department has no jurisdiction in a contested case hearing over allegations that the criminal offender information received from the OSP or the FBI is inaccurate, incomplete, or maintained in violation of any federal or state law.

(4) Challenges to the accuracy or completeness of information provided by the OSP or the FBI and agencies reporting information to the OSP or the FBI must be made through the OSP, the FBI or agency and not through a contested case process as described in OAR 410-007-0105 through 410-007-0185.

(5) Subject individuals must notify the Department of their request for a contested case hearing not later than 45 calendar days from the date of service of the fitness determination notice issued by the qualified entity. The Department shall conduct contested case hearings in accordance with the Attorney General's Uniform And Model Rules of Procedure, "Hearing Panel Rules," OAR 137-003-0501, et seq.

(6) Any contested case hearing under this rule is not open to the public.

(7) Prior to the contested case hearing being scheduled, a mandatory pre-hearing conference between the Department and the subject individual shall be convened to review all available information and determine the need for a contested case hearing. At the pre-hearing conference, the subject individual must verify whether they have used their right to inspect or challenge, as applicable, their criminal offender information record(s) or have declined to do so.

(8) The issue at a contested case hearing shall be limited to the determination by a qualified entity that a subject individual is disqualified based on a criminal offender information records check to be licensed, certified or registered or otherwise subject to regulatory oversight by the qualified entity.

(9) All criminal offender information required for evidence in a contested case hearing, including fingerprint cards, shall be destroyed at the direction of the hearings officer, or within 90 days following case resolution, whichever is appropriate per OAR 309-018-0140 Responsibilities in Maintenance and Use of Information.

Stat. Auth.: ORS 181.537

Stats. Implemented: ORS 181.537

Hist.: MHD 13-1998, f. & cert. ef. 7-1-98; MHD 1-2003(Temp), f. 2-14-03, cert. ef. 3-10-03 thru 9-5-03

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

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

**Filed with Sec. of State:** 1-31-2003

**Certified to be Effective:** 2-1-03

**Notice Publication Date:** 5-1-02, 10-1-02

**Rules Adopted:** 461-135-1180

**Rules Amended:** 461-101-0010, 461-110-0110, 461-110-0750, 461-115-0530, 461-115-0705, 461-120-0210, 461-120-0345, 461-135-0010, 461-135-0990, 461-135-1070, 461-135-1100, 461-135-1110, 461-135-1120, 461-135-1130, 461-150-0055, 461-155-0225, 461-155-0235, 461-155-0360, 461-160-0010, 461-160-0015, 461-160-0700, 461-165-0030, 461-170-0035, 461-180-0097, 461-180-0100

**Subject:** Rules 461-101-0010, 461-110-0110, 461-110-0750, 461-115-0530, 461-115-0705, 461-120-0210, 461-120-0345, 461-135-0010, 461-135-0990, 461-135-1070, 461-135-1100, 461-135-1110, 461-135-1120, 461-135-1130, 461-150-0055, 461-155-0225, 461-155-0235, 461-155-0360, 461-160-0010, 461-160-0015, 461-160-0700, 461-165-0030, 461-170-0035, 461-180-0097 and 461-180-0100 are being amended to reflect eligibility changes to the Oregon Health Plan medical programs as initiated by Chapter 898 Oregon Laws 2001 (HB 2519) and the waiver approval by the Centers for Medicare and Medicaid Services of the U.S. Department of Health and Human Services.

Rule 461-101-0010 is also being amended to add a definition for the Senior Prescription Drug Assistance Program.

Rule 461-135-1180 is being adopted to comply with ORS 414.432 which established the Senior Prescription Drug Assistance Program. This program is for persons 65 years of age and older with limited income and resources who have had no drug benefit coverage for the preceding six months. One provision of the statute requires the Department to set a discounted rate at which pharmacies can charge

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seniors for prescription drugs. The applicant will pay an annual enrollment fee of \$50 and receive an enrollment card, which allows them to purchase prescription drugs at the Medicaid rate. The other provision allows the Department to subsidize up to 50% of the Medicaid price of the drug, using a sliding scale based on the income of the senior. This rule establishes the policies to implement the first provision of the statute, defining terms and specifying requirements. The second provision is permissive and dependent upon funding through excess cigarette tax revenue or an appropriation. Funding is not now available.

**Rules Coordinator:** Annette Tesch—(503) 945-6067

### 461-101-0010

#### Program Acronyms and Overview

(1) Acronyms are used when referring to each program (except Assessment and Repatriate). There is an acronym for each umbrella program (for instance, ERDC) and acronyms for each subprogram (for instance, ERDC-SBG).

(2) When no program acronym appears in a rule, that means it applies to all programs listed in this rule. If a rule does not apply to all programs, it uses program acronyms to identify which program(s) it applies to.

(3) Wherever an umbrella acronym appears, that means the rule covers all the subprograms under that code (for instance, OSIP means OSIP-AB, OSIP-AD and OSIP-OAA).

(4) ADC; Aid to Dependent Children. Financial aid to low-income families when children are deprived of parental support because of continued absence, death, incapacity or unemployment. When used alone, ADC refers to all ADC programs. Use of the acronym, ADC, which stands for Aid to Dependent Children, and use of the phrase, Aid to Dependent Children, refer to the state's Temporary Assistance for Needy Families Program, and its acronym, TANF. The following codes are used for ADC subprograms:

(a) ADC-BAS; Aid to Dependent Children — Basic (includes eligibility based on continued absence, death, incapacity and unemployment). ADC with deprivation based on unemployment is also denoted by ADC-BAS/UN.

(b) EA; Aid to Dependent Children — Emergency Assistance. Emergency cash to families without the resources to meet emergent needs.

(5) ADCM; Aid to Dependent Children Medical. Medical aid to low-income families when children are deprived of parental support, as for ADC. Use of the acronym ADCM, which stands for Aid to Dependent Children Medical, and use of the phrase Aid to Dependent Children Medical refer to EXT, MAA, MAF, and SAC programs. When used alone, ADCM refers to all ADC-related medical programs. The following codes are used for ADCM subprograms:

(a) ADCM-BAS; Aid to Dependent Children Medical — Basic.

(b) ADCM-EA; Aid to Dependent Children Medical — Emergency Assistance. ADCM-EA offers emergency medical assistance to families without the resources to meet emergent needs.

(c) ADCM-EXT; Aid to Dependent Children Medical — Extended. ADCM-EXT provides extended medical benefits to families after their ADC benefits end.

(d) ADCM-SAC; Aid to Dependent Children Medical — Substitute or Adoptive Care. ADCM-SAC gives medical coverage to children in substitute or adoptive care.

(6) The Assessment Program is an up-front assessment and resource-search program for TANF applicant families. The intent of the program is to convey the message that TANF is primarily a self-sufficiency development program and to help individuals find employment or other alternatives before they become dependent on public assistance.

(7) BCCM; Breast and Cervical Cancer Medical program.

(8) CAWEM; Citizen/Alien-Waived Emergent Medical. Medicaid coverage of emergent medical needs for clients who are not eligible for other medical programs solely because they do not meet citizenship and status requirements.

(9) EI; Employment Initiative. Program established to provide assistance to clients who have a disability and who want to work.

(10) ERDC; Employment- or Education-Related Day Care. Helps low-income families pay the cost of child care. When used alone, ERDC refers to all ERDC programs. The following codes are used for ERDC subprograms:

(a) ERDC-BAS; ERDC — Basic. Child care for working families.

(b) ERDC-SBG; ERDC — Student Block Grant. Child care for students.

(11) EXT; Extended Medical Assistance. The Extended Medical Assistance program provides medical assistance for a period of time after a family loses its eligibility for the Assessment Program, MAA or MAF due to an increase in their child support or earned income.

(12) FS; Food Stamps. Helps low-income households maintain proper nutrition by giving them the means to purchase food.

(13) GA; General Assistance. Cash assistance to unemployable adults without dependent children.

(14) GAM-BAS; General Assistance Medical-Basic. Medical assistance to unemployable adults without dependent children.

(15) HSP; Housing Stabilization Program. A program that helps low-income families obtain stable housing. The program is operated through the Housing and Community Services Department through community-based, service-provider agencies. The Department's rules for the program (OAR 461-135-1305 to 1335) were repealed July 1, 2001.

(16) JOBS; Job Opportunities and Basic Skills. An employment program for REF, REFM and TANF clients. JOBS helps these clients attain self-sufficiency through training and employment. The program is part of Welfare Reform.

(17) JOBS Plus. Provides subsidized jobs rather than FS or TANF benefits. For TANF clients, JOBS Plus is a component of the JOBS Program; for FS clients and noncustodial parents of children receiving TANF, it is a separate employment program. Eligibility for TANF clients, FS clients and noncustodial parents of children receiving TANF is determined by AFS. Eligibility for UI recipients is determined by the Oregon State Employment Department. When used alone, JOBS Plus includes only clients whose JOBS Plus program participation is through the Department of Human Services. JOBS Plus administered through the Oregon State Employment Department is known in chapter 461 of the Oregon Administrative Rules as Oregon Employment Department UI JOBS Plus. The following acronyms are used for specific categories:

(a) ADC-PLS; Clients eligible for JOBS Plus based on TANF.

(b) FS-PLS; Clients eligible for JOBS Plus based on FS.

(c) NCP-PLS; Noncustodial parents of children receiving TANF.

(18) MAA; Medical Assistance Assumed. The Medical Assistance Assumed program provides medical assistance to people who are eligible for the Assessment Program or ongoing TANF benefits.

(19) MAF; Medical Assistance to Families. The Medical Assistance to Families program provides medical assistance to people who are ineligible for MAA but are eligible for Medicaid using ADC program standards and methodologies that were in effect as of July 16, 1996.

(20) OFSET. The Oregon Food Stamp Employment Transition Program, which helps FS recipients find employment. This program is mandatory for some FS recipients.

(21) OHP; Oregon Health Plan. The Oregon Health Plan Program provides medical assistance to many low-income individuals and families. The program includes five categories of people who may qualify for benefits. The acronyms for these categories are:

(a) OHP-OPU; Adults. OHP coverage for adults who qualify under the 100 percent income standard. A person eligible under OHP-OPU is referred to as a health plan new/noncategorical (HPN) client.

(b) OHP-OPC; Children. OHP coverage for children who qualify under the 100 percent income standard.

(c) OHP-OP6; Children Under 6. OHP coverage for children under age 6 who qualify under the 133 percent income standard.

(d) OHP-OPP; Pregnant Females and their newborn children. OHP coverage for pregnant females who qualify under the 185 percent income standard and their newborn children.

(e) OHP-CHP; Persons Under 19. OHP coverage for persons under age 19 who qualify under the 185 percent income standard for medical assistance authorized by the Children's Health Insurance Program (CHIP) provision of the 1997 Balanced Budget Act.

(22) OSIP; Oregon Supplemental Income Program. Cash supplements to elderly and disabled individuals. When used alone, OSIP refers to all OSIP programs. The following acronyms are used for OSIP subprograms:

(a) OSIP-AB; Oregon Supplemental Income Program — Aid to the Blind.

(b) OSIP-AD; Oregon Supplemental Income Program — Aid to the Disabled.

(c) OSIP-EPD; Oregon Supplemental Income Program — Employed Persons with Disabilities program. This program provides Medicaid coverage for employed persons with disabilities with adjusted income less than 250 percent of the Federal Poverty Level.

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(d) OSIP-OAA; Oregon Supplemental Income Program — Old Age Assistance.

(23) OSIPM; Oregon Supplemental Income Program Medical. Medical coverage for elderly and disabled individuals. When used alone, OSIPM refers to all OSIP-related medical programs. The following codes are used for OSIPM subprograms:

(a) OSIPM-AB; Oregon Supplemental Income Program Medical — Aid to the Blind.

(b) OSIPM-AD; Oregon Supplemental Income Program Medical — Aid to the Disabled.

(c) OSIPM-EPD; Oregon Supplemental Income Program Medical — Employed Persons with Disabilities program. This program provides Medicaid coverage for employed persons with disabilities with adjusted income less than 250 percent of the Federal Poverty Level.

(d) OSIPM-MN; Oregon Supplemental Income Program Medical — Medically Needy. Medical coverage for individuals who have too many assets to qualify for other OSIPM programs.

(e) OSIPM-OAA; Oregon Supplemental Income Program Medical — Old Age Assistance.

(f) OSIPM-IC; Oregon Supplemental Income Program Medical — Independent Choices

(24) QMB; Qualified Medicare Beneficiaries. Additional medical coverage for Medicare recipients. When used alone, QMB refers to all QMB programs. The following codes are used for QMB subprograms:

(a) QMB-BAS; Qualified Medicare Beneficiaries — Basic. The basic QMB program.

(b) QMB-DW; Qualified Medicare Beneficiaries — Disabled Worker. Payment of the Medicare Part A premium for people under age 65 who have lost eligibility for Social Security disability benefits because they have become substantially gainfully employed.

(c) QMB-SMB; Qualified Medicare Beneficiaries — Special Medicare Beneficiary. Payment of all or a portion of the Medicare Part B premium only. There are no medical benefits available through QMB-SMB.

(25) REF; Refugee Assistance. Cash assistance to low-income refugee families.

(26) REFM or REFM-BAS; Refugee Assistance Medical — Basic. Medical coverage for low-income refugee families.

(27) The Repatriate Program helps Americans resettle in the United States if they have left a foreign land because of an emergency situation.

(28) SAC; Medical Coverage for Children in Substitute or Adoptive Care.

(29) Senior Prescription Drug Assistance Program; provides that people 65 years of age or older can purchase prescription drugs at the Medicaid price.

(30) TA-DVS; Temporary Assistance for Domestic Violence Survivors. Addresses the needs of clients threatened by domestic violence.

(31) TANF; Temporary Assistance for Needy Families. Cash assistance for families when children in those families are deprived of parental support because of continued absence, death, incapacity or unemployment. Cash assistance used to be known as ADC.

Stat. Auth.: ORS 411.060 & ORS 411.816, ORS 414.342

Stats. Implemented: ORS 411.060 & ORS 411.816, ORS 414.342

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 16-1990, f. 6-29-90, cert. ef. 7-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 23-1990, f. 9-28-90, cert. ef. 10-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 35-1992, f. 12-31-92, cert. ef. 1-1-93; AFS 16-1993, f. & cert. ef. 9-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 17-1996, f. 4-29-96, cert. ef. 5-1-96; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 4-1998, f. 2-25-98, cert. ef. 3-1-98; AFS 10-1998, f. 6-29-98, cert. ef. 7-1-98; AFS 17-1998, f. & cert. ef. 10-1-98; AFS 25-1998, f. 12-18-98, cert. ef. 1-1-99; 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 9-1999, f. & cert. ef. 7-1-99; AFS 17-2000, f. 6-28-00, cert. ef. 7-1-00; AFS 11-2001, f. 6-29-01, cert. ef. 7-1-01; AFS 17-2001(Temp), f. 8-31-01, cert. ef. 9-1-01 thru 9-30-01; AFS 22-2001, f. & cert. ef. 10-1-01; AFS 5-2002, f. & cert. ef. 4-1-02; AFS 10-2002, f. & cert. ef. 7-1-02; SSP 1-2003, f. 1-31-03, cert. ef. 2-1-03

### 461-110-0110

#### Terms Used in Determining Eligibility

The following terms are used in the eligibility determination process:

(1) *Child* includes natural, step, and adoptive children. The term *child* does not include an unborn.

(a) For EXT, MAA, MAF, REFM, and TANF, the term dependent *child* means the following:

(A) A person who is not a caretaker relative of a child in the household, is unmarried or married but separated, and is under the age of 18, or 18 years of age and a full time student in secondary school or the equivalent level of vocational or technical training; or

(B) A minor parent whose parents have chosen to apply for benefits for the minor parent. This does not apply to a minor parent who is married and living with his or her spouse.

(b) For ERDC, a *child* need not have a biological or legal relationship to the caretaker but must be in the care and custody of the caretaker and must be:

(A) Under the age of 18; or

(B) Under the age of 19 and in secondary school or vocational training at least half time.

(c) For FS, a *child* is an adult and minor children living with their parent(s).

(d) For GA, GAM and OSIP, a *child* is a person under the age of 18.

(e) For OHP, *child* means a person, including a minor parent, under the age of 19.

(f) For OSIPM and QMB, *child* means an unmarried person living with a parent who is:

(A) Under the age of 18; or

(B) Under the age of 21 and attending full time secondary, post-secondary or vocational-technical training designed to prepare the person for employment.

(2) *Community-based care* is any of the following:

(a) Adult foster care — Room and board and 24-hour care and services for the elderly or for disabled people 18 years of age or older. The care is contracted to be provided in a home for five or fewer clients.

(b) Assisted living facility — A program approach, within a physical structure, which provides or coordinates a range of services, available on a 24-hour basis, for support of resident independence in a residential setting.

(c) In-home Services — People living in their home receiving services determined necessary by the Department.

(d) Residential care facility — A facility that provides residential care in one or more buildings on contiguous property for six or more physically handicapped or socially dependent people.

(e) Specialized living facility — Identifiable services designed to meet the needs of persons in specific target groups which exist as the result of a problem, condition or dysfunction resulting from a physical disability or a behavioral disorder and require more than basic services of other established programs.

(f) Independent choices — In-home Services recipients in demonstration sites who receive a cash benefit to coordinate in-home services under a section 1115 (42 U.S.C. 1315) demonstration waiver.

(3) *Custodial parents* means parents who have physical custody of their child(ren). Custodial parents may be receiving benefits as dependent children or as caretaker relatives for their own children.

(4) For FS, *disabled* means a person who meets any of the following:

(a) Receives state GA, OSIP, SSI, VA (for nonservice or service-connected disability rated as total), railroad or governmental benefits based on disability.

(b) Is a veteran considered in need of Aid and Attendance benefits by the VA.

(c) Is the surviving spouse or child of a veteran and is considered permanently incapable of self-support under Title 38 of the United States Code.

(d) Receives SSB based on blindness or disability.

(e) Receives a state or federally administered benefit for a disability considered permanent that meets SSA criteria.

(5) *Disqualified* means an individual cannot receive program benefits because they have not cooperated in fulfilling some eligibility requirement. Actions that can disqualify an individual include not cooperating with JOBS, JOBS Plus or OFSET, failing to provide an SSN or failure to pursue assets. In some cases, a disqualified individual can make their filing group ineligible for benefits.

(6) *Domestic violence* shelters are public or private nonprofit residential facilities providing services to victims of domestic violence. If the facility serves other people, a portion must be used solely for victims of domestic violence.

(7) For FS, *elderly* means a person 60 years of age or older.

(8) For FS, *homeless* means the group does not have a fixed or regular nighttime residence or the group's primary residence is one of the following:

(a) A supervised shelter that provides temporary accommodations.

(b) A halfway house or residence for people who may become institutionalized.

(c) A temporary accommodation in another person's or family's residence for 90 days or less.

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(9) *Ineligible* means a person cannot receive program benefits because they do not meet some eligibility requirement that is beyond their control; not because they refuse to fulfill the requirement. A person may be ineligible for benefits because of age, alien status, student status (for FS) or because a disqualified member of the filing group makes them ineligible.

(10) *Long-term care* is the system through which the Department provides required financial benefits, specialized living arrangements, and a broad range of social and health services to eligible aged, blind or disabled adults for extended periods of time. This includes nursing homes and state hospitals (Eastern Oregon and Oregon State Hospitals).

(11) *Marriage* means legal marriage uniting two people. Legal marriage is:

(a) One recognized as legal by state statute of the state where the marriage occurred, including common-law marriage if recognized as legal in a state where the couple previously resided.

(b) A *cultural marriage* if it occurred in a country that recognizes it as legal.

(12) For FS, a *migrant farmworker* is an individual who regularly travels away from their permanent residence overnight, usually with a group of laborers, to seek employment in an agriculturally related activity. If any member of an FS household fits the definition of migrant farmworker at any time during the redetermination period, budget the household according to the policy on migrant farmworkers.

(13) *Nonstandard living arrangements* are those in which a person does not live in their own home or requires special services to remain in their home.

(14) *Parent* means the biological or legal (step or adoptive) mother or father of a person or unborn child.

(a) If the mother lives with a male and either she or the male claims that he is the father of the child or unborn, and no one else claims to be the father, he is treated as the father even if paternity has not been legally established.

(b) A stepparent relationship exists if:

(A) The person is legally married to the child's biological or adoptive parent; and

(B) The marriage has not been terminated by legal separation, divorce or death.

(c) A legal adoption erases all prior legal and blood relationships and establishes the adoptive parent as the legal parent. However, the biological parent is also considered a parent if both of the following are true:

(A) The child lives with the biological parent; and

(B) The legal parent (the adoptive parent) has given up care, control and supervision of the child.

(15) For all programs except FS, *primary person* means the filing group member who is responsible for providing information necessary to determine eligibility and calculate benefits. The primary person for individual programs is as follows:

(a) For EXT, MAA, MAF and TANF, the parent or caretaker relative.

(b) For ERDC, the caretaker.

(c) For GA, GAM, OSIP, OSIPM and QMB, the client or their spouse.

(d) For OHP, REF and REFM, the applicant, caretaker, caretaker relative or parent.

(16) For FS, *primary person* means:

(a) An adult in the filing group who is designated by the group to serve as the primary person.

(A) A child of any age cannot be the primary person when more than one generation lives together, and an adult who is the parent or fulfilling the role of parent is employed, work-registered for FS or receiving TANF or UC.

(B) Where there is no adult, the group can designate another responsible person in the filing group.

(b) Once the primary person has been designated, the filing group cannot choose a different person to be the primary person during the same certification period or during an OFSET or job quit disqualification period, unless there is a change in the composition of the household group.

(17) *Safe homes* are private homes that provide a few nights lodging to victims of domestic violence. The homes must be recognized as such by the local domestic violence agency, such as crisis hot lines and shelters.

(18) For FS, *seasonal farmworkers* are people employed in agricultural employment of a seasonal or temporary nature. If any member of an FS household fits the definition of seasonal farmworker at any time during the redetermination period, budget the household according to policy on seasonal farmworkers. Seasonal farmworkers are not required to be absent overnight from their permanent residence when:

(a) Employed on a farm or ranch performing field work related to planting, cultivation, or harvesting operations; or

(b) Employed in a canning, packing, ginning, seed conditioning, or related research or processing operation, and transported to or from the place of employment by means of a day-haul operation.

(19) *Sibling* means the brother or sister of a person. "Blood-related" means they share at least one biological or adoptive parent. "Step" means they are not related by blood, but are related by the marriage of their parents.

(20) *Spouse* means a person who is legally married to another person. In the ERDC and FS programs, spouse includes a person who is not legally married to another, but is presenting themselves to the community as the husband or wife by:

(a) Representing themselves as husband and wife to relatives, friends, neighbors or tradespeople; and

(b) Sharing living expenses or household duties.

(21) *Standard living arrangement* means people living in what is normally considered a single family dwelling (such as a house, apartment, motel room or trailer) without needing special services to remain in their home.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 13-1992, f. & cert. ef. 5-1-92; AFS 30-1992 (Temp), f. & cert. ef. 10-14-92; AFS 1-1993, f. & cert. ef. 2-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 6-1994, f. & cert. ef. 4-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 15-1996, f. 4-29-96, cert. ef. 5-1-96; AFS 27-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 32-1996(Temp), f. & cert. ef. 9-23-96; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 11-2001, f. 6-29-01, cert. ef. 7-1-01; AFS 5-2002, f. & cert. ef. 4-1-02; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 1-2003, f. 1-31-03, cert. ef. 2-1-03

### 461-110-0750

#### Benefit Group

(1) For people not assumed eligible, the benefit group consists of the people from the need group who:

(a) Meet all nonfinancial eligibility requirements.

(b) Have resources below the resource limit.

(c) Have income below the Income Limits/Payment Standards.

(2) For people assumed eligible (see OAR 461-135-0010), the benefit group consists of the people who are in the benefit group of the program used to assume eligibility.

(3) In the OHP-OPU program, a person can choose to be or not to be a member of the benefit group, subject to the following conditions:

(a) If a person chooses not to be in the benefit group at the time of application, the person will not receive benefits and will not be subject to the OHP premium requirements. If the person wishes to join the benefit group after the group is certified, the group must reapply (see OAR 461-115-0530).

(b) If a person chooses to be in the benefit group at the time of application, the person will receive benefits with the benefit group and will be subject to the OHP premium requirements.

(c) Once a benefit group has been found eligible, a person in the group may be excluded from it, upon request of the person, if premium payments for months after January 2003 are current. Premium payments are current if the premiums billed for the months prior to the month of request have been paid and;

(A) If the request is made prior to the 21st of a month, the premium for that month has been paid.

(B) If the request is made after the 20th of a month, the premium for that month and the following month have been paid.

Stat. Auth.: ORS 183, ORS 411, ORS 414, ORS 416 & ORS 418

Stats. Implemented: ORS 411.060

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; SSP 1-2003, f. 1-31-03, cert. ef. 2-1-03

### 461-115-0530

#### Certification Period; OHP

(1) The OHP *certification period* is the period for which a client is certified eligible for the program. For applicants, the initial *certification period* consists of the month containing the effective date for starting medical benefits (described in OAR 461-180-0090) and the following six months. Subsequent *certification periods* are for six months.

(2) To establish a new certification period, an OHP benefit group must file an application and be found eligible.

(3) For OHP recipients working under a JOBS Plus agreement, the *certification period* is extended to include the month after the client finishes working under the agreement.

(4) When a person wishes to be added to an OHP benefit group already certified for OHP, the entire group must reapply and establish a new

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*certification period* (see OAR 461-115-0050, "When An Application Must be Filed"). If the circumstances revealed on the new application would make the new benefit group ineligible, the original benefit group remains eligible for the remainder of its certification period.

(5) If a member leaves an OHP benefit group, that individual and other members of the benefit group remain eligible for the remainder of the certification period.

(6) If a current OHP client moves into another current OHP filing group, that client and the members of that filing group who are OHP-eligible are combined into one benefit group if the client is required to be in the current household's OHP filing group. The certification period for the new benefit group ends the later of the date the current client's certification period or the filing group's period was set to end.

(7) A pregnant woman found eligible for the OHP-OPP program is not assigned a *certification period*—she is eligible for the period described in OAR 461-135-0010.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 2-1994, f. & cert. ef. 2-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 1-2000, f. 1-13-00, cert. ef. 2-1-00; AFS 22-2001, f. & cert. ef. 10-1-01; SSP 1-2003, f. 1-31-03, cert. ef. 2-1-03

## 461-115-0705

### Required Verification; OHP

This rule establishes verification requirements for the OHP program in addition to the requirements of OAR 461-115-0610.

(1) At initial application, the following must be verified:

(a) When applicable, the requirement in OAR 461-120-0210 to have or apply for a social security account number;

(b) Alien status for applicants who indicate they are not U.S. citizens;

(c) Proof of Indian heritage for persons exempted by OAR 461-135-1120(1) from paying premiums; and

(d) Income from the past three months and income already received in the budget month.

(A) If verification is not available for a month, the previous month's income is used if it is a reasonable estimate of anticipated income.

(B) If the previous month's income is not a reasonable estimate for a month's income, the client's unverified statement is accepted.

(2) At recertification, the following must be verified:

(a) Unearned income if it has changed since the last certification.

(b) Earned income from the three months prior to the budget month.

(3) A client enrolled *full time* in *higher education* must provide verification, at application and recertification, that the client meets the requirements of OAR 461-135-1110.

(4) The following must be verified when it is first reported or changed:

(a) Pregnancy of the client, which must be verified by a medical practitioner, health department, clinic, or crisis pregnancy center or like facility.

(b) Amount of the premium for cost-effective employer-sponsored health insurance.

(5) A client must provide verification to support a request for waiver of a premium arrearage (see OAR 461-135-1130).

(6) A client must provide verification for any eligibility requirement questioned by the Department.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060 & ORS 411.650

Hist.: AFS 2-1994, f. & cert. ef. 2-1-94; AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 41-1995, f. 12-26-95, cert. ef. 1-1-96; AFS 15-1996, f. 4-29-96, cert. ef. 5-1-96; AFS 24-1997, f. 12-31-97, cert. ef. 1-1-98; AFS 2-1999, f. 3-26-99, cert. ef. 4-1-99; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; SSP 1-2003, f. 1-31-03, cert. ef. 2-1-03

## 461-120-0210

### Requirement to Provide or Apply for SSN

(1) To meet the eligibility requirements for CAWEM, ERDC or OHP-CHP, a client need not have or apply for a social security number (SSN).

(2) Except as provided in section (1) of this rule, for all programs except ADCM-EA, EA, ERDC, OHP and TA-DVS, to be included in the need group a person must:

(a) Provide his or her SSN; or

(b) Apply for a number if he or she does not have one and provide the number when it is received.

(3) To be eligible for benefits, a person applying for ADCM-EA, EA or TA-DVS must provide his or her SSN if he or she can.

(4) Except as provided in section (1) of this rule, for OHP, all persons included in the benefit group must provide their SSN or apply for a number and provide the number when it is received.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 9-1999, f. & cert. ef. 7-1-99; AFS 1-2000, f. 1-13-00, cert. ef. 2-1-00; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; SSP 1-2003, f. 1-31-03, cert. ef. 2-1-03

## 461-120-0345

### Clients Required to Obtain Medical Coverage

This rule explains the obligation of clients to obtain medical coverage for members of the benefit group. A client is excused from the requirements of section (1)(a) of this rule for *good cause* defined in OAR 461-120-0350.

(1) To be eligible for any program except ERDC or FS, each adult client must:

(a) Assist the Department and the Division of Child Support of the Department of Justice in establishing paternity for each of his or her children and obtaining an order directing the non-custodial parent of a child in the benefit group to provide health care for that child.

(b) Make a good faith effort to obtain available coverage under Medicare.

(2) To be eligible for the EXT, GAM, MAA, MAF, OHP (except OHP-CHP and OHP-OPU), OSIPM (except OSIPM-MN), REFM and SAC programs, once informed of the requirement, a person who is able to must apply for, accept, and maintain cost-effective, employer-sponsored health insurance (see OAR 461-155-0360). For OSIPM, the client is not required to incur a cost for the health insurance.

(3) In the OHP-OPU program, except for American Indians and Alaska Natives, a person who has health insurance available through his or her employer must cooperate in determining eligibility for the Family Health Insurance Assistance Program (FHIAP). If eligible for FHIAP, the person must apply for and accept the employer-sponsored health insurance. Rules for FHIAP are at OAR 442-004-0000 and following.

(4) A person who fails to meet the requirements of section (1), (2) or (3) of this rule is removed from the need group except that in the OHP program the person is removed from the benefit group.

(5) In the case of a person failing to meet the requirements of section (1)(a) of this rule, the Department applies the penalty after providing the client with notice and opportunity to show the provisions of OAR 461-120-0350 apply.

(6) The penalty provided by this rule ends when the client meets the requirements of this rule.

(7) If the TANF grant is affected by the penalty imposed under this rule, eligibility for and the level of food stamp benefits are determined as if the client were receiving cash benefits without the reduction due to the penalty.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 28-1992, f. & cert. ef. 10-1-92; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 30-1996, f. & cert. ef. 9-23-96; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 24-1997, f. 12-31-97, cert. ef. 1-1-98; AFS 10-1998, f. 6-29-98, cert. ef. 7-1-98; AFS 1-2000, f. 1-13-00, cert. ef. 2-1-00; AFS 17-2000, f. 6-28-00, cert. ef. 7-1-00; AFS 19-2001, f. 8-31-01, cert. ef. 9-1-01; AFS 27-2001, f. 12-21-01, cert. ef. 1-1-02; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 1-2003, f. 1-31-03, cert. ef. 2-1-03

## 461-135-0010

### Assumed Eligibility for Medical Programs

This rule explains when clients are *assumed eligible* for certain medical programs because they receive or are deemed to receive benefits of another program.

(1) Except for clients disqualified for failure to pursue cost-effective, employer-sponsored health insurance as required by OAR 461-120-0345 and clients who do not meet the citizenship or alien status requirements set forth in OAR 461-120-0125, the following people are *assumed eligible* for MAA:

(a) People receiving or eligible to receive TANF cash benefits.

(b) People whose TANF cash benefits are being paid as wages through the JOBS Plus program.

(c) People who receive no TANF cash benefits because of their failure to comply with the requirements for recipients of the "pay after performance" rule (OAR 461-135-0180(2)), requirements of the JOBS program, or a requirement for evaluation or treatment of substance abuse or mental health (OAR 461-135-0085).

(d) People in the Assessment Program (see OAR 461-135-0475).

(e) Children in a benefit group whose grant is affected by a failure to comply with the requirements of OAR 461-120-0340 regarding paternity or child support.

(2) Pregnant women who are receiving benefits the day the pregnancy ends are *assumed eligible* for EXT, MAA, MAF, OHP (except OHP-CHP), OSIPM or SAC until the last day of the calendar month in which the 60th day after the last day of the pregnancy falls.



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(3) Pregnant women who were eligible for benefits of the EXT, GAM, MAA, MAF, OHP, OSIPM or SAC program but become ineligible during the pregnancy are assumed eligible for the OHP program if their income was below the OHP income standard any time while they were pregnant and receiving medical benefits through any program listed in this section.

(4) A child born to a mother eligible for and receiving EXT, MAA, MAF, OHP (except OHP-CHP), OSIPM or SAC benefits is *assumed eligible* for medical benefits. A child who is continuously a member of his or her mother's household group is eligible under this section until the end of the month the child turns one year of age.

(5) The following children are *assumed eligible* for SAC:

(a) A child who is the subject of an adoption assistance agreement with another state.

(b) Children in a state-subsidized, adoptive placement, if an adoption assistance agreement is in effect between a public agency of the state of Oregon and the adoptive parents that indicates the child is eligible for Medicaid.

(6) The following groups of people are *assumed eligible* for OSIPM (except for OSIPM-MN):

(a) Recipients of SSI benefits.

(b) People deemed eligible for SSI under Sections 1619(a) or (b) of the Social Security Act (42 U.S.C. 1382h(a) or (b)). These are disabled people whose impairments have not changed but who have become gainfully employed and have continuing need for OSIPM.

(7) Clients who receive both benefits under Part A of Medicare and SSI benefits are *assumed eligible* for the QMB-BAS program.

(8) Clients are *assumed eligible* for REFM if:

(a) They are receiving cash assistance through the REF program; or

(b) They are ineligible for cash assistance through the REF program only because of income or resources.

Stat. Auth.: ORS 411.060 & ORS 418.100

Stats. Implemented: Ch. 859, OL 1999

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 28-1992, f. & cert. ef. 10-1-92; AFS 1-1993, f. & cert. ef. 2-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 17-1998, f. & cert. ef. 10-1-98; AFS 12-1999(Temp), f. & cert. ef. 10-1-99 thru 1-31-00; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; AFS 10-2002, f. & cert. ef. 7-1-02; SSP 1-2003, f. 1-31-03, cert. ef. 2-1-03

## 461-135-0990

### Specific Requirements; Reimbursement of Cost-Effective, Employer-Sponsored Health Insurance Premiums

Clients in the EXT, GAM, MAA, MAF, OHP (except OHP-CHP and OHP-OPU), OSIPM (except OSIPM-MN with a spend-down), REF, REFM and SAC programs are reimbursed for their share of the premiums for employer-sponsored health insurance if:

(1) The insurance is provided through a member of the household group;

(2) The insurance covers a member of the benefit group;

(3) The insurance coverage is a comprehensive plan (that is, includes basic or major medical services) or is a fully capitated health plan (FCHP) or physicians care organization (PCO); and

(4) The premium is cost-effective (see OAR 461-155-0360).

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 10-1998, f. 6-29-98, cert. ef. 7-1-98; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; SSP 1-2003, f. 1-31-03, cert. ef. 2-1-03

## 461-135-1070

### Specific Requirements; Citizen/Alien-Waived Emergent Medical (CAWEM)

To be eligible for the CAWEM program, a client must be ineligible for BCCM, EXT, MAA, MAF, OHP (except OHP-CHP), OSIPM or SAC solely because he or she does not meet citizenship or alien status requirements. A client who is ineligible for OHP-CHP solely because he or she does not meet citizenship requirements, cannot be eligible for CAWEM. Benefits of the CAWEM program are limited to the services described in the administrative rules of the Department of Human Services in chapter 410 of the Oregon Administrative Rules.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 17-1992, f. & cert. ef. 7-1-92; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 10-1998, f. 6-29-98, cert. ef. 7-1-98; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; AFS 5-2000, f. 2-29-00, cert. ef. 3-1-00; AFS 5-2002, f. & cert. ef. 4-1-02; SSP 1-2003, f. 1-31-03, cert. ef. 2-1-03

## 461-135-1100

### Specific Requirements; OHP

This rule explains who is eligible for the OHP program.

(1) To be eligible for OHP, a person cannot:

(a) Be receiving, or deemed to be receiving, SSI benefits;

(b) Be eligible for Medicare, except that this requirement does not apply to OHP-OPP;

(c) Be receiving Medicaid through another program; or

(d) Be enrolled in a health insurance plan subsidized by the Family Health Insurance Assistance program (FHIAP, see ORS 735.720 to 735.740).

(2) To be eligible for the OHP-OPU program, a person must be 19 years of age or older and must not be pregnant. A person eligible for OHP-OPU is referred to as a health plan new/noncategorical (HPN) client. In addition to all other OHP eligibility requirements, an HPN client:

(a) Must not be covered by private major medical health insurance and must not have been covered by private major medical health insurance during the six months preceding the effective date for starting medical benefits. *Private major medical health insurance* means health insurance coverage that provides medical care for physician and hospital services, including major illnesses, with a limit of not less than \$10,000 for each covered individual. The six-month waiting period is waived if:

(A) The person has a condition that, without treatment, would be life-threatening or would cause permanent loss of function or disability;

(B) The person's private health insurance premium was reimbursed under the provisions of OAR 461-135-0990;

(C) The person's private health insurance premium was subsidized through FHIAP and the client did not voluntarily end the insurance coverage; or

(D) A member of the person's filing group was a victim of domestic violence.

(b) Must meet the following eligibility requirements:

(A) The resource limit provided in OAR 461-160-0015.

(B) The higher education student requirements provided in OAR 461-135-1110.

(C) Payment of premiums determined in accordance with OAR 461-155-0235.

(D) Selection of a medical, dental and mental health managed health care plan MHCP or primary care case manager (PCCM) if available, unless the HPN client is exempted by OAR 410-141-0060.

(3) To be eligible for the OHP-OPC program, a person must be less than 19 years of age.

(4) To be eligible for the OHP-OP6 program, a child must be less than six years of age and not eligible for OHP-OPC.

(5) To be eligible for the OHP-OPP program, a person must be pregnant or must be a newborn assumed eligible under OAR 461-135-0010(4).

(6) To be eligible for the OHP-CHP program, a person must be under 19 years of age and must:

(a) Not be eligible for OHP-OPC, OHP-OPP or OHP-OP6;

(b) Meet the resource limit provided in OAR 461-160-0015;

(c) Meet budgeting requirements of OAR 461-160-0700;

(d) Select a medical, dental and mental health managed health care plan MHCP or primary care case manager (PCCM) if available, unless the client is exempted by OAR 410-141-0060; and

(e) Not be covered by private major medical health insurance or by any private major medical health insurance during the preceding six months. The six-month waiting period is waived if:

(A) The person has a condition that, without treatment, would be life-threatening or cause permanent loss of function or disability;

(B) The person's private health insurance premium was reimbursed under OAR 461-135-0990;

(C) The person's private health insurance premium was subsidized by FHIAP; or

(D) A member of the person's filing group was a victim of domestic violence.

(7) A child who becomes ineligible for OHP because of age while receiving in-patient medical services remains eligible until the end of the month in which he or she no longer receives those services if he or she is receiving in-patient medical services on the last day of the month in which the age requirement is no longer met.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 2-1994, f. & cert. ef. 2-1-94; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 29-1994, f. 12-29-94, cert. ef. 1-1-95; AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 41-1995, f. 12-26-95, cert. ef. 1-1-96; AFS 27-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 36-1996, f. 10-31-96, cert. ef. 11-1-96; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 10-1998, f. 6-29-98, cert. ef. 7-1-

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98; AFS 17-1998, f. & cert. ef. 10-1-98; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; SSP 1-2003, f. 1-31-03, cert. ef. 2-1-03

## 461-135-1110

### Eligible and Ineligible Students; OHP-HPB

(1) In the OHP-OPU program, a person who is enrolled *full time* in higher education is ineligible to receive benefits, unless one of the following is true:

(a) The student:

(A) Meets the income requirements for a Pell grant;

(B) Is not currently covered by private major medical health insurance or an HMO; and

(C) Has not been covered by private major medical health insurance or by an HMO for the six months immediately preceding the date of application.

(b) The student is in a program serving displaced workers under Section 236 of the Trade Act of 1974 (19 U.S.C. § 2296).

(2) For the purposes of this rule:

(a) Higher education includes the following:

(A) Any public or private university, college or community college.

(B) Any post-secondary vocational or technical school that is eligible to accept Pell grants.

(b) Full time is defined by the school.

(c) Meets the income requirements for a Pell grant means the student's Student Aid Report shows an "expected family contribution" less than \$3,551 for the 2001-2002 school year or \$3,801 for the 2002-2003 school year.

(3) A student's enrollment status continues during school vacation and breaks. A student's higher education status ends when the student graduates, drops out (as verified by their disenrolling), reduces their credit or attendance hours below full-time status, is suspended or expelled, or does not intend to register for the next school term (excluding summer term).

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

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 24-1997, f. 12-31-97, cert. ef. 1-1-98; AFS 10-1998, f. 6-29-98, cert. ef. 7-1-98; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; AFS 13-2000, f. & cert. ef. 5-1-00; AFS 12-2001, f. 6-29-01, cert. ef. 7-1-01; AFS 10-2002, f. & cert. ef. 7-1-02; AFS 14-2002(Temp), f. & cert. ef. 10-30-02 thru 4-28-03; SSP 1-2003, f. 1-31-03, cert. ef. 2-1-03

## 461-135-1120

### Premium Requirement; OHP-OPU

In the OHP-OPU program, a monthly premium must be paid when the benefit group includes at least one non-exempt (HPN) client (see OAR 461-135-1100).

(1) The following HPNs are exempt from the premium requirement:

(a) American Indians and Alaska Natives.

(b) Clients who are eligible for the CAWEM program (see OAR 461-135-1070).

(2) The amount of the premium is determined in accordance with OAR 461-155-0235.

(3) All non-exempt clients in the benefit group are responsible for payment of premiums.

(4) Once the amount of the premium is established, the amount will not change during the certification period unless:

(a) An HPN client becomes pregnant.

(b) A pregnant client becomes an HPN client following the end of her assumed eligibility period provided for in OAR 461-135-1100.

(c) An HPN client becomes eligible for another program (for example, TANF, GA or OSIP).

(d) An HPN client leaves the filing group.

(e) OHP cases are combined during their certification periods.

(f) An HPN client's exemption status changes.

(5) A premium is considered paid on time when the payment is received by the Oregon Health Plan billing office on or before the 25th day of the month after the month in which it is due. The day the payment arrives in the office's post office box is the date it is received.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 19-1997, f. & cert. ef. 10-1-97; AFS 17-1998, f. & cert. ef. 10-1-98; AFS 25-1998, f. 12-28-98, cert. ef. 1-1-99; Administrative correction 2-23-99; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; AFS 17-2000, f. 6-28-00, cert. ef. 7-1-00; AFS 19-2001, f. 8-31-01, cert. ef. 9-1-01; SSP 1-2003, f. 1-31-03, cert. ef. 2-1-03

## 461-135-1130

### Disqualification for Nonpayment of OHP Premium

(1) Disqualification for failure to pay a premium on time. Clients are disqualified from receiving OHP benefits for failure to pay an OHP premi-

um required by OAR 461-135-1120. The disqualification affects only non-exempt HPN clients applying for or receiving benefits through the OHP-OPU program as follows:

(a) A non-exempt HPN applicant is disqualified if the applicant has an OHP premium arrearage.

(b) All non-exempt HPN recipients in a benefit group are disqualified if a required OHP premium for the group is not paid in full on or before the 25th day of the month after the month in which it is due.

(c) A non-exempt HPN applicant is disqualified when joining an OHP filing group that includes a person with an OHP premium arrearage.

(2) Duration of the disqualification

(a) A disqualification resulting from a premium arrearage incurred prior to February 1, 2003, remains in effect until the arrearage is paid or is waived in accordance with this rule.

(b) A disqualification resulting from a premium billed after February 1, 2003, remains in effect until the premium is paid and for a minimum of six months. The six-month disqualification period starts the first day of the month after the month in which the payment was required to be paid to be considered on time.

(c) A disqualification resulting from a non-exempt HPN applicant joining an OHP filing group that includes a person with a premium arrearage remains in effect until the arrearage is paid unless the entire arrearage was incurred prior to February 1, 2003, and is waived in accordance with this rule.

(3) Only for premiums billed before February 1, 2003, an arrearage is canceled and there is no disqualification based on the arrearage if the applicant is otherwise eligible for OHP and any of the following is true:

(a) The financial group has no income in the budget month and had no income in the prior two months.

(b) One of the following occurred either during the certification period in which the arrearage occurred or during the current budget month:

(A) A member of the filing group was the victim of a crime resulting in the loss of income or resources.

(B) A member of the filing group was the victim of domestic violence.

(C) The filing group was the victim of a natural disaster.

(D) A member of the filing group died.

(E) The filing group was homeless or lost their housing.

(c) The arrearage was incurred while the client was exempt from the requirement to pay a premium (see OAR 461-135-1120).

(d) The arrearage is a debt that has been stayed in a bankruptcy proceeding.

(e) The arrearage is over three years old.

(4) Any premium arrearage over three years old is canceled and no disqualification is based on the arrearage.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060, ORS 414.025

Hist.: AFS 19-1997, f. & cert. ef. 10-1-97; AFS 17-1998, f. & cert. ef. 10-1-98; AFS 25-1998, f. 12-28-98, cert. ef. 1-1-99; Administrative correction 2-23-99; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; AFS 17-2000, f. 6-28-00, cert. ef. 7-1-00; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 1-2003, f. 1-31-03, cert. ef. 2-1-03

## 461-135-1180

### Senior Prescription Drug Assistance Program

(1) Program established. This rule establishes all the eligibility criteria for the Senior Prescription Drug Assistance Program (the program), created by ORS 414.342. The program becomes effective in accordance with the following schedule:

(a) Effective February 1, 2003 for applicants living in the following counties — Baker, Clatsop, Columbia, Douglas, Hood River, Klamath, Lake, Sherman, Tillamook, Union, Wallowa, Wasco, Washington, and Wheeler.

(b) Effective March 1, 2003 for applicants living in the following counties — Crook, Deschutes, Grant, Harney, Jefferson, Malheur, Morrow, Multnomah, and Umatilla.

(c) Effective April 1, 2003 for applicants living in the following counties — Coos, Curry, Lane, Marion, Polk, and Yamhill.

(d) Effective May 1, 2003 for applicants living in the following counties — Benton, Clackamas, Jackson, Josephine, Lincoln, and Linn.

(2) Eligibility Requirements. To be eligible for the program, a person must:

(a) Be a resident of Oregon.

(b) Have gross income not greater than 185% of the amount provided in OAR 461-155-0290 for a one-person need group. For purposes of this rule, income means income in cash or kind available to the applicant or recipient the receipt of which is regular and predictable enough to afford security in the sense that the applicant or recipient may rely upon it to contribute toward meeting the needs of the applicant or recipient.

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(c) Be 65 years of age or older.

(d) Not be covered by any other public or private prescription drug benefit program and must not have been covered during the prior six months. "Any other public or private prescription drug benefit program" means a program that offers subsidized prescription drugs in which a portion of the cost is paid by the benefit program. The definition does not include a program that offers discounted drugs.

(e) Not have liquid resources with a total value of \$2,000 or more. Residences and vehicles are not considered liquid resources.

(f) Pay a non-refundable enrollment fee of \$50 to the Department and receive an enrollment card valid for twelve months.

(g) Apply for and be found eligible for the program annually.

**(3) Eligibility and Procedures.**

(a) Individual eligibility: An applicant's eligibility is determined without regard to the potential eligibility or assets of another person.

(b) Applications: An applicant for the program must use the application form approved by the Department and must apply not earlier than 30 days prior to his or her 65th birthday. An applicant may, but is not required to, provide his or her social security number on the application.

(c) Enrollment card: The enrollment card issued to the enrollee is valid for 12 calendar months beginning the first month after the applicant has met all eligibility requirements. The card is not valid if the client no longer meets the requirements of section (2)(a) or (d) of this rule.

(4) Program Benefits: An eligible person (enrollee) may participate in the program in accordance with OAR 410-149-0000 and following.

(5) Appeals: The Department provides a contested case hearing to a person whose application for the program is denied.

Stat. Auth.: ORS 414.346

Stats. Implemented: ORS 414.342

Hist.: SSP 1-2003, f. 1-31-03, cert. ef. 2-1-03

**461-150-0055**

**Eligibility and Budgeting; OHP**

(1) In the OHP program, the budget month is:

(a) For applicants, the month of application.

(b) For clients reapplying in the last month of their OHP certification period, and for clients moving from GAM, MAA, MAF, REFM or SAC to OHP, the last month of their current eligibility period.

(c) When a person is added to the filing group, the month the person is added.

(d) For late reapplications, the month the application is received.

(2) Countable income is determined as follows:

(a) Income is considered available during a month in accordance with OAR 461-140-0040.

(b) Income is not annualized, converted or prorated.

(c) For self-employed clients, countable self-employment income is determined in accordance with OAR 461-145-0920 and 461-145-0930.

(3) The financial group's average countable income is calculated as follows:

(a) The financial group's income from the three months preceding the budget month is added.

(b) The total is divided by three, and the result is the financial group's average countable income assigned to the budget month.

(c) The financial group's average countable income is used to determine eligibility for OHP in accordance with OAR 461-160-0700.

(4) If the benefit group is determined eligible, changes in income do not affect eligibility during their certification period or until their eligibility otherwise ends.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.070

Hist.: AFS 2-1994, f. & cert. ef. 2-1-94; AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 10-1998, f. 6-29-98, cert. ef. 7-1-98; AFS 24-1998(Temp), f. 11-30-98, cert. ef. 12-1-98 thru 3-31-99; AFS 2-1999, f. 3-26-99, cert. ef. 4-1-99; AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; SSP 1-2003, f. 1-31-03, cert. ef. 2-1-03

**461-155-0225**

**Income Standard; OHP**

(1) If a financial group contains a person with significant authority in a business entity — a "principal" as defined in OAR 461-140-0040 — the group is ineligible for the OHP program if the average monthly gross income of the business entity exceeds \$10,000. If the need group is not ineligible under this section, its eligibility is evaluated under section (2) of this rule.

(2) The countable income standards for OHP are as follows:

(a) The countable income standard for OHP-OPC and OHP-OPU is 100 percent of the 2002 federal poverty level.

OHP 100% Countable Income Standard

**No. in Need Group — Amount**

1 — \$738

2 — 995

3 — 1,252

4 — 1,508

5 — 1,765

6 — 2,022

7 — 2,278

8 — 2,535

9 — 2,792

10 — 3,048

Each additional person — 257

(b) The countable income standard for OHP-OP6 is 133 percent of the 2002 federal poverty level.

OHP 133% Countable Income Standard

**No. in Need Group — Amount**

1 — \$982

2 — 1,323

3 — 1,665

4 — 2,006

5 — 2,347

6 — 2,689

7 — 3,030

8 — 3,372

9 — 3,713

10 — 4,054

Each additional person — 341

(c) The countable income standard for OHP-OPP and OHP-CHP is 185 percent of the 2002 federal poverty level (see section (2)(a) of this rule).

OHP 185% Countable Income Standard

**No. in Need Group — Amount**

1 — \$1,366

2 — 1,841

3 — 2,316

4 — 2,790

5 — 3,265

6 — 3,740

7 — 4,215

8 — 4,690

9 — 5,165

10 — 5,639

Each additional person — 475

Stat. Auth.: ORS 409.050, 411.060

Stats. Implemented: ORS 411.060, ORS 411.070

Hist.: AFS 2-1994, f. & cert. ef. 2-1-94; AFS 6-1994, f. & cert. ef. 4-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 16-1996, f. 4-29-96, cert. ef. 5-1-96; AFS 5-1997, f. 4-30-97, cert. ef. 5-1-97; AFS 4-1998, f. 2-25-98, cert. ef. 3-1-98; AFS 5-1998(Temp), f. & cert. ef. 3-11-98 thru 5-31-98; AFS 6-1998(Temp), f. 3-30-98, cert. ef. 4-1-98 thru 5-31-98; AFS 8-1998, f. 4-28-98, cert. ef. 5-1-98; AFS 10-1998, f. 6-29-98, cert. ef. 7-1-98; AFS 3-1999, f. 3-31-99, cert. ef. 4-1-99; AFS 10-2000, f. 3-31-00, cert. ef. 4-1-00; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 5-2002, f. & cert. ef. 4-1-02; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 1-2003, f. 1-31-03, cert. ef. 2-1-03

**461-155-0235**

**OHP Premium Standards**

In the OHP program, the following steps are followed to determine the amount of the monthly premium for the filing group:

(1) The number of persons in the OHP need group is determined in accordance with OAR 461-110-0630.

(2) The financial group's countable income is determined in accordance with OAR 461-150-0055 and 461-160-0700.

(3) Based on the number in the need group and the countable income, the monthly premium for each non-exempt OHP-OPU client in the benefit group is determined from the following table: [Table not included. See ED. NOTE.]

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

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060, ORS 411.070

Hist.: AFS 35-1995, f. 11-28-95, cert. ef. 12-1-95; AFS 22-1996, f. 5-30-96, cert. ef. 6-1-96; AFS 5-1997, f. 4-30-97, cert. ef. 5-1-97; AFS 6-1998(Temp), f. 3-30-98, cert. ef. 4-1-98 thru 5-31-98; AFS 8-1998, f. 4-28-98, cert. ef. 5-1-98; AFS 3-1999, f. 3-31-99, cert. ef. 4-1-99; AFS 10-2000, f. 3-31-00, cert. ef. 4-1-00; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 5-2002, f. & cert. ef. 4-1-02; SSP 1-2003, f. 1-31-03, cert. ef. 2-1-03

**461-155-0360**

**Cost-Effective Health Insurance**

(1) This rule applies to the following medical assistance programs — EXT, GAM, MAA, MAF, OHP (except OHP-CHP and OHP-OPU), OSIPM (except OSIPM-MN with a spend-down), REFM and SAC. It explains how to determine whether an employer-sponsored health insurance plan is cost effective for the purpose of applying OAR 461-120-0345.

(2) The first step in making the determination of cost effectiveness is to determine the number of people in the household group who are in a benefit group of any of the programs listed in section (1).

(3) Based on the number determined in section (2) of this rule, the maximum cost-effective premium is determined from the following tables: [Table not included. See ED. NOTE.]

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(4) The insurance is cost effective if the employee's share of the premium is equal to or less than the amount determined in section (3) of this rule.

(5) If the health-insurance plan is cost effective, the Department will reimburse the actual amount of the premium, not to exceed the amount determined in section (3) of this rule.

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

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 10-1998, f. 6-29-98, cert. ef. 7-1-98; SSP 1-2003, f. 1-31-03, cert. ef. 2-1-03

## 461-160-0010

### Use of Resources in Determining Financial Eligibility

A countable resource is the available resource (see OAR 461-140-0020) remaining after allowing exclusions. Countable resources are used to determine eligibility as follows:

(1) In FS, GA, GAM, MAA, MAF, QMB, REF, REFM, SAC and TANF, a need group is not eligible for benefits if the financial group has countable resources above the need group resource limit.

(2) In ADCM-EA and EA, if a financial group has countable resources, they are used to reduce benefits.

(3) In OHP:

(a) Need group members who are Health Plan New/Noncategorical (HPN) or OHP-CHP (see OAR 461-135-1100) are not eligible if the financial group's countable resources are above the limit.

(b) If an HPN or OHP-CHP client is determined eligible, changes in resources do not affect eligibility during the certification period or until their eligibility otherwise ends.

(4) For OSIP and OSIPM (except OSIP-EPD and OSIPM-EPD), if a financial group has countable resources above the resource limit, treat the resources above the limit as follows:

(a) If the excess resources plus other countable income are above one month's Payment Standard for the need group, the benefit group is not eligible for benefits.

(b) If the excess resources plus other countable income do not exceed one month's Payment Standard, use them to reduce benefits. This only applies to waived cases and will cause an increase in their liability.

(5) For OSIP-EPD and OSIPM-EPD,

(a) Any money in an *approved account* is excluded during the determination of eligibility.

(b) Assets purchased from moneys in an *approved account* are excluded, provided they meet the requirements of OAR 461-145-0025.

(c) Assets purchased as *employment and independence expenses* are excluded, provided they meet the requirements of OAR 461-145-0025.

Stat. Auth.: ORS 411.060 & ORS 418.100

Stats. Implemented: ORS 411.060, ORS 418.100 & ORS 411.117

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1991(Temp), f. & cert. ef. 7-1-91; AFS 16-1991, f. 8-27-91, cert. ef. 9-1-91; AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 10-1998, f. 6-29-98, cert. ef. 7-1-98; AFS 17-1998, f. & cert. ef. 10-1-98; 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 9-1999, f. & cert. ef. 7-1-99; SSP 1-2003, f. 1-31-03, cert. ef. 2-1-03

## 461-160-0015

### Resource Limits

(1) In the MAA, MAF, REF, SAC and TANF programs, the resource limit is:

(a) \$10,000 for need groups with at least one JOBS participant who is progressing in a case plan.

(b) \$10,000 for need groups with at least one member who is working under a JOBS Plus agreement.

(c) \$2,500 for all other need groups, including all TANF applicants.

(2) In the ADCM-EA and EA programs, all countable resources must be used to meet the emergent need.

(3) In the ERDC, EXT and REFM programs, there is no resource limit.

(4) In the OSIPM-MN program, the resource limit is \$2,000 for one person, \$3,000 for a two-person need group, and \$50 for each additional person in the need group.

(5) In the FS program, the resource limit is:

(a) \$3,000 for need groups with at least one member who is elderly or disabled.

(b) \$10,000 for need groups with at least one member who is working under a JOBS Plus agreement.

(c) \$2,000 for all other need groups.

(6) In the GA and GAM programs, the resource limit is \$1,500 for each need group, of which no more than \$50 can be in the form of cash, bank accounts, stocks, bonds or other securities, including the equity value of any life insurance benefit.

(7) In the OHP program:

(a) There is no resource limit for a person whose eligibility is determined under the OHP-OPC, OHP-OP6 or OHP-OPP programs.

(b) The resource limit for a person whose eligibility is determined under the OHP-OPU program is \$2,000.

(c) The resource limit for children whose eligibility is determined under the OHP-CHP program is \$5,000.

(8) In the OSIP and OSIPM programs (except OSIPM-MN), the resource limit is as follows:

(a) \$2,000 for a one-person need group and \$3,000 for a two-person need group.

(b) \$1,000 for an OSIP need group eligible under OAR 461-135-0771. The total cash resources may not exceed \$500 for a one-person need group or \$1,000 for a two-person need group.

(c) \$12,000 is the limit for OSIP-EPD and OSIPM-EPD.

(9) In the QMB program, the resource limit is \$4,000 for a one-person need group and \$6,000 for a need group containing two or more people.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 414.042

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 20-1991, f. & cert. ef. 10-1-91; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 29-1994, f. 12-29-94, cert. ef. 1-1-95; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 27-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 10-1998, f. 6-29-98, cert. ef. 7-1-98; 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 16-1999, f. 12-29-99, cert. ef. 1-1-00; AFS 27-2001, f. 12-21-01, cert. ef. 1-1-02; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 1-2003, f. 1-31-03, cert. ef. 2-1-03

## 461-160-0700

### Use of Income; OHP

Income is used to determine eligibility for OHP as follows:

(1) The financial group's average countable income for the budget month is determined in accordance with OAR 461-150-0055.

(2) The financial group's average countable income for the budget month is compared to the OHP income standard with the following results:

(a) If the financial group's average countable income is below the income limit for the need group size, the benefit group is eligible for OHP. If it equals or exceeds the income limit, the benefit group is ineligible for OHP except as provided by section (2)(b) of this rule.

(b) If the financial group's average countable income equals or exceeds the OHP income standard, eligibility for the following members of the need group is determined using countable income the financial group has received and anticipates receiving in the budget month. These clients are eligible for OHP if the group's income, received only in the budget month, is below the income standard:

(A) Victims of domestic violence.

(B) OHP-OPC clients.

(C) OHP-OP6 clients.

(D) OHP-OPP clients.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.700 & ORS 411.816

Hist.: AFS 2-1994, f. & cert. ef. 2-1-94; AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 8-1998, f. 4-28-98, cert. ef. 5-1-98; AFS 10-1998, f. 6-29-98, cert. ef. 7-1-98; AFS 24-1998(Temp), f. 11-30-98, cert. ef. 12-1-98 thru 3-31-99; AFS 2-1999, f. 3-26-99, cert. ef. 4-1-99; SSP 1-2003, f. 1-31-03, cert. ef. 2-1-03

## 461-165-0030

### Concurrent and Duplicate Program Benefits

(1) A client cannot receive benefits from the Department of the same type (that is, cash, medical, or food stamp benefits) for the same month as a member of two different benefit groups or from two separate programs except as follows:

(a) If a GA client becomes eligible for TANF, the client's benefits are supplemented during the first month of eligibility for TANF to the TANF payment standards.

(b) A TANF recipient may receive ERDC for children who are in the household group but cannot be included in the TANF filing group.

(c) A client may receive EA, HSP and TA-DVS benefits and cash payments from other programs for the same time period.

(d) A child who is a member of an ERDC benefit group may also be a member of one of the following benefit groups:

(A) A TANF benefit group when living with a nonneedy caretaker relative, if the caretaker relative is not the child's parent.

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(B) An OSIP-AB benefit group.

(e) Clients in the Food Stamp program who leave a filing group that includes a person who abused them and enter a shelter or safe home for victims of domestic violence may receive food stamp benefits twice during the month they enter the shelter or safe home.

(f) A QMB-BAS client may also receive medical benefits from EXT, MAA, MAF, OSIPM or SAC.

(2) A client cannot receive benefits of the same type (that is cash, medical, or food stamp benefits) for the same period from both Oregon and another state or tribal food distribution program, except as follows:

(a) Medical benefits may be authorized for an eligible client if the client's provider refuses to submit a bill to the Medicaid agency of another state and the client would not otherwise receive medical care.

(b) Cash and medical benefits may be authorized for a client in the Assessment Program if benefits from another state will end by the last day of the month in which the client applied for TANF.

(3) A client cannot receive OHP benefits while receiving a subsidy through the Family Health Insurance Assistance Program established by ORS 735.720 to 735.740 (FHIAP).

Stat. Auth.: ORS 411.060, ORS 411.816 & ORS 418.100  
Stats. Implemented: ORS 411.060, ORS 411.816, ORS 418.100 & ORS 411.117  
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 9-1999, f. & cert. ef. 7-1-99; AFS 14-1999, f. & cert. ef. 11-1-99; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; SSP 1-2003, f. 1-31-03, cert. ef. 2-1-03

## 461-170-0035

### Reporting Changes; OHP

In the OHP program, clients are required to report, within 10 days of occurrence:

(1) A change in:

(a) Address.

(b) Name.

(c) Other health care coverage.

(2) The pregnancy of a member of the benefit group.

(3) A birth to a member of the benefit group.

(4) The availability of employer-sponsored health insurance for a member of the benefit group.

Stat. Auth.: ORS 411.060  
Stats. Implemented: ORS 411.105  
Hist.: AFS 15-1996, f. 4-29-96, cert. ef. 5-1-96; AFS 17-2000, f. 6-28-00, cert. ef. 7-1-00; SSP 1-2003, f. 1-31-03, cert. ef. 2-1-03

## 461-180-0097

### Effective Dates; OHP Premium

(1) Clients in the OHP-OPU program are required to pay a premium if not exempted by OAR 461-135-1120. The premium for the first month is prorated based on the effective date for starting medical benefits.

(2) If a person becomes a non-exempt OHP-OPU client during a month in which the person was receiving medical assistance from a program other than OHP-OPU, the effective date for starting the premium is the first of the next month.

(3) The effective date for ending the OHP premium is the first of the month in which the client becomes:

(a) Exempt from paying a premium; or

(b) Eligible under another medical assistance program.

Stat. Auth.: ORS 411.060  
Stats. Implemented: ORS 414.025(2)(u)  
Hist.: AFS 36-1995, f. 11-28-95, cert. ef. 12-1-95; AFS 15-1996, f. 4-29-96, cert. ef. 5-1-96; SSP 1-2003, f. 1-31-03, cert. ef. 2-1-03

## 461-180-0100

### Effective Dates; Eligibility Following Closure

The new effective date of eligibility following closure of benefits or following the end of a certification period is determined as follows:

(1) For the Food Stamp program, see OAR 461-115-0450.

(2) In the OHP program, the effective date for starting medical assistance is the first day of the month following closure if the filing group submitted an OHP application before the closing date and completes the application process. If the filing group submits the OHP application after the closing date, the effective date is provided by OAR 461-180-0090.

(3) In the ERDC program, eligibility starts the first day of the month following closure.

(4) In the TANF program:

(a) Eligibility starts on the date provided by OAR 461-180-0070 for TANF unless the client meets the requirements of subsection (b) of this section.

(b) Eligibility starts the first day of the month following closure if the client contacts the Department during the month of closure and submits to

the Department a complete application not later than the end of the month following closure.

(5) In all other programs, eligibility starts on the date of request for a new application (see OAR 461-115-0030 for a description of date of request), except it is the first day of the month following closure if the filing group has:

(a) Contacted the Department during the last month the client was eligible for the program; and

(b) Submitted to the Department a complete application during the month following closure.

Stat. Auth.: ORS 411.060, ORS 411.816, ORS 418.100  
Stats. Implemented: ORS 411.060, ORS 411.816, ORS 418.100  
Hist.: AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 40-1995, f. 12-26-95, cert. ef. 1-1-96; AFS 17-1998, f. & cert. ef. 10-1-98; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; SSP 1-2003, f. 1-31-03, cert. ef. 2-1-03

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**Notice Publication Date:**

**Rules Amended:** 461-135-0505, 461-155-0150, 461-155-0225

**Rules Suspended:** 461-155-0150(T)

**Subject:** Rules 461-135-0505, 461-155-0150 and 461-155-0225 are being filed as temporary rules to reflect the annual increase in the federal poverty levels as published in the Federal Register. These rules include standards/allowances and references based on the federal poverty levels.

**Rules Coordinator:** Annette Tesch—(503) 945-6067

## 461-135-0505

### Categorical Eligibility for FS

(1) A person is categorically eligible for food stamps if the person:

(a) Receives or is authorized to receive GA or SSI benefits or cash benefits funded by TANF;

(b) Receives or is authorized to receive in-kind benefits or services funded by TANF;

(c) Is deemed to be receiving SSI under Section 1619(a) or 1619(b) of the Social Security Act (42 U.S.C. 1382h(a) or (b)); or

(d) Is a member of a financial group with *countable income* less than 1.85 times the amount given in OAR 461-155-0225(2)(a) — rounded to the next lower whole dollar — and is authorized to receive a pamphlet about Information and Referral Services.

(2) A benefit or service is "funded by TANF" (see section (1) of this rule) if it is provided as part of the ADC-PLS, Assessment, EA, ERDC, JOBS, TA-DVS, transition, or other TANF-funded program.

(3) For an entire filing group to be categorically eligible for food stamps, it must contain only clients who are categorically eligible for food stamps. For the purpose of determining who is categorically eligible for food stamps, in some programs all members of the filing group are considered receiving the benefits of the program even if not all members receive the benefit. Those programs are the ERDC and TA-DVS programs and any housing assistance or transition service funded by TANF.

(4) A filing group that is eligible for transition services or the TA-DVS program is considered receiving benefits for the entire period of eligibility even if benefits are not received during each month of that period.

(5) A person categorically eligible for the Food Stamp program is presumed to meet the eligibility requirements for resources, countable and adjusted income limits, social security account number, sponsored alien information, and residency.

(6) When a filing group contains both members who are categorically eligible for food stamps and those who are not, a resource owned in whole or in part by a categorically eligible member is excluded.

(7) A person cannot be categorically eligible for food stamps in either of the following circumstances:

(a) The person is disqualified from receiving food stamps because of an intentional program violation.

(b) The person is a *primary person* disqualified from receiving food stamps for failure to comply with an OFSET activity or component contained in an OFSET case plan.

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

Stat. Auth.: ORS 411.816  
Stats. Implemented: ORS 411.816  
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 11-1999, f. & cert. ef. 10-1-99; AFS 29-2000(Temp), f. & cert. ef. 12-1-00 thru 3-31-01; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 9-2001, f. & cert. ef. 6-1-01; SSP 2-2003(Temp), f. & cert. ef. 2-7-03 thru 6-30-03

# ADMINISTRATIVE RULES

461-155-0150

## Child Care Eligibility Standard, Payment Rates, and Copayments

This rule covers child care in the ERDC, JOBS, JOBS Plus, OFSET and TANF programs.

(1) The following definitions apply to the rules governing child care rates:

- (a) Infant: A child aged birth through 12 months.
- (b) Toddler: A child aged 1 year through 30 months.
- (c) Preschool Child: A child aged 31 months through 5 years.
- (d) School Child: A child aged 6 years or older.

(e) *Special needs child*: A child who meets the age requirement of the program (ERDC or TANF) and who requires a level of care over and above the norm for his or her age due to a physical, behavioral or mental disability. The need for a higher level of care must be determined by the provider and the disability must be verified by one of the following:

(A) A physician, nurse practitioner, licensed or certified psychologist or clinical social worker.

(B) Eligibility for Early Intervention and Early Childhood Special Education Programs, or school-age Special Education Programs.

(C) Eligibility for SSI.

(2) The following definitions apply to the types of care specified in the child care rate charts:

(a) The *Standard Family Rate* applies to child care provided in the provider's own home or in the home of the child when the provider does not qualify for the enhanced rate allowed by subsection (b) of this section.

(b) The *Enhanced Family Rate* applies to child care provided in the provider's own home or in the home of the child when the provider meets:

(A) The training requirements of the Professional Development Registry (PDR) entry level, established by the Oregon Center for Career Development in Childhood Care and Education; or

(B) The training requirements established by the Child Care Division for registered family providers who apply to become registered after October 1, 1999.

(c) The *Enhanced Group Rate* applies to child care provided in a residential dwelling that is certified by the Child Care Division as a Group Child Day Care Home. To earn this designation, the facility must be inspected, and both provider and facility are required to meet certain standards not required of a registered family provider.

(d) The *Standard Center Rate* applies to child care provided in a facility that is not located in a residential dwelling and is exempt from Child Care Division Certification rules (see OAR 414-300-0000).

(e) The *Enhanced Center Rate* applies to child care provided in a center that is certified by the Child Care Division or in an exempt center whose staff meet the training requirements of the PDR entry level established by the Oregon Center for Career Development in Childhood Care and Education. Eligibility to receive the enhanced center rate for care provided in an exempt center is subject to the following requirements:

(A) A minimum of one staff member for every 20 children in care must meet the PDR entry level training requirements noted in section (2)(b)(A) of this rule.

(B) New staff must meet the PDR entry level training requirements within 90 days of hire, if necessary to maintain the trained staff-to-children ratio described in paragraph (A) of this subsection.

(C) There must be at least one person present where care is provided who has a current certificate in infant and child CPR and a current American Red Cross First Aid card or an equivalent.

(f) An exempt center is eligible to receive the enhanced rate for a maximum of six months while in the process of meeting the requirements of section (2)(e) of this rule if it files a statement of intent to meet the requirements on a form prescribed by the Department.

(g) An enhanced rate will become effective not later than the second month following the month in which the Department receives verification that the provider has met the requirements of section (2)(b), (c), (e) or (f) of this rule.

(3) Subject to the provisions in section (6) of this rule, the monthly limit for child care payments is the lesser of the amount charged by the provider or providers and the following amounts:

(a) The monthly rate provided in section (6) of this rule.

(b) The product of the hours of care, limited by section (4) of this rule, multiplied by the hourly rate provided in section (6) of this rule.

(4) The number of payable billable hours is limited as follows:

(a) For the ERDC-BAS, OFSET and TANF programs, the total in a month may not exceed:

(A) The number of hours of care necessary for the client to maintain his or her job including, for clients in the JOBS Plus program, the time the

client searches for unsubsidized employment and for which the employer pays the client, or to participate in activities included in a *case plan* (see OAR 461-190-0161 and 461-190-0310); or

(B) 125 percent of the time the client is at work or participating in an approved activity of the JOBS or OFSET program.

(b) For the ERDC-SBG program, the total may not exceed the number of hours of care necessary for the client to maintain his or her education, training or employment. The total may not exceed 125 percent of the sum of 200 percent of class hours and the time the client is at work.

(c) In the ERDC-BAS and TANF programs, for a client who earns less than state minimum wage, the total may not exceed 125 percent of the anticipated earnings divided by the state minimum wage. The limitation of this subsection is waived for the first three months of the client's employment.

(5) The following provisions apply to all programs:

(a) Providers not eligible for the enhanced rate will be paid at an hourly rate for children in care less than 158 hours per month subject to the maximum full-time monthly rate.

(b) Providers eligible for the enhanced rate will be paid at an hourly rate for children in care less than 136 hours a month unless the provider customarily bills all families at a part-time monthly rate subject to the maximum full-time monthly rate.

(c) At their request, providers eligible for the enhanced rate may be paid at the part-time monthly rate if they provide 63 or more hours of care in the month and customarily bill all families at a part-time monthly rate.

(d) Unless required by the client's or child's circumstances, the Department will not pay for care at a monthly rate to more than one provider for the same child for the same month.

(e) The Department will pay at the hourly rate for less than 63 hours of care in the month subject to the maximum full-time monthly rate.

(f) The Department will pay for up to five days each month the child is absent if:

(A) The child was scheduled to be in care and the provider bills for the amount of time the child was scheduled to be in care;

(B) The absent child's place is not filled by another child; and

(C) It is the provider's policy to bill all families for absent days.

(g) The Department will not pay for more than five consecutive days of scheduled care for which the child is absent.

(6) The limit in any month for child care payments on behalf of a child whose caretaker has special circumstances, defined in section (7) of this rule, is the lesser of the following:

(a) The amount billed by the provider or providers; and

(b) The monthly rate established in section (8) of this rule multiplied by a factor, limited to 1.5, determined by dividing the number of hours billed by 215.

(7) The limit allowed by section (6) of this rule is authorized once the Department has determined the client has special circumstances. For the purposes of this rule, a client has special circumstances when it is necessary, in order for the client to perform the requirements of his or her employment or training, to obtain child care for a child in excess of 215 hours in a month.

(8) The payment available for care of a child who meets the special needs criteria described in section (1)(e) of this rule is increased in accordance with OAR 461-155-0151 if:

(a) The child requires significantly more direct supervision by the child care provider than normal for a child of the same age; and

(b) The child is enrolled in a local school district Early Intervention or Early Childhood Special Education program or school-age Special Education Program. The enrollment required by this subsection is waived if determined inappropriate by a physician, nurse practitioner, licensed or certified psychologist, clinical social worker, or school district official.

(9) The following are the child care rates. The rates are based on the type of provider, the location of the provider (shown by zip code), the age of the child, and the type of billing used (that is, hourly or monthly).

(a) Group Area A. Hourly Rates (subject to maximum monthly rate) [Table not included. See ED. NOTE.] Group Area A. Monthly Rates [Table not included. See ED. NOTE.]

(b) Group Area B. Hourly Rates. (subject to maximum monthly rate) [Table not included. See ED. NOTE.] Group Area B. Monthly Rates [Table not included. See ED. NOTE.]

(c) Group Area C. Hourly Rates (subject to maximum monthly rate) [Table not included. See ED. NOTE.] Group Area C. Monthly Rates [Table not included. See ED. NOTE.]

(10) Through January 31, 2003, this section establishes the ERDC eligibility standard and the client's copayment (copay).

# ADMINISTRATIVE RULES

(a) The ERDC eligibility standard is 1.85 times the amount given in OAR 461-155-0290, rounded down to the next whole number. The ERDC copay is \$25 or the amount determined by the formula in subsection (b) of this section, whichever is greater.

(b) The maximum copay equals the constant determined by the table in subsection (c) of this section, added to the product of a constant determined by the table in subsection (d) of this section times the constant determined by the table in subsection (e) of this section raised to a power equal to the family's gross income, expressed in dollars. The formula is as follows:  $y = k + (b \times m^x)$

(c) The constant k is determined by the number of people in the need group, as follows:

- (A) 2 persons: k = -30
- (B) 3 persons: k = -55
- (C) 4 persons: k = -50
- (D) 5 persons: k = -51
- (E) 6 persons: k = -80
- (F) 7 persons: k = -92
- (G) 8 or more persons: k = -103

(d) The constant b is determined by the number of people in the need group, as follows:

- (A) 2 persons: b = 17.0
- (B) 3 persons: b = 22.0
- (C) 4 persons: b = 20.0
- (D) 5 persons: b = 19.8
- (E) 6 persons: b = 32.0
- (F) 7 persons: b = 32.0
- (G) 8 or more persons: b = 39.0

(e) The constant m is determined by the number of people in the need group, as follows:

- (A) 2 persons: m = 1.001885
- (B) 3 persons: m = 1.001550
- (C) 4 persons: m = 1.001380
- (D) 5 persons: m = 1.001250
- (E) 6 persons: m = 1.000990
- (F) 7 persons: m = 1.000910
- (G) 8 or more persons: m = 1.000795

(11) Effective February 1, 2003, this section establishes the ERDC eligibility standard and the client's copayment (copay).

(a) Effective February 1, 2003, the ERDC eligibility standard is 1.50 times the amount given in OAR 461-155-0225(2)(a) (effective February 7, 2003), rounded down to the next whole number. The ERDC copay is \$43 or the amount determined by the formula in subsection (b) of this section, whichever is greater.

(b) The maximum copay equals the constant determined by the table in subsection (c) of this section, added to the product of a constant determined by the table in subsection (d) of this section times the constant determined by the table in subsection (e) of this section raised to a power equal to the family's gross income, expressed in dollars. The formula is as follows:  $y = k + (b \times m^x)$

(c) The constant k is determined by the number of people in the need group, as follows:

- (A) 2 persons: k = -12
- (B) 3 persons: k = -37
- (C) 4 persons: k = -32
- (D) 5 persons: k = -33
- (E) 6 persons: k = -62
- (F) 7 persons: k = -74
- (G) 8 or more persons: k = -85

(d) The constant b is determined by the number of people in the need group, as follows:

- (A) 2 persons: b = 18.0
- (B) 3 persons: b = 23.0
- (C) 4 persons: b = 20.9
- (D) 5 persons: b = 20.6
- (E) 6 persons: b = 33.2
- (F) 7 persons: b = 33.2
- (G) 8 or more persons: b = 40.4

(e) The constant m is determined by the number of people in the need group, as follows:

- (A) 2 persons: m = 1.001885
- (B) 3 persons: m = 1.001550
- (C) 4 persons: m = 1.001380
- (D) 5 persons: m = 1.001250
- (E) 6 persons: m = 1.000990

(F) 7 persons: m = 1.000910

(G) 8 or more persons: m = 1.000795

(12) Copayment (copay) reduction benefit is limited as follows:

(a) For the period March 1, 2000 through December 31, 2002, a client's copay is limited to \$25 each month during the first two consecutive months the client is eligible for ERDC. The copay reduction benefit cannot be applied more than two months in any 12 consecutive months.

(b) For a client who becomes eligible for ERDC in January 2003, the copay is limited to \$25 for January and \$43 for February 2003. This copay reduction benefit does not apply to clients who have received the benefit after January 2002.

(c) The copay reduction benefit described in this section does not apply to a client who becomes eligible for ERDC after January 2003.

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

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 16-1990, f. 6-29-90, cert. ef. 7-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 19-1991(Temp), f. & cert. ef. 10-1-91; AFS 4-1992, f. 2-28-92, cert. ef. 3-1-92; AFS 14-1992, f. & cert. ef. 6-1-92; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 10-1993, f. & cert. ef. 6-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 9-1994, f. 4-29-94, cert. ef. 5-1-94; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 19-1994, f. & cert. ef. 9-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 23-1995, f. 4-20-95, cert. ef. 10-1-95; AFS 41-1995, f. 12-26-95, cert. ef. 1-1-96; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 10-1998, f. 6-29-98, cert. ef. 7-1-98; AFS 14-1999, f. & cert. ef. 11-1-99; AFS 16-1999, f. 12-29-99, cert. ef. 1-1-00; AFS 4-2000(Temp), f. 2-29-00, cert. ef. 3-1-00 thru 8-25-00; AFS 10-2000, f. 3-31-00, cert. ef. 4-1-00; AFS 17-2000, f. 6-28-00, cert. ef. 7-1-00; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; AFS 22-2001, f. & cert. ef. 10-1-01; AFS 27-2001, f. 12-21-01, cert. ef. 1-1-02; AFS 10-2002, f. & cert. ef. 7-1-02; AFS 13-2002, f. & cert. ef. 10-1-02; AFS 23-2002(Temp), f. 12-31-02, cert. ef. 1-1-03 thru 6-30-03; SSP 2-2003(Temp); f. & cert. ef. 2-7-03 thru 6-30-03

## 461-155-0225

### Income Standard; OHP

(1) If a financial group contains a person with significant authority in a business entity — a "principal" as defined in OAR 461-140-0040 — the group is ineligible for the OHP program if the average monthly gross income of the business entity exceeds \$10,000. If the need group is not ineligible under this section, its eligibility is evaluated under section (2) of this rule.

(2) The countable income standards for OHP are as follows:

(a) The countable income standard for OHP-OPC and OHP-OPU is 100 percent of the 2003 federal poverty level.

OHP 100% Countable Income Standard

No. in Need Group — Amount

- 1 — \$748
- 2 — 1,010
- 3 — 1,272
- 4 — 1,533
- 5 — 1,795
- 6 — 2,057
- 7 — 2,318
- 8 — 2,580
- 9 — 2,842
- 10 — 3,103

Each additional person — 262

(b) The countable income standard for OHP-OP6 is 133 percent of the 2003 federal poverty level.

OHP 133% Countable Income Standard

No. in Need Group — Amount

- 1 — \$995
- 2 — 1,343
- 3 — 1,691
- 4 — 2,039
- 5 — 2,387
- 6 — 2,735
- 7 — 3,083
- 8 — 3,431
- 9 — 3,779
- 10 — 4,127

Each additional person — 348

(c) The countable income standard for OHP-OPP and OHP-CHP is 185 percent of the 2003 federal poverty level (see section (2)(a) of this rule).

OHP 185% Countable Income Standard

No. in Need Group — Amount

- 1 — \$1,384
- 2 — 1,869
- 3 — 2,353
- 4 — 2,837
- 5 — 3,321
- 6 — 3,805
- 7 — 4,289
- 8 — 4,773
- 9 — 5,257
- 10 — 5,741

Each additional person — 484

Stat. Auth.: ORS 409.050, 411.060

# ADMINISTRATIVE RULES

Stats. Implemented: ORS 411.060, ORS 411.070  
Hist.: AFS 2-1994, f. & cert. ef. 2-1-94; AFS 6-1994, f. & cert. ef. 4-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 16-1996, f. 4-29-96, cert. ef. 5-1-96; AFS 5-1997, f. 4-30-97, cert. ef. 5-1-97; AFS 4-1998, f. 2-25-98, cert. ef. 3-1-98; AFS 5-1998(Temp), f. & cert. ef. 3-11-98 thru 5-31-98; AFS 6-1998(Temp), f. 3-30-98, cert. ef. 4-1-98 thru 5-31-98; AFS 8-1998, f. 4-28-98, cert. ef. 5-1-98; AFS 10-1998, f. 6-29-98, cert. ef. 7-1-98; AFS 3-1999, f. 3-31-99, cert. ef. 4-1-99; AFS 10-2000, f. 3-31-00, cert. ef. 4-1-00; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 5-2002, f. & cert. ef. 4-1-02; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 1-2003, f. 1-31-03, cert. ef. 2-1-03; SSP 2-2003(Temp), f. & cert. ef. 2-7-03 thru 6-30-03

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**Adm. Order No.:** SSP 3-2003(Temp)  
**Filed with Sec. of State:** 2-14-2003  
**Certified to be Effective:** 2-14-03 thru 6-30-03  
**Notice Publication Date:**  
**Rules Amended:** 461-193-0560  
**Rules Suspended:** 461-193-0560(T)  
**Subject:** Rule 461-193-0560 is being amended because the amount of the Refugee Case Service Project payment standards is being reduced based on case size.  
**Rules Coordinator:** Annette Tesch—(503) 945-6067

## 461-193-0560

### Full Monthly Payment Standards; Refugee Case Service Project

(1) The level of cash assistance benefit standard is determined by the number of participants in the case.

(2) Through January 31, 2003, the following is the monthly basic payment standard:

#### CASE SIZE — BASIC STANDARD

1 — \$336  
2 — 427  
3 — 503  
4 — 617  
5 — 712  
6 — 830  
7 — 915  
8 — 1,034  
9 — 1,094  
10 — 1,199  
11 — 1,304  
12 — 1,409

13 and over — \$214 for each additional person

(3) Beginning February 1, 2003, the following is the monthly basic payment standard:

#### CASE SIZE BASIC — STANDARD

1 — \$332  
2 — 422  
3 — 497  
4 — 609  
5 — 704  
6 — 820  
7 — 905  
8 — 1,022  
9 — 1,082  
10 — 1,187  
11 — 1,292  
12 — 1,397

13 and over — \$105 for each additional person

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 25-1991, f. 12-30-91, cert. ef. 1-1-92; AFS 2-1994, f. & cert. 2-1-94; AFS 34-1996, f. 9-26-96, cert. ef. 10-1-96; AFS 6-1997, f. 5-28-97, cert. ef. 6-1-97; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 25-2002(Temp), f. 12-31-02, cert. ef. 1-1-03 thru 6-30-03; SSP 3-2003(Temp), f. & cert. ef. 2-14-03 thru 6-30-03

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

**Adm. Order No.:** SPD 2-2003(Temp)  
**Filed with Sec. of State:** 1-31-2003  
**Certified to be Effective:** 2-1-03 thru 7-30-03  
**Notice Publication Date:**  
**Rules Amended:** 411-030-0040, 411-030-0080

**Subject:** These temporary rule amendments will clarify which groups are eligible for the In-Home Services program under the Home and Community-Based Care Waiver. The General Assistance program has closed so eligibility has been removed, and a new waiver program, Independent Choices, has been added. The former benefit called Aid to Dependent Children (ADC) has been updated to reflect its new name, Temporary Assistance to Needy Families (TANF). Title XIX has been revised as OSIPM, removing eligibil-

ity of Oregon Health Plan clients who are not covered under our Home and Community-Based Care waiver.

**Rules Coordinator:** Pam Warren—(503) 945-6945

## 411-030-0040

### Eligibility Criteria

(1) In-home services may be provided to those individuals who meet the established priorities for service as described in OAR chapter 411, division 15 and have been assessed to be in need of a service under these rules. Payments for in-home services are not intended to replace the resources available to a client from their natural support system of relatives, friends, and neighbors. Only to the extent that such resources are not available, not sufficient, or cannot be developed to adequately meet the needs of the client can payment by the Department be considered or authorized. Care plans will be based upon the least costly means of providing adequate care.

(2) Clients must be included in one of the following groups:

(a) Current recipients of OSIPM who reside in their own home and who are eighteen years of age or older;

(b) TANF eligible adults, eighteen and older, only when service is necessary to prevent nursing facility placement; or

(c) Persons who are eligible for Oregon Project Independence

(3) Specific eligibility exists for and is defined in rules regarding Oregon Project Independence (OAR chapter 411, division 032), Contractor Services (OAR 411-030-0090), Spousal Pay (OAR 411-030-0080), and Independent Choices (OAR chapter 411, division 036).

Stat. Auth.: ORS 410.070

Stats. Implemented: ORS 410.070

Hist.: SSD 3-1985, f. & ef. 4-1-85; SSD 4-1993, f. 4-30-93, cert. ef. 6-12-93; Renumbered from 411-030-0001; SPD 2-2003(Temp), f. 1-31-03, cert. ef. 2-1-03 thru 7-30-03

## 411-030-0080

### Spousal Pay Program

(1) Spousal Pay Program Eligibility: In-home care provided by the spouse of an OSIPM client is compensable by the Department under ORS 411.803 only when the following conditions are met:

(a) The client requires full assistance in at least four of the six activities of daily living, as determined by the assessment, and would require nursing facility placement without in-home services;

(b) The client has a medically diagnosed progressive debilitating condition which will limit additional activities of daily living or has experienced a spinal cord injury or similar disability with permanent impairment of the ability to perform activities of daily living;

(c) The spouse demonstrates the capability and health to provide the services and actually provides the principal care for which payment has been authorized; and

(d) The client's service needs exceed in both extent and duration the usual and customary services rendered by one spouse to another.

(2) Establishment and maintenance of a centralized waiting list for eligible clients requesting services compensated through the Spousal Pay Program.

(a) The Department's Central Office staff will establish and maintain a list of eligible clients based on referrals from local offices.

(b) The Department has established funding to serve a biennial limit on the number of Spousal Pay clients in the program each month.

(c) When the biennial limit is reached, clients requesting services through the Spousal Pay program, whose eligibility determination process has been finalized, will be placed on a waiting list. Names on the waiting list will be entered according to the date submitted by the local office.

(d) Prior to submission of name, applicants must have completed:

(A) The financial application process; and

(B) Had an assessment of service needs completed by the appropriate local office staff.

(e) As vacancies occur, eligible waiting list clients will be selected in order of submission, as defined in subsection (2)(c) of this rule.

(f) Clients on the waiting list may receive services through other appropriate Department programs for which they are eligible.

(3) Payments:

(a) All payments will be prior authorized by the Department or its designee.

(b) Payments will be based on the equivalent of one-half of the 24 hour availability and self-management task hours, plus the time required for specific documented activities of daily living.

(c) Payment of any respite care shall be the responsibility of the spouse and not be paid by the Department.

(d) Payment to a spouse is not considered as a need item to establish initial eligibility or continuing eligibility for OSIPM.



# ADMINISTRATIVE RULES

(e) Under ORS 411.802, client-employed providers who become the spouse of their employer will retain the same level of pay as described in OAR 411-030-0070 if their employer meets the spousal pay eligibility criteria as described in subsection (1)(a) of this rule.

Stat. Auth.: ORS 410.070, ORS 411.802 & ORS 411.803  
Stats. Implemented: ORS 410.070, ORS 411.802 & ORS 411.803  
Hist.: SSD 4-1984, f. 4-27-84, ef. 5-1-84; SSD 3-1985, f. & ef. 4-1-85; SSD 4-1993, f. 4-30-93, cert. ef. 6-1-93; Renumbered from 411-030-0027; SDDS 2-2000, f. 3-27-00, cert. ef. 4-1-00; SPD 2-2003(Temp), f. 1-31-03, cert. ef. 2-1-03 thru 7-30-03

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**Adm. Order No.:** SPD 3-2003(Temp)  
**Filed with Sec. of State:** 2-14-2003  
**Certified to be Effective:** 2-18-03 thru 6-3-03  
**Notice Publication Date:**  
**Rules Amended:** 411-015-0015  
**Rules Suspended:** 411-015-0015(T)

**Subject:** This amendment, effective February 18, 2003, indicate client assessed priority levels the Department is currently able to serve based on program reductions required to maintain a balanced budget for the biennium, pursuant to ORS 183.335(5), the mandates of HB 5100 and further directives from the E-Board. This amendment replaces temporary amendment of OAR 411-015-0015 previously effective on February 1, 2003.

**Rules Coordinator:** Pam Warren—(503) 945-6954

## 411-015-0015

### Current Limitations

The Department has the authority to establish by Administrative Rule the priority level within which to manage its limited resources. The Department is currently able to serve:

(1) Persons determined eligible for OSIPM or TANF if they are assessed on CA/PS in conjunction with the priority levels of OAR 411-015-0010 and:

(a) Who are assessed as meeting at least one of the priority levels (1) through (14) will be served through March 31, 2003; and

(b) Who are assessed as meeting at least one of the priority levels (1) through (9) will be served from April 1, 2003 thereafter, or unless otherwise stated by future amendments to this rule.

(2) Persons eligible for Oregon Project Independence funded services if they meet at least one of the priority levels (1) through (18) of OAR 411-015-0010.

(3) Persons needing Risk Intervention Services in areas designated to provide such services. Persons with the greatest priority under OAR 411-015-0010 will be served first.

(4)(a) Persons sixty-five years of age or older having a primary diagnosis of mental illness or developmental disability are eligible for nursing facility and community based care services if they meet Sections (1), (2), or (3) of this rule and are not in need of specialized mental health treatment services or other specialized Department residential program intervention as identified through the PASARR or mental health assessment process.

(b) Persons under sixty-five years of age having a primary diagnosis of mental illness or developmental disability are not eligible for Department nursing facility services unless determined appropriate through the PASARR process.

(c) Persons under sixty-five years of age whose primary diagnosis and primary need for service is due to mental illness or developmental disability are not eligible for Title XIX Home and Community Based Care Waivered Services paid for under the Department's 1915(c) Waiver.

Stat. Auth.: ORS 410.060, ORS 410.070 & ORS 411  
Stats. Implemented: ORS 410.070  
Hist.: SSD 3-1985, f. & ef. 4-1-85; SSD 5-1986, f. & ef. 4-14-86; SSD 9-1986, f. & ef. 7-1-86; SSD 12-1987, f. 12-31-87, cert. ef. 1-1-88; SSD 12-1991(Temp), f. 6-28-91, cert. ef. 7-1-91; SSD 21-1991, f. 12-31-91, cert. ef. 1-1-92; Renumbered from former 411-015-0000(4); SSD 1-1993, f. 3-19-93, cert. ef. 4-1-93; SDDS 11-2002(Temp), f. 12-5-02, cert. ef. 12-6-02 thru 6-3-03; SPD 1-2003(Temp), f. 1-7-03, cert. ef. 2-1-03 thru 6-3-03; SDP 3-2003(Temp), f. 2-14-03, cert. ef. 2-18-03 thru 6-3-03

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

**Adm. Order No.:** OSFM 2-2003  
**Filed with Sec. of State:** 2-10-2003  
**Certified to be Effective:** 2-10-03  
**Notice Publication Date:** 11-1-02

**Rules Amended:** 837-012-0610, 837-012-0615, 837-012-0630, 837-012-0635, 837-012-0645

**Subject:** Currently, these rules require compliance with "all applicable" federal, state and local laws, rules and regulations. The agency has received advice from legal counsel that the agency's rule may exceed its jurisdictional and statutory rulemaking authority. The change is necessary to conform the agency's administrative rule to the agency's jurisdictional and statutory rulemaking authority. The rules are being revised to require compliance with all applicable federal, state and local laws, rules and regulations "pertaining to fireworks."

The other rule revision is the correction of a rule reference number.

**Rules Coordinator:** Glen Andreassen—(503) 373-1540, ext. 210

## 837-012-0610

### Definitions

For purposes of ORS 480.110 through 480.165 and OAR 837-012-0600 through 837-012-0675, the following definitions apply:

(1) "Agricultural Fireworks" shall mean Fireworks used for the purpose of scaring away or repelling birds or animals pursuant to ORS 480.122 or controlling predatory animals pursuant to ORS 480.124.

(2) "BATF" shall mean the Bureau of Alcohol, Tobacco and Firearms.

(3) "Building" shall have the meaning provided in the Oregon Structural Specialty Code, 1998 Edition. The term does not include a Tent, Canopy, Stand or trailer.

(4) "Canopy" shall mean a temporary structure, enclosure or shelter; constructed of fabric or pliable materials; supported by any manner, except by air or the contents it protects, and is open without sidewalls or drops on 75 percent or more of the perimeter.

(5) "Carton, Container, or Case" shall mean any box, parcel, bundle, or other package used to hold or contain Fireworks, Retail Fireworks, Public Display Fireworks, or Agricultural Fireworks for purposes of transportation and/or storage. The term does not include:

(a) The wrapping and/or packaging used to hold or contain a single, or small number of, Fireworks, Retail Fireworks, Public Display Fireworks or Agricultural Fireworks; or

(b) A vehicle or other mobile container used to transport Fireworks, Retail Fireworks, Public Display Fireworks, or Agricultural Fireworks.

(6) "Combination Item" shall mean a device that contains combinations of two or more of the effects described in ORS 480.127(4)(b) to (g). See ORS 480.127(4)(a).

(7) "Cone Fountain" shall mean a cardboard or heavy paper cone containing not more than 50 grams of pyrotechnic composition. The effect upon ignition is the same as that of a cylindrical fountain. See ORS 480.127(4)(b).

(8) "Cylindrical Fountain" shall mean a cylindrical tube not more than three-fourths inch (19mm) inside diameter and containing not more than 75 grams of pyrotechnic composition. Upon ignition, a shower of colored sparks and sometimes a whistling effect is produced. This device may be provided with a spike for insertion into the ground, a wood or plastic base for placing on the ground or a wood or cardboard handle if intended to be hand-held. See ORS 480.127(4)(c).

(9) "Employee" shall mean an Individual hired by a Retail Permit holder to Sell Retail Fireworks from a Retail Sales Outlet, or to otherwise engage in Retail Operations.

(10) "Exempt Fireworks" shall mean Novelties and Trick Noisemakers.

(11) "Exit" shall mean an opening or passageway that:

(a) Provides a means of leaving an enclosed space or area; and

(b) Is required to be constructed and/or maintained by the Oregon Structural Specialty Code, 1998 Edition. The term may include a check-stand Exit.

(12) "Fire Protection District" shall mean any district created under the laws of Oregon or the United States, including rural fire protection districts and any federal, state or private forest patrol areas. See ORS 480.110(2).

(13) "Fireworks" shall have the meaning provided in ORS 480.110(1). The term includes Retail Fireworks, Public Display Fireworks, and Agricultural Fireworks. The term does not include Exempt Fireworks.

(14) "Flitter Sparkler" shall mean a narrow paper tube containing not more than 100 grams of pyrotechnic composition that produces colored sparks upon ignition. The paper at one end of the tube is ignited to make the device function. See ORS 480.127(4)(d).

# ADMINISTRATIVE RULES

(15) "Ground Spinner" shall mean a small device similar to a Wheel in design and effect and containing not more than 60 grams of pyrotechnic composition. When placed on the ground and ignited, a shower of colored sparks is produced by the rapidly spinning device. See ORS 480.127(4)(e). The term does not include "Crazy Jacks", "Jumping Jacks" and similar spinning devices that do not have a means to prevent uncontrolled and unpredictable behavior during discharge, and due to uncontrolled and unpredictable behavior, present a severe hazard of fire and injury. The sale of such devices is therefore prohibited.

(16) "Illegal Fireworks" shall mean any Fireworks other than those described in ORS 480.127(4) including but not limited to, any Firework that flies into the air, or explodes or behaves in an uncontrolled and unpredictable manner.

(17) "Illuminating Torch" shall mean a cylindrical tube containing not more than 100 grams of pyrotechnic composition. This device may be provided with a spike for insertion into the ground, a wood or plastic base for placing on the ground or a wood or cardboard handle if intended to be hand-held. See ORS 480.127(4)(f).

(18) "Individual" shall mean a single human being.

(19) "Individual Member of the General Public" shall mean any Person who has not been issued a wholesale permit, a general, limited or special effects public display permit, a Retail Permit or an agricultural permit by the Office of State Fire Marshal.

(20) "Individual Responsible for Sales" shall mean the Individual identified on the Permit Application who is responsible for the operation of the Retail Sales Outlet listed on the Permit Application.

(21) "Indoor Sales" shall mean sales of Retail Fireworks from inside a Building or Tent.

(22) "Local Fire Authority" shall mean the local fire official having jurisdiction over the Retail Site and/or the Retail Fireworks storage location.

(23) "NFPA" shall mean the National Fire Protection Association.

(24) "Novelties and Trick Noisemakers" shall mean those items described in ORS 480.110(1)(a) through 480.110(1) and (b) and NFPA 1124, Section 1.4, 1998 Edition. It also means Exempt Fireworks.

(25) "Outdoor Sales" shall mean sales of Retail Fireworks from a Tent, Canopy, Stand or trailer.

(26) "Permit Application" shall mean the application form(s) and accompanying documentation required to be completed and submitted to the Office of State Fire Marshal for approval prior to the issuance of a Retail Permit.

(27) "Public Display Fireworks" shall mean Fireworks that are authorized under a general, limited, or special effects public display permit issued pursuant to ORS 480.130, 480.140 and 480.150.

(28) "Retail Fireworks" shall mean those items described in ORS 480.127(4), specifically Combination Items, Cone Fountains, Cylindrical Fountains, Flitter Sparklers, Ground Spinners, Illuminating Torches, and Wheels. The term does include a firework designed with the means to roll or move while remaining on the ground, that travels 12' or less horizontally on smooth surfaces.

(29) "Retail Operations" shall mean the sale of Retail Fireworks from a Retail Sales Outlet to Individual Members of the General Public and related activities, including the purchase, possession, storage and transportation of Retail Fireworks.

(30) "Retail Permit" shall mean the official written document issued by the Office of State Fire Marshal pursuant to ORS 480.127 that authorizes the purchase, transport, possession, storage and sale of Retail Fireworks, at retail, when otherwise in conformance with all applicable requirements of ORS 480.110 through 480.165, OAR chapter 837, division 12, and any other applicable federal, state and local laws, rules and regulations pertaining to fireworks.

(31) "Retail Sales Outlet" shall mean a permanently or temporarily erected structure or enclosure located at the Retail Site and from which Retail Fireworks are sold to Individual Members of the General Public. The term includes Stands, Tents, Canopies, Buildings, and trailers.

(32) "Retail Site" shall mean the physical location or address of the Retail Sales Outlet listed on the Retail Permit where Retail Fireworks are sold.

(33) "Retailer" shall mean any Person who Sells, transfers, or provides by any other means, or intends to Sell, transfer or provide by any other means, Retail Fireworks to Individual Members of the General Public.

(34) "Sales Display" shall mean the placement at a Retail Sales Outlet of Retail Fireworks to allow Individual Members of the General Public to view, handle and/or purchase the Retail Fireworks.

(35) "Sell" shall mean to transfer possession of property from one Person to another Person for consideration.

(36) "Stand" shall mean a booth temporarily erected and used for the sale of Retail Fireworks to Individual Members of the General Public.

(37) "Tent" shall mean a temporary structure, enclosure or shelter constructed of fabric or pliable material supported by any manner except by air or the contents it protects and is in compliance with Uniform Fire Code requirements for tents.

(38) "Volunteer" shall mean a member of a non-profit organization that has applied for and obtained a Retail Permit.

(39) "Wheel" shall mean a pyrotechnic device attached to a post or tree by means of a nail or string. Each wheel may contain not more than six driver units or tubes not exceeding one-half inch (12.5mm) inside diameter and containing not more than 60 grams of pyrotechnic composition. Upon ignition, the wheel revolves and produces a shower of colored sparks, and sometimes a whistling effect. See ORS 480.127(4)(g).

(40) "Wholesaler" shall mean any Person who Sells or provides by any other means, or intends to Sell or provide by any other means Fireworks, Retail Fireworks, Public Display Fireworks, or Agricultural Fireworks.

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

Stat. Auth.: ORS 476 & ORS 480

Stats. Implemented: ORS 480.110-480.165

Hist.: FM 1-1990(Temp), f. & cert. ef. 1-12-90; FM 4-1990, f. & cert. ef. 7-10-90; OSFM 5-1998(Temp), f. & cert. ef. 12-14-98 thru 6-12-99; OSFM 2-1999, f. & cert. ef. 6-21-99; OSFM 7-2000(Temp), f. 6-5-00, cert. ef. 6-5-00 thru 12-1-00; OSFM 14-2000, f. & cert. ef. 12-4-00; OSFM 11-2001, f. & cert. ef. 12-14-01; OSFM 2-2003, f. & cert. ef. 2-10-03

## 837-012-0615

### General

(1) Retailers desiring to engage in other types of Fireworks activities, including wholesale sales, public displays or agricultural use, must meet all applicable requirements in ORS 480.110 through 480.165 and OAR chapter 837, division 12, including those pertaining to obtaining permits for such activities from local and state authorities.

(2) Retail Permit holders shall comply with all applicable federal, state and local laws, rules and regulations, pertaining to Fireworks, including:

(a) ORS 480.110 through 480.165;

(b) All applicable requirements of OAR chapter 837, division 12;

(c) Oregon Uniform Fire Code, 1998 Edition; and

(d) Oregon Structural Specialty Code, 1998 Edition.

(3) Retail Permit holders shall notify the Office of State Fire Marshal, verbally or in writing, within 24 hours of the date of change, of:

(a) The Retail Permit holder's mailing address or telephone number;

or

(b) The mailing address or 24-hour contact number for the Individual Responsible for Sales.

(4) Retail Permit holders shall notify the Office of State Fire Marshal and the Local Fire Authority, in writing of a change in the identity of the Individual Responsible for Sales at least 24 hours before the new Individual becomes the Individual Responsible for Sales. Such a change is subject to the prior approval of the Local Fire Authority and the Office of State Fire Marshal.

(5) Exempt Fireworks are exempt from the permit requirements set forth in ORS 480.110 through 480.165 and OAR chapter 837, division 12. Exempt Fireworks may be sold and purchased without either the seller or purchaser having to first obtain a permit issued by the Office of State Fire Marshal.

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

Stat. Auth.: ORS 476 & ORS 480

Stats. Implemented: ORS 480.110-480.165

Hist.: FM 1-1990(Temp), f. & cert. ef. 1-12-90; FM 4-1990, f. & cert. ef. 7-10-90; OSFM 5-1998(Temp), f. & cert. ef. 12-14-98 thru 6-12-99; OSFM 2-1999, f. & cert. ef. 6-21-99; OSFM 7-2000(Temp), f. 6-5-00, cert. ef. 6-5-00 thru 12-1-00; OSFM 14-2000, f. & cert. ef. 12-4-00; OSFM 11-2001, f. & cert. ef. 12-14-01; OSFM 2-2003, f. & cert. ef. 2-10-03

## 837-012-0630

### Issuance of Retail Permits

(1) The Office of State Fire Marshal shall not approve a Permit Application, or issue a Retail Permit, without the prior approval of the Local Fire Authority.

(2) The Office of State Fire Marshal shall assign a unique number to each Retail Permit issued.

(3) Only one Retail Permit shall be issued for each Retail Site with the following exception: More than one Retail Sales Outlet may be erected and operated at the same Retail Site, whether indoors or outdoors, when there is sufficient space to allow each Retail Sales Outlet to conform to the requirements of ORS 480.110 to 480.165 and these rules. For example,

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Retail Permits may be issued for both Outdoor Sales and Indoor Sales located at the same Retail Site.

(4) The Office of State Fire Marshal shall mail the original Retail Permit to the applicant at the mailing address listed on the Permit Application.

(5) Retail Permit holders may request a duplicate copy of their permit by certifying to the Office of State Fire Marshal, in writing, that their permit has been lost, stolen, or destroyed. Written requests shall be signed and dated by the Retail Permit holder.

(6) The issuance of a Retail Permit does not in any way constitute approval by the Office of State Fire Marshal of any Retail Fireworks purchased, sold or provided pursuant to the Retail Permit.

(7) A Retail Permit allows the holder of the permit to engage in the purchase, transportation, possession, storage and sales of Retail Fireworks when those activities are otherwise in conformance with the applicable requirements of ORS 480.110 through 480.165, OAR chapter 837, division 12 and any other applicable federal, state or local laws, rules or regulations pertaining to Fireworks.

(8) A Retail Permit holder is authorized only to Sell or otherwise provide Retail Fireworks to Individual Members of the General Public.

(9) A Retail Permit does not authorize the:

(a) Purchase, possession or sale of Illegal Fireworks by or to any Person; or

(b) Sale or provision of Retail Fireworks to any Person other than an Individual Member of the General Public.

(10) The Retail Permit and permit number issued by the Office of State Fire Marshal are valid for the sale of Retail Fireworks from June 23 through July 6 of the year in which the permit was issued.

(11) A Retail Permit is valid only for the Retail Sales Outlet and Retail Site listed on the permit.

(12) Only the Retail Permit holder, and any Employees or Volunteers of the Retail Permit holder, may engage in Retail Operations authorized by the Retail Permit.

(13) Retail Permits, and the rights conveyed by the permits, are not transferable.

(14) Retail Permit holders shall contract directly with the Wholesaler listed on the Retail Permit for the purchase of Retail Fireworks.

(15) Retail Permit holders shall not contract, subcontract, lease, sublease or convey by any other means to another Person any rights granted under the Retail Permit.

(16) The Retail Permit issued by the Office of State Fire Marshal does not require property owners or others to allow sales of Retail Fireworks on their property. The Office of State Fire Marshal will not intercede on the behalf of Retail Permit holders with property owners who refuse to allow sales of Retail Fireworks on their property, or, in the case of two Permit Applications submitted or two Retail Permits inadvertently issued for the same Retail Site, when there is a question of which applicant or Retail Permit holder has permission from the property owner to conduct sales at the Retail Site.

Stat. Auth.: ORS 476 & ORS 480

Stats. Implemented: ORS 480.110-480.165

Hist.: FM 1-1990(Temp), f. & cert. ef. 1-12-90; FM 4-1990, f. & cert. ef. 7-10-90; FM 1-1997, f. & cert. ef. 1-28-97; OSFM 5-1998(Temp), f. & cert. ef. 12-14-98 thru 6-12-99; OSFM 2-1999, f. & cert. ef. 6-21-99; OSFM 7-2000(Temp), f. 6-5-00, cert. ef. 6-5-00 thru 12-1-00; OSFM 14-2000, f. & cert. ef. 12-4-00; OSFM 11-2001, f. & cert. ef. 12-14-01; OSFM 2-2003, f. & cert. ef. 2-10-03

### 837-012-0635

#### Purchase of Retail Fireworks by Retail Permit Holder

(1) Retail Permit holders shall purchase or otherwise obtain Retail Fireworks only from Wholesalers who possess a valid and current wholesale permit issued by the Office of State Fire Marshal.

(2) A Retail Permit holder shall purchase or otherwise obtain Retail Fireworks only from the Wholesaler listed on the Retail Permit.

(3) If the Wholesaler who supplies the Retail Fireworks to the Retail Permit holder is different from the Wholesaler listed on the Retail Permit, the Retail Permit holder shall notify, in writing, the Office of State Fire Marshal and Local Fire Authority of the change at least 24 hours prior to purchasing the Retail Fireworks from the Wholesaler.

(4) Prior to acceptance of Retail Fireworks from a Wholesaler, the Retail Permit holder shall confirm that the outside of all Cartons, Containers, or Cases of Retail Fireworks, and any accompanying documentation are imprinted and/or affixed with the wholesale permit number pursuant to OAR 837-012-0525(13).

(5) Prior to acceptance of Retail Fireworks from a Wholesaler, the Retail Permit holder shall confirm that the outside of all Cartons, Containers, or Cases of Retail Fireworks and any accompanying documen-

tation are imprinted and/or affixed with the full name and Retail Permit number of the Retail Permit holder.

(6) Retail Permit holders shall not accept any Cartons, Containers, or Cases of Retail Fireworks or accompanying documentation that does not show the information required pursuant to subsections (4) and (5) of this rule.

Stat. Auth.: ORS 476 & ORS 480

Stats. Implemented: ORS 480.110-480.165

Hist.: FM 1-1990(Temp), f. & cert. ef. 1-12-90; FM 4-1990, f. & cert. ef. 7-10-90; OSFM 7-2000(Temp), f. 6-5-00, cert. ef. 6-5-00 thru 12-1-00; OSFM 14-2000, f. & cert. ef. 12-4-00; OSFM 11-2001, f. & cert. ef. 12-14-01; OSFM 2-2003, f. & cert. ef. 2-10-03

### 837-012-0645

#### Sales and Storage of Retail Fireworks

(1) A Retail Sales Outlet shall never be left unattended during the business hours of the outlet. Any Retail Sales Outlet in violation of these rules may be subject to closure.

(2) The Retail Permit holder or the Individual Responsible for Sales shall be present at the Retail Sales Outlet at least 50% of the outlet's business hours each day. When not present at the outlet, the Individual Responsible for Sales shall be readily available, day or night, by telephone or other reliable means of communication. The Individual Responsible for sales may be absent from the Retail Sales Outlet for up to 48 consecutive hours twice during the period of time the Retail Permit is valid. The two 48 hour time periods shall not be consecutive. The Individual Responsible for sales, when not at the Retail Site, shall be available through their 24-hour contact number listed on their Permit Application.

(3) Any time the Individual Responsible for Sales is not present at the Retail Sales Outlet during the business hours of the outlet, at least one Individual, 18 years of age or older, shall be present at the outlet. Such Individual shall be an Employee or Volunteer of the Retail Permit holder's volunteer non-profit organization. Such Individual shall be directly responsible for, and in charge of, the Retail Sales Outlet and shall be present in the Retail Sales Outlet at all times.

(4) The Individual Responsible for Sales shall be:

(a) The Retail Permit holder listed on the Retail Permit; or

(b) An Employee of the Retail Permit holder; or

(c) If the Retail Permit holder is a volunteer, non-profit organization, an Individual who is a member of the Retail permit holder's volunteer non-profit organization.

(5) The Individual Responsible for Sales shall be responsible for only the Retail Sales Outlet listed on the Retail Permit.

(6) The Retail Site may be changed if:

(a) The new Retail Site is located in the same fire jurisdiction as the Retail Site listed in the Retail Permit;

(b) The Local Fire Authority approves the new Retail Site and indicates that approval in writing; and

(c) The Office of State Fire Marshal is notified of the change at least 24 hours prior to the commencement of retail sales.

(7) Retail Fireworks shall be sold only at a Retail Sales Outlet for which a Retail Permit has been issued.

(8) Retail Fireworks shall not be sold or otherwise provided from an establishment or business that serves alcoholic beverages, single or multi-family residences, an Internet site, or automobiles.

(9) All Retail Sales Outlets shall comply with all applicable federal, state and local laws, rules and regulations pertaining to Fireworks including:

(a) ORS 480.110 through 480.165;

(b) OAR chapter 837, division 12;

(c) Oregon Structural Specialty Code, 1998 Edition; and

(d) Oregon Uniform Fire Code, 1998 Edition.

(10) All Retail Fireworks not sold during the time the Retail Permit is valid, shall be returned to the supplying Wholesaler no later than July 31 of the year in which the permit is valid.

(11) At all times during the business hours of the Retail Sales Outlet, no Exits shall be locked or blocked and all exits shall be passable.

(12) No Fireworks shall be discharged within 50 feet of any Retail Sales Outlet.

(13) The Retail Permit holder, Individual Responsible for Sales, and any Employees or Volunteers of the Retail Permit holder shall ensure that all Retail Fireworks sold or otherwise provided, possessed, transported, stored or offered for sale comply with ORS 480.110 through 480.165 and these rules.

(14) The type of Retail Sales Outlet (Tent, Stand, Canopy or trailer) to be utilized shall be described on the Permit Application, including its outside dimensions. The dimensions of the Retail Sales Outlet listed on the

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Permit Application shall not increase, but they may decrease, after the Permit Application is submitted to the Office of State Fire Marshal.

(15) Retail Permit holders may store their Retail Fireworks from June 1 through July 31 of the year in which their Retail Permit is valid. The Local Fire Authority shall approve the storage and the storage location of the Retail Fireworks and indicate that approval by signing the Permit Application.

(16) Retail Fireworks shall be stored:

(a) In compliance with the Oregon Structural Specialty Code, 1998 Edition; or

(b) In an explosives magazine pursuant to NFPA 495, 1996 Edition.

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

Stat. Auth.: ORS 476 & ORS 480

Stats. Implemented: ORS 480.110-480.165

Hist.: FM 1-1990(Temp), f. & cert. ef. 1-12-90; FM 4-1990, f. & cert. ef. 7-10-90; OSFM 5-1998(Temp), f. & cert. ef. 12-14-98 thru 6-12-99; OSFM 2-1999, f. & cert. ef. 6-21-99; OSFM 7-2000(Temp), f. 6-5-00, cert. ef. 6-5-00 thru 12-1-00; OSFM 14-2000, f. & cert. ef. 12-4-00; OSFM 11-2001, f. & cert. ef. 12-14-01; OSFM 2-2003, f. & cert. ef. 2-10-03

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

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**Rules Amended:** 837-012-0720, 837-012-0740, 837-012-0760, 837-012-0780, 837-012-0790, 837-012-0810, 837-012-0820, 837-012-0830, 837-012-0835, 837-012-0860, 837-012-0865, 837-012-0940

**Rules Repealed:** 837-012-0021

**Subject:** Currently, these rules require compliance with "all applicable" federal, state and local laws, rules and regulations. The agency has received advice from legal counsel that the agency's rule may exceed its jurisdictional and statutory rulemaking authority. The change is necessary to conform the agency's administrative rule to the agency's jurisdictional and statutory rulemaking authority. The rules are being revised to require compliance with all applicable federal, state and local laws, rules and regulations "pertaining to fireworks."

The rules are also being revised to change the requirements for an instructor to teach the operator certification training course that is required for individuals to complete prior to obtaining their operator certification. Operator trainers, currently certified under the current rules will be grandfathered until three years from the date of adoption of these rules as long as their operator certification is current. At the end of three years they will be required to meet the same requirements as any other instructor.

OAR 837-012-0021 regarding special effects public displays is being repealed as the majority of the information in this rule is already contained in the body of the rules covering general, limited and special effects displays or in code requirements.

Other revisions include the addition of definitions and general housekeeping and clarification of language.

**Rules Coordinator:** Glen Andreassen—(503) 373-1540, ext. 210

**837-012-0720**

## Definitions

For the purpose of these rules, the following definitions apply to OAR 837-012-0700 through 837-012-0970:

(1) "Aerial Fireworks" means Fireworks that function in the air.

(2) "Aerial Shell" means a cylindrical or spherical cartridge containing pyrotechnic compositions, a long fuse or Electric Match wires, and a black powder Lift Charge.

(3) "Agricultural Fireworks" Shall mean Fireworks used for the purpose of scaring away or repelling birds or animals pursuant to ORS 480.122 or controlling predatory animals pursuant to ORS 480.124.

(4) "Approved Applicant" means any Individual that meets the requirements of OAR chapter 837, division 12.

(5) "Assistant" means an Individual as set forth by OAR 837-012-0780 who works under the direction of an Operator to put on a Fireworks Display.

(6) "Barge" means a floating vessel or a floating platform.

(7) "Barrage" means a rapid fire sequence of Aerial Fireworks. Mortars are loaded prior to the Display and the Aerial Shells are chain fused to fire in rapid sequence.

(8) "Black Match" means fuse made from string impregnated with black powder and used for igniting Fireworks devices.

(9) "Break" means an Individual burst from an Aerial Shell, generally either producing a visual effect (stars) or noise (Salute). Aerial Shells can be either single-Break (having only one burst) or multi-Break (having two or more bursts).

(10) "Burst" means Break.

(11) "Burst Charge" means the composition in an Aerial Shell that, when ignited by the time fuse, ruptures the shell casing, ignites the shell contents and disperses the shell contents into the sky.

(12) "Cake Device" means Multi-shot Device.

(13) "Chain Fusing" means a series of two or more Aerial Shells used to fire in sequence from a single ignition. Finales and Barrages typically are Chain Fused.

(14) "Comet" means a firework consisting of a large pellet of pyrotechnic composition that is ignited and propelled from a Mortar tube by a black powder charge.

(15) "Designated Agent" means the Individual designated by the Permit Holder to pick up the Fireworks authorized by the Permit from an Oregon licensed Wholesaler when the Permit Holder is unable to pick up the Fireworks. The Designated Agent Shall have the Permit authorized by the State Fire Marshal in their possession at the time the Fireworks are picked up from the Wholesaler.

(16) "Discharge Site" means the area immediately surrounding the area where Fireworks are ignited for an outdoor Display.

(17) "Display" means an outdoor General or Limited Fireworks Display or an indoor or outdoor Fireworks Display using Special Effects Fireworks.

(18) "Display Fireworks" Shall mean Fireworks that are authorized under a General, Limited, or Special Effects Display Permit issued pursuant to ORS 480.130, 480.140 and 480.150.

(19) "Display Permit Application" Shall mean the form(s) and accompanying documentation required to be completed and submitted to the Office of State Fire Marshal for approval prior to the issuance of a Limited, General, or Special Effects Display Permit.

(20) "Display Site" Shall mean the immediate area where a Fireworks Display is conducted and Shall include the Discharge Site, the Fallout Area, and the required separation distance from Fireworks Discharge Site to spectator viewing areas. The Display Site does not include spectator viewing areas or vehicle parking areas.

(21) "Dud" A Firework that leaves the mortar and returns to earth without producing the intended Break or effect.

(22) "Electric Match" means a device consisting of wires terminating at a relatively high resistance element surrounded with a small quantity of heat-sensitive Fireworks composition. When a sufficient electric current is passed through the wire circuit, the heat that is generated ignites the Fireworks composition, producing a small burst of flame.

(23) "Electrical Firing Unit" means the source of electrical current used to ignite Electric Matches. Generally, the firing unit will have switches to control the firing order and Shall have test circuits and warning indicator, etc.

(24) "Electrical Ignition" means a technique used to discharge Fireworks in which an Electric Match and source of electric current are used to ignite fuses or Lift Charges.

(25) "Exempt Fireworks" Shall mean Novelties and Trick Noisemakers.

(26) "Fall-Out Area" means the area over which Aerial Shells are fired. The shells burst over this area, and unsafe debris and malfunctioning Aerial Shells fall into this area. The Fall-Out Area is the location where a typical Aerial Shell dud will fall to the ground considering wind and the angle of Mortar placement. At a minimum, the Fall Out Area Shall be the required separation distance based on table of distances listed OAR 837-012-0850.

(27) "Finale" means a rapid fire sequence (Barrage) of Aerial Fireworks, typically fired at the end of a Display. The Mortars are loaded prior to the Display, and the Aerial Shells are Chain Fused to fire in rapid sequence.

(28) "Fireworks" Shall have the meaning provided in ORS 480.110(1). The term includes Retail Fireworks, Public Display Fireworks, Special Effects Fireworks, and Agricultural Fireworks. The term does not include Exempt Fireworks.

(29) "Fireworks Detonation" means the entire contents of the Aerial Shell and the life charge are consumed in one simultaneous explosion at or near the bottom of the Mortar.

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(30) "Flash Powder" means explosive composition intended for use in firecrackers and Salutes. Flash Powder produces an audible report and a flash of light when ignited. Typical Flash Powder composition contains potassium chlorate or potassium perchlorate, sulfur or antimony sulfide, and powdered aluminum.

(31) "Flower Pot" means an Aerial Shell that Bursts before it leaves the Mortar, projecting its contents out of the Mortar similar to a mine. The force of the Aerial Shell Bursting usually does not rupture the Mortar.

(32) "Fusee" means a highway distress flare, sometimes used to ignite Fireworks at outdoor Displays.

(33) "General Display Operator" means an Individual who has been issued a General Display Operator Certificate who meets the requirements of OAR 837-012-0700 through 837-012-0970 and is qualified to be an Operator on a General or Limited Display.

(34) "General Display Permit" means a Permit to hold an outdoor Display using 1.3g Fireworks. General Displays may also include 1.4g Fireworks or Special Effects Fireworks.

(35) "General Fireworks Display" means a Display held outdoors, utilizing 1.3g Fireworks and may include 1.4g and shall be conducted by a General Display Operator.

(36) "General Operator Certificate" means a document issued by the Office of State Fire Marshal authorizing the holder of the certificate to be an Operator at a General Fireworks Display.

(37) "Ground Display Piece" means a Firework that functions on the ground (as opposed to an Aerial Shell that functions in the air). Typical ground Fireworks Display pieces include fountains, roman candles, wheels, and "set pieces".

(38) "Individual" shall mean a single human being.

(39) "Individual Member of the General Public" means any Person who has not been issued a Wholesale Permit, a Display Permit, a Retail Permit or an Agricultural Permit by the Office of State Fire Marshal.

(40) "Instructor" shall mean the Individual who delivers the training required under OAR 837-012-0780.

(41) "Lance" means a thin cardboard tube packed with a color producing pyrotechnic composition and used to construct Ground Display Pieces.

(42) "Law Enforcement Authority" means any law enforcement official having jurisdiction over the public Fireworks Display Site.

(43) "Lead Fuse" means a Fireworks fuse made of Quick Match that transfers fire from an ignition source to the Lift Charge of an Aerial Shell or other Fireworks.

(44) "Lift Charge" means composition in an Aerial Shell that propels the Aerial Shell into the air when ignited.

(45) "Limited Display" means a Display held outdoors limited to 1.4g Fireworks. Fireworks authorized by the Limited Permit are subject to limitation by the Local Fire Authority and/or the Office of State Fire Marshal.

(46) "Limited Display Operator" means an Individual who has been issued a Limited Display Operator Certificate who meets the requirements of OAR 837-012-0700 through 837-012-0970 and is qualified to be an Operator on a Limited Display.

(47) "Limited Display Permit" means a Permit to hold a Display using 1.4g Fireworks.

(48) "Limited Operator Certificate" means a document issued by the Office of State Fire Marshal authorizing the holder of the certificate to be an Operator at a Limited Fireworks Display.

(49) "Local Fire Authority" shall mean the local fire official having jurisdiction over the Display Site and/or the site where Fireworks may be stored prior to the date and time of the Display.

(50) "Low Break" means an Aerial Shell that functions significantly lower than its prescribed height.

(51) "Manual Firing" means using a handheld ignition source such as a Fusee or Portfire to ignite Fireworks.

(52) "Mine" means a device designed to project stars and other effects, such as whistles and firecrackers into the air from a Mortar charged by black powder that ignites the contents of the Mine.

(53) "Misfire" means a Firework fails to function after an ignition source is applied to the ignition point.

(54) "Monitor" means an Individual designated by the Sponsors of the Display to keep the audience in the intended viewing area and out of the Display Site, Discharge Site and Fallout Area.

(55) "Mortar" shall mean a tube from which Aerial Shells are fired into the air.

(56) "Mortar Rack" means a frame containing Mortars and are most often used for Barrages and Finales and in electrically ignited General Fireworks Displays.

(57) "Mortar Trough" means an aboveground structure filled with sand or similar materials in which Mortars are positioned for use in General Fireworks Displays.

(58) "Multi-break Shell" means a cylindrical Aerial Shell with more than one main compartment connected with internal fusing and performs with successive breaks. An Aerial Shell with more than one distinctive type of effect contained within one main compartment is not a Multi-break Shell.

(59) "Multi-Shot Device" means a Firework consisting of more than one tube each containing a Firework item. It is ignited once with each of its tubes chain fused together to fire in succession until all tubes have been fired.

(60) "Muzzle Break" means an Aerial Shell that Bursts immediately as it leaves the Mortar.

(61) "Operator" means the Individual qualified as set forth in OAR 837-012-0780 to conduct the Display.

(62) "Operator Certificate Application" shall mean the form(s) and accompanying documentation required to be completed and submitted to the Office of State Fire Marshal for approval prior to the issuance of a Limited Operator Certificate or a General Operator Certificate.

(63) "Peanut Shell" means two or more Aerial Shells in a common wrapper propelled by the same lift charge with separate external time fuses.

(64) "Permit" means the official written document issued by the Office of State Fire Marshal authorizing a Display allowing the Permit Holder to purchase Fireworks for the Display as detailed on the Permit when otherwise in conformance with OAR chapter 837 division 12.

(65) "Permit Holder" means the Person as listed on the Display Permit as the Person to whom the Permit is issued.

(66) "Person" means one or more Individuals, legal representatives, partnerships, joint ventures, associations, corporations (whether or not organized for profit), business trusts, or any organized group or Persons and includes the state, state agencies, counties, municipal corporations, school districts and other public corporations.

(67) "Portfire" means a tube containing slow burning pyrotechnic composition sometimes used to ignite Fireworks at a Limited or General Fireworks Display.

(68) "Quick Match" means a Black Match encased in a loose fitting sheath and is used in fuses for Aerial Shells and for simultaneous ignition of Fireworks such as Lances in a Ground Display Piece.

(69) "Ready Box" means a container used for the storage of Fireworks at a Fireworks Discharge Site.

(70) "Retail Fireworks" shall mean those items described in ORS 480.127(4), specifically Combination Items, Cone Fountains, Cylindrical Fountains, Flitter Sparklers, Ground Spinners, Illuminating Torches, and Wheels. The term does include a Firework designed with the means to roll or move while remaining on the ground, that travels 12' or less horizontally on smooth surfaces.

(71) "Roman Candle" means a cardboard tube containing Firework stars which, when lit, are expelled into the air at timed intervals.

(72) "Safety Cap" means a paper tube, closed at one end, that is placed over the end of a Fireworks fuse to protect the fuse from damage or accidental ignition.

(73) "Salute" means a special Firework that is designed to produce a loud report.

(74) "Set Piece" means a Ground Display Piece usually consisting of land and Quick Match arranged on a frame.

(75) "Sell" shall mean to transfer possession of property from one Person to another Person for consideration.

(76) "Shall" means that the rule establishes a mandatory requirement.

(77) "Special Effects Display" shall mean a Display held either indoors or outdoors limited to Special Effects Fireworks authorized by the Special Effects Permit.

(78) "Special Effects Fireworks" shall mean any effect created by utilizing flammable, combustible or explosive composition or substance, or any combination of such compositions or substances, or any articles including Fireworks, explosives, or smoke which are prepared for the purpose of providing a visible or audible effect by combustion, explosion, deflagration or detonation, and/or fire and are primarily designed or discharged in connection with performances, events, gatherings, television, radio, theater, motion picture productions, or similar venues which may or may not be presented before live audiences.

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(79) "Special Effects Permit" Shall mean a Permit to hold a Display using Special Effects Fireworks.

(80) "Sponsor" means the Person that has applied for and been issued a Display Permit.

(81) "Sticky Match" means the trademarked name for a type of match that uses a continuous black powder trail inside a wrapper that is prepared with exposed adhesive along its length. The adhesive is used to attach Sticky Match to Fireworks devices.

(82) "Supervision" means Displays Shall be under the Supervision of the Law Enforcement Authority, Local Fire Authority, and/or the Office of State Fire Marshal.

(83) "Training Course" Shall mean the course that is required under OAR 837-012-0780.

(84) "Wholesaler" Shall mean any Person who Sells or provides by any other means, or intends to Sell or provide by any other means, Fireworks, Retail Fireworks, Display Fireworks, or Agricultural Fireworks.

Stat. Auth.: ORS 480.150

Stats. Implemented: ORS 480.110 - ORS 480.165

Hist.: FM 2-1992, f. & cert. ef. 3-10-92; FM 6-1993, f. & cert. ef. 12-10-93; OSFM 4-2002(Temp), f. & cert. ef. 2-25-02 thru 8-19-02; OSFM 4-2002(Temp), f. & cert. ef. 2-25-02 thru 8-19-02; OSFM 7-2002, f. & cert. f. 6-20-02; OSFM 3-2003, f. & cert. ef. 2-10-03

## 837-012-0740

### Display Permit Applications

(1) Any Person intending to have, put on, or Sponsor a Display Shall apply for and obtain a Display Permit from the Office of State Fire Marshal.

(2) A separate Display Permit Shall be applied for and obtained for each Display that may be conducted in Oregon.

(3) Each Display Permit Shall be for a specific date and time of day. Permits Shall not be continuous throughout the date of Display.

(4) The Application for Display Permit Shall be made on a form provided by the Office of State Fire Marshal.

(5) The Display Permit Application may be completed by the Sponsor, Wholesaler, Operator or Assistant for the intended Display as listed on the Application.

(6) All information provided by the applicant on the Display Permit Application Shall be true and correct to the applicant's knowledge.

(7) In addition to completion of the Application, applicants Shall submit:

(a) A diagram of the Display Site in accordance with subsection (9) of this rule;

(8) As part of the Display Permit Application process, applicants Shall apply for and obtain, in writing when available;

(a) All required state and/or local licenses, Permits and/or approvals; and

(b) Liability insurance, if required pursuant to ORS 480.150(1).

(9) The diagram of the Display Site, required pursuant to subsection (7) of this rule, Shall include without limitation, the following:

(a) The location and size of the Discharge Site. All the other distances required by the subsection below Shall be measured from the outside perimeter of the Discharge Site;

(b) The location of the Fallout Area;

(c) The location of all buildings, structures, highways, streets or other means of travel in and within 100 feet of the Discharge Site and Fallout Area;

(d) The location of the spectator viewing area(s) and their distance from the Discharge Site and Fallout Area; and

(e) The location of all trees, power lines of any type and any other overhead obstructions 25 feet or higher in and within 100 feet of the Discharge Site and Fallout Area.

(10) Applicants Shall submit their completed Display Permit Application to the Local Fire Authority and Law Enforcement Authority for review and signature approving, but not limited to, the proposed Display Site, Discharge Site, spectator viewing areas, parking areas and Fallout Areas, prior to submission of the Display Permit Application to the Office of State Fire Marshal.

(11) The Local Fire Authority and the Law Enforcement Authority Shall not sign a Display Permit Application if, but not limited to, the Display Site, Discharge Site, spectator viewing areas, parking areas or Fallout Areas or the Display Permit Application does not comply with ORS 480.110 - 480.165, OAR 837 division 12 or any other applicable federal, state or local laws, rules or regulations pertaining to Fireworks.

(12) Display Permit Applications Shall be postmarked by a United States Postmark or received at the Salem Office of State Fire Marshal a minimum of 15 days prior to the date of the proposed Display.

(13) Display Permit Applications postmarked or received after the deadline set forth under subsection (12) of this rule may be returned unprocessed.

(14) A Permit is not transferable from the Permit Holder to another Permit Holder or Person.

(15) Another Person or Permit Holder cannot perform any acts allowed by the Display Permit unless that Person is listed on the Display Permit and/or is a Designated Agent for the Permit Holder.

Stat. Auth.: ORS 480.150

Stats. Implemented: ORS 480.110 - ORS 480.165

Hist.: FM 2-1992, f. & cert. ef. 3-10-92; OSFM 4-2002(Temp), f. & cert. ef. 2-25-02 thru 8-19-02; OSFM 7-2002, f. & cert. f. 6-20-02; OSFM 3-2003, f. & cert. ef. 2-10-03

## 837-012-0760

### Issuance of Display Permits

(1) Within 15 days of receipt of a properly completed and timely submitted Display Permit Application and Display Permit Application fee, the Office of State Fire Marshal Shall either grant or deny the Application.

(2) The Office of State Fire Marshal Shall not approve a Permit Application, or issue a Display Permit, without the prior approval of the Local Fire Authority and Law Enforcement Authority.

(3) The Office of State Fire Marshal Shall assign a unique number to each Display Permit issued.

(4) Only one Display Permit Shall be issued for a Display Site for a particular date and time. Multiple Permits may be issued for the same Display Site and the same day, but not for the same time.

(5) The Office of State Fire Marshal Shall mail the original Display Permit to the Individual who completed the Display Permit Application at the mailing address the Individual completing the Display Permit Application listed on the Display Permit Application.

(6) Display Permit Holders may request a duplicate copy of their Permit by certifying to the Office of State Fire Marshal, in writing, that their Permit has been lost, stolen, or destroyed. Written requests Shall be signed and dated by the Display Permit Holder.

(7) A Display Permit is valid only for the date, time, and Display Site listed on the Permit.

(8) A Display Permit authorizes the Display Permit Holder to purchase, transport, possess and store Display Fireworks, for the purposes of holding the approved Display, when those activities are otherwise in conformance with the applicable requirements of ORS 480.110 - 480.165, OAR chapter 837, division 12 and any other federal, state or local laws, rules or regulations pertaining to Fireworks.

(9) A Display Permit authorizes a Display only:

(a) At the Display Site diagrammed on the Display Permit Application and listed on the Display Permit;

(b) On the date and time listed on the Display Permit; and

(c) Conducted by the Operator and Assistant(s) listed on the Display Permit.

(10) A Display Permit authorizes the use and discharge of only the type and quantity of Display Fireworks listed on the Display Permit.

(11) A Display Permit does not authorize the sale, purchase, possession, storage, discharge or provision by any other means of any Fireworks except as specifically stated on the Display Permit.

(12) The issuance of a Display Permit does not in any way constitute approval by the Office of State Fire Marshal of any Display Fireworks sold, purchased, possessed, stored provided or discharged pursuant to the Display Permit.

Stat. Auth.: ORS 480.150

Stats. Implemented: ORS 480.110 - ORS 480.165

Hist.: FM 2-1992, f. & cert. ef. 3-10-92; FM 6-1993, f. & cert. ef. 12-10-93; OSFM 4-2002(Temp), f. & cert. ef. 2-25-02 thru 8-19-02; OSFM 7-2002, f. & cert. f. 6-20-02; OSFM 3-2003, f. & cert. ef. 2-10-03

## 837-012-0780

### Operator and Assistant Qualifications

(1) To be eligible for a General Operator Certificate, an applicant Shall comply with the following:

(a) Shall be at least 21 years of age;

(b) Shall have participated as an Assistant in three or more General Displays in Oregon within three years of the date of application:

(i) Participation Shall mean completing the following duties: firing of the Display, installation of Mortars, installation of set pieces, loading shells, after-Display clean-up and inspection, installation of electrical firing system, and tending the magazine, which may include reloading the Mortars.

(ii) At a minimum, an applicant must have installed Mortars, loaded shells, and participated in after-Display clean-up and inspection on all three Displays in Oregon.

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(iii) At a minimum, an applicant must have manually fired on at least one of the three Displays required for certification.

(iv) The Office of State Fire Marshal may review after-show reports as proof of an applicant's requisite participation.

(c) Must have passed a written examination, administered by the Office of State Fire Marshal; and

(i) The examination shall assess the applicant's knowledge of ORS 480.110 - 480.165 and OAR 837-012-0700 - 837-012-0970.

(ii) To pass the examination, the applicant shall answer 80% or more of the examination questions correctly.

(d) Shall have attended and completed one training course, approved by the Office of State Fire Marshal and administered by an instructor certified by the Office of State Fire Marshal.

(2) To be eligible for a Limited Operator Certificate, an applicant shall comply with the following:

(a) Must be at least 18 years of age; and

(b) Must certify that the applicant is knowledgeable of the applicable requirements of ORS 480.110 - 480.165 and OAR chapter 837, division 12.

(3) Any individual who desires to participate in a General Display or Limited Display as an Assistant shall comply with the following:

(a) Must be at least 18 years of age; and

(b) Must work under the direct supervision and control of a General Operator or Limited Operator.

Stat. Auth.: ORS 480.150

Stats. Implemented: ORS 480.110 - ORS 480.165

Hist.: FM 2-1992, f. & cert. ef. 3-10-92; FM 2-1993(Temp), f. & cert. ef. 6-10-93; FM 6-1993, f. & cert. ef. 12-10-93; OSFM 4-2002(Temp), f. & cert. ef. 2-25-02 thru 8-19-02; OSFM 7-2002, f. & cert. f. 6-20-02; OSFM 3-2003, f. & cert. ef. 2-10-03

## 837-012-0790

### Issuance of Operator Certificate

(1) Upon receipt of a properly completed and timely submitted Operator Certificate Application, the Office of State Fire Marshal shall either grant or deny the Application.

(2) The Office of State Fire Marshal shall assign a unique number to each Operator Certificate issued.

(3) The Office of State Fire Marshal shall mail the original Operator Certificate to the applicant at the mailing address listed on the Operator Certificate Application.

(4) Holders of an Operator Certificate may request a duplicate copy of the Certificate by certifying to the Office of State Fire Marshal, in writing, that their Operator Certificate has been lost, stolen or destroyed. Written requests shall be signed and dated by the holder of the Operator Certificate.

(5) An Operator Certificate allows the holder of the Certificate to possess, store, use and discharge Display Fireworks for purposes of a Display when those activities are otherwise in conformance with the applicable requirements of ORS 480.110 - 480.165, OAR chapter 837, division 12 and any other applicable federal, state or local laws, rules or regulations pertaining to Fireworks.

(6) A General Operator Certificate authorizes the holder of the Certificate to participate as the Operator at either a General Display or a Limited Display.

(7) A Limited Operator Certificate authorizes the holder of the Certificate to participate as the Operator only at a Limited Display.

(8) Only the holder of the Operator Certificate may engage in the activities authorized by the Certificate.

(9) An Operator Certificate does not authorize:

(a) The sale or provision of Fireworks; or

(b) The purchase, transportation, possession or storage of Fireworks.

(10) An Operator Certificate, and the rights conveyed by the Certificate, is not transferable.

(11) An Operator Certificate is valid for three years from the date of issue unless revoked or suspended.

Stat. Auth.: ORS 480.150

Stats. Implemented: ORS 480.110 - ORS 480.165

Hist.: FM 2-1992, f. & cert. ef. 3-10-92; FM 2-1993(Temp), f. & cert. ef. 6-10-93; FM 6-1993, f. & cert. ef. 12-10-93; OSFM 4-2002(Temp), f. & cert. ef. 2-25-02 thru 8-19-02; OSFM 7-2002, f. & cert. f. 6-20-02; OSFM 3-2003, f. & cert. ef. 2-10-03

## 837-012-0810

### Training Course Instructor

(1) Individuals who intend to provide the training course required under OAR 837-012-0780 shall work under the direction and control of an Oregon permitted wholesaler who supplies 1.3g Fireworks.

(2) At a minimum, Instructors shall meet the following requirements:

(a) Be currently certified as a General Display Operator under OAR 837-012-0790 and,

(b) Has been a General Display Operator consecutively for six years prior to the date of training. If the Instructor has not been consecutively certified for six years prior to the date of training, then the Instructor must be approved by the Office of State Fire Marshal prior to providing the General Operator certification training or the training shall not be accepted by the Office of State Fire Marshal for General Operator certification.

Stat. Auth.: ORS 480.150

Stats. Implemented: ORS 480.110 - ORS 480.165

Hist.: FM 2-1992, f. & cert. ef. 3-10-92; FM 2-1993(Temp), f. & cert. ef. 6-10-93; FM 6-1993, f. & cert. ef. 12-10-93; OSFM 4-2002(Temp), f. & cert. ef. 2-25-02 thru 8-19-02; OSFM 7-2002, f. & cert. f. 6-20-02; OSFM 3-2003, f. & cert. ef. 2-10-03

## 837-012-0820

### Pyrotechnician Training Course Requirements

(1) The training course required by OAR 837-012-0780(1)(d) shall be developed by the Office of State Fire Marshal.

(2) All individuals providing Operator Certification training required under OAR 837-012-0780 shall provide at a minimum the training course developed by the Office of State Fire Marshal.

(3) Any training course not developed by the Office of State Fire Marshal shall not comply with OAR 837-012-0780(1)(d).

(4) The Office of State Fire Marshal may update the training course annually to assure it is consistent and current with federal and state laws, rules and regulations pertaining to Fireworks Displays.

Stat. Auth.: ORS 480.150

Stats. Implemented: ORS 480.110 - ORS 480.165

Hist.: FM 2-1992, f. & cert. ef. 3-10-92; FM 2-1993(Temp), f. & cert. ef. 6-10-93; FM 6-1993, f. & cert. ef. 12-10-93; OSFM 4-2002(Temp), f. & cert. ef. 2-25-02 thru 8-19-02; OSFM 7-2002, f. & cert. f. 6-20-02; OSFM 3-2003, f. & cert. ef. 2-10-03

## 837-012-0830

### Denial, Suspension and/or Revocation of Display Permit or General or Limited Operator Certificate

(1) The State Fire Marshal may deny, revoke or suspend a Display Permit or General or Limited Operator Certificate when a Person listed on the Display Permit or Operator Certificate fails to comply with ORS 480.110 through 480.165, OAR chapter 837, division 12 or any other applicable federal, state or local law, rule or regulation pertaining to Fireworks.

(2) Any such denial, revocation, or suspension shall be in conformance with ORS 183.310 to 183.550.

(a) A Person named on the Permit Application fails to comply with applicable federal, state, or local laws, rules, ordinances or regulations pertaining to the manufacture, sale, use, discharge, transportation, storage or possession of Fireworks; or

(b) The Office of State Fire Marshal is presented with evidence and a recommendation to deny, suspend and/or revoke an Application, or Permit by fire or law enforcement authority. The evidence shall support the conclusion that the Sponsor, Permit Holder, or applicant has violated applicable rules and/or statutes; or

(c) The Permit Holder knowingly hires, employs, utilizes, etc., someone who has had a Wholesale, Retail or Display Permit has been revoked, denied or suspended within the last three years; or

(d) There has been a failure to obtain and maintain necessary local or state on-site inspections, approvals, proof of liability insurance and other required permits; or

(e) Sells, donates or otherwise provides Fireworks to any Person; or

(f) A Permit, or permit number that has expired, or that does not exist, or which has not been issued, is used to support the purchase, use, discharge, transportation, storage, possession or sale of Fireworks; or

(g) The applicant submitted a fraudulent Permit Application; or

(h) Any other violation of the Fireworks statutes or rules.

(3) The period of denial, revocation and/or suspension shall not exceed three years. In determining the appropriate sanction, the Office of State Fire Marshal shall consider the following criteria:

(a) The severity of the violation(s) and/or its impact on public safety, particularly whether the circumstances of the violation(s) presented a significant fire hazard or other public safety danger;

(b) The number of similar or related violations alleged to have been committed in the current transaction, event or occurrence;

(c) Whether the violation(s) was willful or intentional;

(d) The prior history of sanctions imposed by the Office of State Fire Marshal against the holder of, or applicant for, a Display Permit or Operator Certificate; and

(e) Other circumstances determined by the Office of State Fire Marshal to be applicable to the particular violation(s).

(4) Suspension or revocation of a Display Permit or Operator Certificate may include suspension or revocation of the current Permit or Certificate and the right to apply for a subsequent Permit or Certificate.

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Stat. Auth.: ORS 480.150

Stats. Implemented: ORS 480.110 - ORS 480.165

Hist.: FM 2-1992, f. & cert. ef. 3-10-92; OSFM 4-2002(Temp), f. & cert. ef. 2-25-02 thru 8-19-02; OSFM 7-2002, f. & cert. f. 6-20-02; OSFM 3-2003, f. & cert. ef. 2-10-03

## 837-012-0835

### Purchase, Transportation and Storage of Display Fireworks

(1) General and Limited Display Permit Holders Shall purchase or otherwise obtain Display Fireworks only from Wholesalers who possess a current and valid wholesale Permit issued by the Office of State Fire Marshal.

(2) General and Limited Display Permit Holders Shall purchase or otherwise obtain Display Fireworks only from the Wholesaler listed on the Display Permit.

(3) If the Wholesaler who supplies the Display Fireworks is different from the Wholesaler listed on the Display Permit, the Display Permit Holder Shall notify, in writing, the Office of State Fire Marshal and the Local Fire Authority of the change at least 24 hours prior to purchasing the Display Fireworks from the Wholesaler.

(4) The Designated Agent may pick up Fireworks from the Wholesaler and deliver only to the storage site listed on the Display Permit or directly to the Display Site as listed on the Permit.

(5) The Permit Holder, or their Designated Agent, Shall possess the Display Permit at the time the Display Fireworks are picked up from or delivered by the Wholesaler.

(6) The Permit Holder, or their Designated Agent, Shall transport the Display Fireworks only to the:

(a) Storage site approved by the Local Fire Authority and the Office of State Fire Marshal and listed on the Display Permit; or

(b) The Display Site listed on the Display Permit.

(7) The Permit Holder or their Designated Agent, Shall comply with all applicable federal, state and local laws, rules and regulations pertaining to the transportation of Fireworks.

(8) Prior to acceptance of Display Fireworks from a Wholesaler, the Permit Holder, or their Designated Agent, Shall confirm that the outside of all Cartons, Containers or Cases or Display Fireworks, and any accompanying documentation, are affixed with the full Permit Holder name and Display Permit number of the Display Permit corresponding to the Permit Holder authorizing the Display Fireworks being received and the Wholesaler Name and their Oregon Wholesale Permit number of the Oregon Wholesaler who supplied the Display Fireworks.

(9) Display Permit Holders, or their Designated Agent, Shall not accept any Cartons, Containers or Cases of Display Fireworks or accompanying documentation that do not show the required information pursuant to subsections (8) of this rule. If the required Permit Holder name and Display Permit number is not on the outside of all Cartons, Containers or Cases of Display Fireworks, and any accompanying documentation, the Permit Holder Shall refuse to accept the Display Fireworks.

(10) Permit Holder name and Display Permit number and the Wholesaler name and Permit number Shall be maintained on any Carton, Container or Case containing Display Fireworks authorized by a Display Permit.

(11) The storage of Display Fireworks Shall comply with the following:

(a) OAR chapter 837, division 12;

(b) Oregon Uniform Fire Code, 1998 Edition;

(c) Oregon Specialty Code, 1998 Editions;

(d) NFPA 1124, Code for the Manufacture, Transportation and Storage of Fireworks 1998 Edition; and

(e) United States Department of Transportation laws and regulations.

See also CFR Title 17, Part 18, Subparts J and JJ.

(12) The transportation of Display Fireworks Shall comply with the following:

(a) ORS 480.110 through 480.165;

(b) OAR chapter 837, division 12;

(c) NFPA 1124, Code for the Manufacture, Transportation and Storage of Fireworks 1998 Edition; and

(d) United States Department of Transportation laws and regulations.

See also CFR Title 17, Part 18, Subparts J and JJ.

(13) Fireworks may be delivered to the Display Site up to a maximum of 72 hours prior to the date and time of the permitted Display. Security at the Display Site will be continuous until the date and time of the Display. Fireworks may be delivered to the Display Site up to 72 hours prior only after a security plan has been submitted to and approved by the Local Fire Authority.

(14) Special consideration may be given for increasing the 72 hours maximum as allowed in 837-012-0835(13) for exceptionally large displays. Approval Shall be granted prior to arriving at the Display Site and Shall be approved by both the Office of State Fire Marshal and the Local Fire Authority.

(15) All Fireworks at the Display Site Shall meet the requirements of NFPA 1124, Code for the Manufacture, Transportation and Storage of Fireworks 1998 Edition.

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

Stat. Auth.: ORS 476.030 & ORS 480-150

Stats. Implemented: ORS 480.110 - ORS 480.165

Hist.: OSFM 4-2002(Temp), f. & cert. ef. 2-25-02 thru 8-19-02; OSFM 7-2002, f. & cert. f. 6-20-02; OSFM 3-2003, f. & cert. ef. 2-10-03

## 837-012-0860

### Operation of the Public Fireworks Display

(1) The Sponsor of the Display Shall provide adequate fire protection for the Display.

(2) The Sponsor and/or Operator Shall consult with the fire authority to determine the level of fire protection required.

(3) Monitors whose sole duty Shall be the enforcement of crowd control Shall be located around the Display area by the Sponsor. The fire authority Shall approve the provisions for crowd control.

(4) Monitors Shall be located around the Display Site to prevent spectators or any other unauthorized Individuals from entering the Display Site. The Display Site Shall be so restricted throughout the Display and until the Display Site has been inspected after the Display. Where practical, fences and rope barriers Shall be used to aid in crowd control.

(5) During the period before the Display, when Fireworks materials are present, public access to the Display Site Shall not be allowed.

(6) The Operator has the primary responsibility for safety. While the Operator is allowed to actively participate in the firing of the Display, safety Shall be the primary concern.

(7) The Operator is responsible for ensuring that a sufficient number of Assistants are on hand for the safe conduct of the Display. Only the Operator and necessary Assistants Shall be permitted in the discharge area while the Display is in progress.

NOTE: In some situations, it is believed that it is appropriate to have one Individual tending each Ready Box or shell storage area in use at a given time. Similarly, it is believed that there should be two Individuals reloading shells into Mortars for each Individual igniting the Aerial Shells. Unless racks of Chain Fused shells are being fired, it generally is believed that a single Individual can safely ignite no more than about ten shells per minute. If a greater rate of firing is desired, it is appropriate to have more than one Individual lighting them.

(8) The Display Operator is responsible for meeting the administrative rules, statutory requirements and any other applicable requirements for the Display including ensuring that all Assistants are fully trained in the proper performance of their assigned tasks and that they are knowledgeable of safety hazards.

(9) If at any time before or during the Display, the Operator, Local Fire Authority, or the Law Enforcement Authority knows or should know that an adverse condition exists that significantly affects safety, Display Shall be postponed until the condition is corrected.

(10) If at any time before or during the Display, the Operator, Local Fire Authority, or the Law Enforcement Authority knows or should know that the lack of crowd control poses a danger, the Display Shall immediately be discontinued until such time as the situation is corrected.

(11) If at any time before or during the Display, the Operator, Local Fire Authority, or the Law Enforcement Authority knows or should know that high winds, precipitation, or other adverse weather conditions prevail, such that a significant safety danger exists; the Display Shall be postponed until weather conditions improve to an acceptable level.

NOTE: Changes that occur as a result of sections (9), (10) and (11) of this rule Shall meet the requirements of OAR 837-012-0740.

(12) Operators and Assistants Shall use only flashlights or electric lighting for artificial illumination.

(13) No smoking Shall be allowed within 50 feet of any area where Fireworks or other pyrotechnic materials are present.

(14) Measures Shall be taken to protect all Fireworks and materials to be used in the Display from adverse weather conditions. Moisture-damaged materials Shall not be used.

(15) No Individual Shall be allowed in the Discharge area while under the influence of alcohol, narcotics, or drugs.

(16) Communication when required by the fire official means the Displays Shall be provided with a method. Such method may consist of a cellular or digital telephone, marine radio, walkie talkie systems or other approved means. Method of communication between the Operator, the Local Fire Authority and others as deemed necessary by the Local Fire



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Authority, example: ship-to-shore communication for Barge Displays. The method of communication Shall be determined by the Local Fire Authority.

(17) Operators Shall be continuously responsible for the Display from the beginning of the Display through completion of the Display including the after Display cleanup and inspection.

Stat. Auth.: ORS 480.150

Stats. Implemented: ORS 480.110 - ORS 480.165

Hist.: FM 2-1992, f. & cert. ef. 3-10-92; OSFM 4-2002(Temp), f. & cert. ef. 2-25-02 thru 8-19-02; OSFM 7-2002, f. & cert. f. 6-20-02; OSFM 3-2003, f. & cert. ef. 2-10-03

## 837-012-0865

### Operations for Barge Displays

(1) Manual Firing of Displays Shall be allowed only under the following conditions:

(a) Shells Shall be loaded into Mortars and put into place prior to the Display. There Shall be no reloading of any kind during the Display;

(b) Shells Shall be single-Break only and Shall not exceed 6" in diameter;

(c) The Barge Shall meet double the size requirements established by OAR 837-012-0855;

(d) All Individuals, other than Operators and Assistants Shall be behind protective barriers during the Display. Protective barrier(s) must meet the strength requirements of    inch (19mm) plywood or equivalent.

(e) Electrical Firing and Manual Firing on the same Barge is allowed when the Mortars to be used for Manual Firing Shall be separated from Mortars to be used for Electrical Firing by a minimum of 25 feet.

(f) All Aerial Shells greater than 6" in diameter Shall be fired using Electrical Ignition or other means of remote ignition that place the shooter and Assistants at least 75 feet away from the Mortar or behind a sturdy barricade at the time of ignition of the Lift Charge.

(2) A U.S. Coast Guard approved personal flotation device (PFD) Shall be provided and available for each Individual working on the Barge. Those PFD's Shall be properly worn anytime the Barge is not moored at the dock. PFD's Shall have or include a visual location device.

(3) A watercraft Shall be ready and capable of providing a rapid emergency response during the Display.

(4) During the Display only necessary Individuals Shall be present on the Barge. No spectators Shall be present on the Barge.

(5) Necessary Individuals include:

(a) Operator and Assistants;

(b) Local Fire Authority department personnel;

(c) Barge Operators; and

(d) Local Fire Authority, Coast Guard, law enforcement, or other regulatory authority acting within the scope of their official capacity.

(6) Barge Shall be free of all nonessential combustible materials.

(7) Fuel tanks are deemed essential material to perform the Display for vessels controlling, marshaling, or adjoining the Barge from which Fireworks are being discharged.

(8) Barges constructed of wood or other combustible material Shall be permitted to be used as a Fireworks Display Site when the requirements of these rules and any other applicable state, local, and federal requirements pertaining to Fireworks are met.

(9) Barges constructed of wood or other combustible material can be used provided the surface of the Barge has been protected from fire by means acceptable to the Local Fire Authority. The Barge should also be of sufficient construction and configuration to safely allow the firing of the Display. Consideration should be given to the conditions that could affect the separation distance. Greater distance might be required to allow for the effects of sea conditions, wind, and drift of the Barge.

(10) Whenever, in the opinion of the Local Fire Authority, the Operator, or the Barge captain, conditions such as high seas or rapid current pose a potential safety hazard to the Operator and Assistants, spectators, surrounding area, or any other Individuals, the Display Shall be postponed until conditions improve.

Stat. Auth.: ORS 476.030 & ORS 480.150

Stats. Implemented: ORS 480.110 - ORS 480.165

Hist.: OSFM 4-2002(Temp), f. & cert. ef. 2-25-02 thru 8-19-02; OSFM 7-2002, f. & cert. f. 6-20-02; OSFM 3-2003, f. & cert. ef. 2-10-03

## 837-012-0940

### Civil and Criminal Enforcement Actions

(1) In addition to denying, revoking and/or suspending Permits and Certification pursuant to administrative hearing and appeals procedures as specified in law, the Office of State Fire Marshal, Fire or Law Enforcement Authority may:

(a) Confiscate, remove or have removed at the violator(s) expense all Fireworks offered for sale, used transported, stored, or possessed in violation of these rules; and

(b) Destroy seized Fireworks when it has been determined that destruction is necessary for the preservation of public safety or health, that the sale, transport, storage or possession of the seized Fireworks was in violation of the laws and rules of the State of Oregon or the ordinances of local municipalities.

NOTE: Upon the confiscation and/or prior to the destruction of any seized pyrotechnics, the Person responsible for the confiscation and/or destruction, Shall contact the Oregon licensed Wholesaler listed on the Permit Application.

(2) All civil disputes arising as a result of the administration and enforcement of these rules and regulations, Shall be referred to the State Fire Marshal who Shall be the final administrative authority in all cases.

(3) Violation of any provision of ORS 480.110 through 480.160 is a Class B misdemeanor. Violations thereof may be prosecuted in state or municipal courts when violations occur within the municipality served thereby. Justice and district courts Shall have concurrent jurisdiction with circuit courts in all proceedings arising within ORS 480.110 to 480.160:

(a) The sentence for a Class B misdemeanor Shall be in accordance with ORS 161.615;

(b) The sentence to pay a fine for a Class B misdemeanor Shall be in accordance with ORS 161.635 and 161.655.

(4) If a Person has gained money or property through commission of a misdemeanor or violation, then upon conviction thereof, the court, instead of imposing the fine authorized by these rules, may sentence the defendant to pay an amount fixed by the court, not exceeding double the amount of the defendant's gain from the commission of the offense in accordance with ORS 161.635 and 161.655.

Stat. Auth.: ORS 480.150

Stats. Implemented: ORS 480.110 - ORS 480.165

Hist.: FM 2-1992, f. & cert. ef. 3-10-92; OSFM 4-2002(Temp), f. & cert. ef. 2-25-02 thru 8-19-02; OSFM 7-2002, f. & cert. f. 6-20-02; OSFM 3-2003, f. & cert. ef. 2-10-03

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## Department of Public Safety Standards and Training Chapter 259

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

**Filed with Sec. of State:** 1-21-2003

**Certified to be Effective:** 1-21-03

**Notice Publication Date:** 11-1-02

**Rules Amended:** 259-020-0005, 259-020-0010, 259-020-0015

**Subject:** Mandates that examiners and trainees are limited to conducting no more than 5 tests per calendar day.

**Rules Coordinator:** Shawn M. Irish—(503) 378-2100, ext. 2223

### 259-020-0005

#### Definitions

(1) "Board" means the Board on Public Safety Standards and Training.

(2) "Completed Examination" means an examination in which charts are recorded.

(3) "Department" means the Department of Public Safety Standards and Training.

(4) "Director" means the director of the Department.

(5) "Person" means any individual, firm, association, partnership, or corporation.

(6) "The Act" means the Polygraph Examiners Act (ORS Chapter 703).

Stat. Auth.: ORS 703.230

Stats. Implemented: ORS 703.230

Hist.: PS 12, f. & ef. 12-19-77; PS 1-1979, f. 10-1-79, ef. 10-3-79; PS 1-1983, f. & ef. 12-15-83; PS 3-1987, f. & ef. 10-26-87; 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 7-1999, f. & cert. ef. 7-29-99; BPSST 9-2001, f. & cert. ef. 9-19-01; DPSST 1-2003, f. & cert. ef. 1-21-03

### 259-020-0010

#### Minimum Standards for a Polygraph Examiner Trainee License

(1) Any applicant for a license as a polygraph examiner trainee shall:

(a) Have graduated from a polygraph examiner's course approved by the Department;

(b) Be at least 18 years of age;

(c) Be a citizen of the United States;

(d) Not have demonstrated, in the preceding 10 years, a course of behavior that indicates a high degree of probability that the applicant will be unlikely to perform the duties of a polygraph examiner in a manner that would serve the interests of the public. When the Department refuses to

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issue a license based upon an applicant's failure to meet the requirements of this section, the Department shall follow the procedures set forth in OAR 259-020-0030.

(e) If previously convicted of a criminal offense, provide information, as required by the Department, relating to the circumstances of the conviction. ORS 670.280 is applicable when the Department considers information provided under this paragraph.

(f) Be fingerprinted and submit two (2) completed fingerprint cards to the Department for subsequent submission by the Department to the Oregon State Police, Identification Services Section. Appropriate fees shall accompany the applicant's fingerprints when submitted to the Department. Said fees are to pay the costs of the fingerprint check through the Federal Bureau of Investigation.

(A) Currently employed corrections officers, parole and probation officers, or police officers as defined in ORS 181.610, whose fingerprints are on file in accordance with OAR 259-008-0010(3), shall be exempt from the fingerprinting requirement for polygraph examiners as prescribed in this rule.

(B) Currently employed state police officers appointed pursuant to ORS 181.260 whose fingerprints are on file in accordance with OAR 259-008-0010(3), shall also be exempt from the fingerprinting requirement for polygraph examiners as prescribed in this rule.

(g) Submit a fully completed Application for Polygraph Examiner's License (DPSST Form F-203) as prescribed by OAR 259-020-0060, accompanied by documentation of qualifications as may be required by the Department.

(h) Submit to the Department appropriate fees as prescribed by OAR 259-020-0035.

(2) The Department prescribed requirements for internship of any person who is licensed as a trainee under this rule are:

(a) Periodic consultation with licensed general polygraph examiners of the trainee's own choice is appropriate;

(b) A total of 20 examinations of the first 200 examinations conducted shall be reviewed by a licensed general polygraph examiner. The following format of these reviews is mandatory:

(A) 1st series — 5 examinations reviewed of the first 20 conducted;

(B) 2nd series — 5 examinations reviewed of the second 20 conducted;

(C) 3rd series — 5 examinations reviewed of the third 50 conducted;

(D) 4th series — 5 examinations reviewed of the last 100 conducted.

(E) During each review, the general polygraph examiner shall complete a Polygraph Review Critique (DPSST Form F-203a) on each case reviewed. The original critique shall be forwarded to the Department to be included in the trainee's individual file. One copy of the form shall be retained by the reviewer, and one copy shall be retained by the trainee. These reviews shall be completed within 30 days of the completion of each of the four (4) series of examinations shown above and forwarded to the Department.

(F) At least two (2) review series shall be completed during personal interviews with a general polygraph examiner. However, if time and distance are a distinct problem, up to two of the review series may be completed by mail. These review procedures cannot be interpreted as detracting from the trainee examiner's ability or expertise, but shall be considered as legitimate, professional consultation.

(c) When participating in this prescribed course of study, trainees may administer specific issue examinations. If the trainee conducts a test which is to be offered as evidence in a court of law, the trainee shall seek and utilize the assistance of a general polygraph examiner during the administration of the case and shall have that general polygraph examiner available for continued consultation, including joint court appearances, if necessary. Each trainee should obtain legal advice concerning all questions relating to admissibility of polygraph examination evidence.

(d) Every trainee must maintain basic records of examinations conducted. A numerical log or ledger (beginning with #1) shall provide a brief record of the name of the person examined, date, time, type of examination, and results, as well as other information the trainee examiner considers pertinent. Folder or envelope "case" files containing all available test information, including notes, questions, charts, reports, and correspondence, shall be maintained for a minimum of five years unless State Archivist rules require longer maintenance.

(e) A person may hold a license as a trainee for no more than two years. An extension of the two-year period granted for the trainee license holders may be granted for good cause. If the applicant requests an extension of time to hold the trainee license, the Department may grant an extension to the date of the next regularly scheduled Polygraph Licensing

Advisory Committee meeting. The applicant will be scheduled to appear at the next committee meeting. The applicant must provide his/her request/justification for the extension, polygraph log, and ten of the last polygraph reports and charts performed by the trainee. If just cause is presented, the Polygraph Licensing Advisory Committee may recommend to the Department an extension.

(f) Trainees must clearly indicate their trainee status on all letterhead, business cards, advertising, signage, and any other type of written material that describes a polygraph examination or review of a polygraph examination.

(3) A trainee shall not conduct more than five (5) completed examinations, of any type, in any one calendar day. A completed examination shall be an examination as defined in OAR 259-020-0005(2).

[ED. NOTE: Forms referenced in this rule are available from the agency.]

Stat. Auth.: ORS 703.230

Stats. Implemented: ORS 703.230

Hist.: PS 12, f. & ef. 12-19-77; PS 1-1979, f. 10-1-79, cf. 10-3-79; PS 3-1987, f. & ef. 10-26-87; 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 7-1999, f. & cert. ef. 7-29-99; BPSST 10-2000, f. 11-13-00, cert. ef. 11-15-00; BPSST 9-2001, f. & cert. ef. 9-19-01; BPSST 14-2002, f. & cert. ef. 7-1-02; DPSST 1-2003, f. & cert. ef. 1-21-03

### 259-020-0015

#### Minimum Standards for a Polygraph Examiner

(1) Any applicant for a license as a general polygraph examiner shall:

(a) Be at least 18 years of age;

(b) Be a citizen of the United States;

(c) Not have demonstrated, in the preceding 10 years, a course of behavior that indicates a high degree of probability that the applicant will be unlikely to perform the duties of a polygraph examiner in a manner that would serve the interests of the public. When the Department refuses to issue a license based upon an applicant's failure to meet the requirements of subsection (c) of this section, the Department shall follow the procedures set forth in OAR 259-020-0030;

(d) If previously convicted for a criminal offense, provide information, as required by the Department, relating to the circumstances of the conviction. ORS 670.280 is applicable when the Department considers information provided under this paragraph;

(e) Be fingerprinted and submit two (2) completed fingerprint cards to the Department for subsequent submission by the Department to the Oregon State Police, Identification Services Section. Appropriate fees shall accompany the applicant's fingerprints when submitted to the Department. Said fees are to pay costs of the fingerprint check through the Federal Bureau of Investigation. No General License shall be issued until the Department has received fingerprint clearance from the Oregon State Police Identification Services Section. Currently employed corrections officers, parole and probation officers, or police officers, as defined in ORS 181.610, whose fingerprints are on file in accordance with OAR 259-008-0010(3), shall be exempt from the fingerprinting requirement for polygraph examiners as prescribed in this rule. Currently employed state police officers appointed pursuant to ORS 181.260, whose fingerprints are on file in accordance with OAR 259-008-0010(3), shall also be exempt from the fingerprinting requirement for polygraph examiners as prescribed in this rule.

(f) Have received a baccalaureate degree from an accredited college or university; or, in lieu thereof, be a graduate of an accredited high school and have at least five years of active investigative experience before the date of the application.

(A) Active investigative experience is acquired through full-time employment as an investigator. An investigator is a person whose primary assigned duty is the investigation of actual or suspected violations of law, either criminal or civil.

(B) Administering polygraph examinations will satisfy the investigative experience requirement of this section.

(C) The Department may, upon application of an individual polygraph examiner, accept the examiner's professional experience as being equal in professional value to the five years of active investigative experience required by this section.

(g) Have graduated from a polygraph examiner's course approved by the Department and have completed at least 200 examinations, or have worked as a polygraph examiner for a period of five years for a governmental agency within the State of Oregon and have completed 200 examinations.

(h) Have successfully completed an examination conducted by the Department in consultation with the Advisory Committee as defined in OAR 259-020-0055, to determine competency to act as a polygraph examiner. The Department in consultation with the Advisory Committee shall

# ADMINISTRATIVE RULES

prescribe the manner and contents of any examination conducted by the Department under provisions of the Act.

(i) Submit a fully-completed Application for Polygraph Examiner's License (DPSST Form F-203) as prescribed by OAR 259-020-0060, accompanied by documentation of qualifications as may be required by the Department.

(j) Submit to the Department appropriate fees as prescribed by OAR 259-020-0035.

(2) Any person who has held a trainee license for longer than 12 months and who has completed the 200 exams required under OAR 259-020-0015(1)(g) prior to the effective date of this rule must take the examination described in OAR 259-020-0015(1)(h) within 12 months of completing the required exams.

(3) The following govern applicants who fail to pass the oral or written part of the examination described in OAR 259-020-0015(1)(h):

(a) The Department in consultation with the advisory committee may prescribe requirements for the internship of an applicant who fails the first or second examination.

(b) The Department in consultation with the advisory committee may prescribe requirements for the internship of an applicant who fails the first or second examination and who resides in a state other than Oregon and desires to accept a trainee license even though the applicant could not comply with the trainee license requirements set for in-state residents. The requirements for the internship must be of equal professional value as those requirements set for in-state trainees.

(c) The Department shall suspend an applicant's trainee license if the applicant fails the third examination. The applicant may submit a new application for a general license only after retaking and successfully completing a polygraph examiner's course approved by the Department.

(d) Applicants who have already taken the examination and failed it prior to the effective date of this rule are allowed two additional attempts to take and pass the examination regardless of the number of previous attempts.

(4) The Director, acting on the written recommendation of the Polygraph Examiners Licensing Advisory Committee, may require a licensed general polygraph examiner to appear for reexamination as directed. Failure of the licensee to comply with the directive to appear for reexamination shall result in the suspension of the license by the Department.

(5) Every examiner shall maintain basic records of examinations conducted pursuant to OAR 259-020-0030(1)(f)(A)(vi). A numerical log or ledger (beginning with #1) shall provide a brief record of the name of the person examined, date, time, type of examination, and results, as well as other information the examiner considers pertinent. Folder or envelope "case" files containing all available test information, including notes, questions, charts, reports, and correspondence, shall be maintained for a minimum of five years unless State Archivist rules require longer maintenance.

(6) An examiner shall not conduct more than five (5) completed examinations, of any type, in any one calendar day.

(a) A completed examination shall be an examination as defined in OAR 259-020-0005(2).

[ED. NOTE: Forms referenced in this rule are available from the agency.]

Stat. Auth.: ORS 703.230

Stats. Implemented: ORS 703.230

Hist.: PS 12, f. & ef. 12-19-77; PS 1-1979, f. 10-1-79, ef. 10-3-79; PS 3-1987, f. & ef. 10-26-87; 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 7-1999, f. & cert. ef. 7-29-99; BPSST 10-2000, f. 11-13-00, cert. ef. 11-15-00; BPSST 9-2001, f. & cert. ef. 9-19-01; BPSST 14-2002, f. & cert. ef. 7-1-02; DPSST 1-2003, f. & cert. ef. 1-21-03

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**Adm. Order No.:** DPSST 2-2003  
**Filed with Sec. of State:** 1-21-2003  
**Certified to be Effective:** 1-21-03  
**Notice Publication Date:** 11-1-02  
**Rules Amended:** 259-020-0025

**Subject:** Specifies that an examiner whose license has expired must complete the mandated hours of training before their license can be renewed.

**Rules Coordinator:** Shawn M. Irish—(503) 378-2100, ext. 2223

## 259-020-0025

### Expiration and Renewal of Licenses

(1) Each polygraph examiner's license issued by the Department under provisions of the Act shall be issued for a period of one year. The Department may renew the license of a polygraph examiner, unless such

license has been suspended or revoked, upon compliance by the person with such conditions as the Department may prescribe.

(2) A person whose polygraph examiner's license has expired may obtain a renewal license without examination within two years after the date of the expiration of such license by:

(a) submitting an application for renewal;

(b) payment of the required fee; and

(c) documentation that the required total number of training hours for the period of time of the expiration of the license has been met, as mandated in OAR 259-020-0025(4).

(3) A person whose polygraph examiner's license has expired while employed by any federal agency or while on active duty as a member of the Armed Forces of the United States or on active duty as a member of the National Guard of this State may obtain a renewal license, without examination, upon application therefor within two years after the date of termination of such employment or active duty and payment of the required fee for such renewal.

(4) Every two (2) years from the date of issue, all persons licensed under the Act shall successfully complete a minimum of thirty (30) hours of Department approved training specifically related to the field of polygraphy. Department approved training in this field includes but is not limited to seminars sponsored by regional and national polygraph associations.

(A) All persons licensed under this Act shall document to the Department satisfactory completion of this training. Documentation shall include but is not limited to a certificate or letter of completion.

(B) Failure to comply with this section shall result in the Department's refusal to reissue a license. This requirement becomes effective 01-01-97.

(C) Upon written application and receipt by the Department of evidence that the conditions which caused the denial have been corrected to the satisfaction of the Department, a license then shall be reissued.

Stat. Auth.: ORS 703.230

Stats. Implemented: ORS 703.230

Hist.: PS 12, f. & ef. 12-19-77; PS 1-1979, f. 10-1-79, ef. 10-3-79; PS 2-1995, f. & cert. ef. 9-27-95; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; DPSST 2-2003, f. & cert. ef. 1-21-03

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**Adm. Order No.:** DPSST 3-2003  
**Filed with Sec. of State:** 1-22-2003  
**Certified to be Effective:** 1-22-03  
**Notice Publication Date:** 9-1-02  
**Rules Amended:** 259-008-0010

**Subject:** Mandates public safety officers who are convicted of a crime to notify their agency within 72 hours of the conviction. The agency must notify the Dept. of Public Safety Standards and Training within 5 business days of receiving notification of their employee's conviction.

**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.

(d) If the fingerprint clearance has not been obtained prior to submission of the application for certification, a criminal history affidavit provid-

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ed 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) Graduation from an accredited high school;

(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 DPSST 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) For police and corrections applicants, the applicant 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. Color vision should be perfect. 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). Recourse testing is available by means of the Farnsworth-Munsell 100-Hue Test. Applicants who fail either the Ishihara and/or the Farnsworth-Munsell tests 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 stereo depth perception adequate to perform the essential tasks of the job. Recommended tests are Titmus, or Keystone, etc. or other recognized tests.

(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. If amplification device(s) is (are) necessary to meet the above criteria, 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; and

(C) Achieve a Speech Discrimination test score of no less than 90% utilizing a standard 50-word presentation at 80 db Hearing Threshold Level (HTL). The Board may require an applicant to have another examination by a licensed audiologist or otorhinolaryngologist (ear, nose, and throat) designated by the Board 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.

(c) Applicants for the position of police or corrections officer must be able to use vocal chords and have significant speaking ability to perform speaking-related essential tasks. Abnormalities of the nose, throat or mouth must not interfere with the applicant's breathing or proper fitting of gas mask or similar device.

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(d) Applicants for the position of police or corrections 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 160 mmHg systolic and 95 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 the guidelines (d), (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 (d), it shall be at the expense of the applicant or hiring authority.

(e) A 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.

(f) 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.

(g) 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.

(h) 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.

(i) 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.

[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

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**Adm. Order No.: DPSST 4-2003**

**Filed with Sec. of State: 1-22-2003**

**Certified to be Effective: 1-22-03**

**Notice Publication Date: 9-1-02**

**Rules Amended: 259-060-0010, 259-060-0015, 259-060-0070, 259-060-0120, 259-060-0130, 259-060-0300, 259-060-0450**

**Subject:** These changes are to bring the rules into line with the enabling statute while legislative concepts are going through the process of changing the law.

**Rules Coordinator:** Shawn M. Irish—(503) 378-2100, ext. 2223

**259-060-0010**

## Definitions

(1) "Advisory Committee" means the Private Security Advisory Committee created by ORS 181.889.

(2) "Armed Private Security Officer" means a private security officer who is at any time in possession of a firearm while performing duties as a private security officer.

(3) "Assessment module" means a four-hour curriculum given to armed and unarmed private security officers that includes but is not limited to the demonstration of task-related skills learned in the eight-hour basic classroom instruction as applied to hypothetical situations.

(4) "Board" means the Board on Public Safety Standards and Training.

(5) "Certification" means recognition by the Department that a private security officer, private security officer-alarm monitor or instructor, meets all the qualifications listed in ORS 181.875 and the rules set forth in this Division.

(6) "Certified Private Security Instructor" as used in ORS 181.883, and "instructor" as used in ORS 181.878, means recognition by the Department that a person meets the minimum qualifications as specified in OAR 259-060-0135.

(7) "Certified Private Security Firearms Instructor" means recognition by the Department that a person meets the minimum qualifications of a private security firearms instructor as specified in OAR 259-060-0135.

(8) "Conviction" or "Convicted" means a finding of guilt in a court of competent jurisdiction by a plea, a jury verdict or a determination by a judge sitting as a trier of fact at a trial. Conviction shall not require a final judgment or sentence. A person shall not be considered to have been convicted of an offense for purposes of these rules if the conviction is an offense for which the person has been pardoned. A person shall also not be considered to have been convicted of an offense for purposes of these rules if the conviction has been expunged or set aside pursuant to the laws of any jurisdiction other than Oregon, provided, however, that the same offense, if committed in Oregon, would have been expunged or set aside pursuant to ORS 137.225. A person shall not be considered convicted of an offense committed in Oregon if the conviction has been set aside and the records of arrest and conviction have been ordered sealed pursuant to ORS 137.225.

(9) "Contract security services" means the performance of at least one of the following:

(a) The observation and reporting of any unlawful activity.

(b) The prevention of theft or misappropriation of any goods, money or other items of value.

(c) The protection of individuals or property, including, but not limited to, proprietary information, from harm or misappropriation.

(d) The control of access to premises being protected.

(e) The secure movement of prisoners.

(f) The taking of enforcement action by detaining persons or placing persons under arrest under ORS 133.225.

(g) Providing canine services for guarding premises or for the detection of unlawful devices or substances.

(10) "Denial" or "Deny" is that action taken by the Department in refusing to issue a license or certificate to an applicant who has not satisfied all requirements for issuance of a license or certificate.

(11) "Department" means the Department of Public Safety Standards and Training.

(12) "Director" means the Director of the Department of Public Safety Standards and Training.

(13) "Direct supervision of new hire" means actively monitoring the work of a new hire by the ongoing and uninterrupted presence of a certified private security officer, certified private security officer-alarm monitor, or a licensed proprietary security manager or security contractor. The person being monitored shall not make decisions regarding any course of action independent of the person providing the direct supervision.

(14) "Employee" means an individual who renders personal services wholly or partly in this state to an employer who pays or agrees to pay the individual at a fixed rate. "Employee" includes an applicant for employment to perform security services.

(15) "Employer" means a proprietary security manager or security contractor.

# ADMINISTRATIVE RULES

01 thru 2-18-02; BPSST 4-2002(Temp), f. & cert. ef. 2-25-02 thru 7-1-02; BPSST 13-2002, f. & cert. ef. 4-30-02; DPSST 4-2003, f. & cert. ef. 1-22-03

(16) "Executive Manager" means a proprietary security manager or security contractor who has the authority to act on behalf of the company or business in matters of licensure and certification, and whose primary responsibility is the management of certified private security providers, including any supervisory managers. An executive manager has authority to issue Temporary Work Permits and shall have ultimate responsibility for compliance with ORS 181.870-181.991.

(17) "Instructor" means any person who has been certified by the department as meeting the requirements to provide instruction to private security providers or applicants.

(18) "License" means recognition by the Department that an employer, contractor, executive manager or supervisory manager meets the requirements adopted by the Board on Public Safety Standards and Training as necessary to provide security services.

(19) "Primary responsibility" means an activity that is fundamental to, and required or expected in, the regular course of employment and is not merely incidental to employment.

(20) "Private security officer-alarm monitor" means a private security officer whose duties are limited to monitoring alarm systems designed to detect unauthorized intrusion. This definition shall apply to all persons who monitor commercial or residential sites in Oregon, regardless of whether the monitoring center is located in this state.

(21) "Private security officer" means an individual who performs, as the individual's primary responsibility:

(a) Contract security services for consideration as an independent contractor or as an employee of an independent contractor, whether armed or unarmed, full-time or part-time, in uniform or plain clothes; or

(b) Proprietary security services for consideration.

(c) "Private security officer" does not include those persons exempt from regulation under these administrative rules as set forth in OAR 259-060-0015(2).

(22) "Private security provider" means any person who performs contract security services or proprietary security services, or who performs the functions of a manager, supervisory manager or instructor.

(23) "Proprietary security manager" means an individual employed by a person or entity, other than a security contractor, whose responsibilities include implementing proprietary security services provided by a private security officer or a private security officer-alarm monitor.

(24) "Proprietary security services" means the performance of at least one of the activities listed in subsection (9) of this section if the person performing the activity:

(a) Wears a uniform readily identifiable by a member of the public as that worn by a private security officer or a law enforcement officer;

(b) Wears clothing that bears words, such as "security", or emblems that would cause a member of the public to reasonably believe that the person is a private security officer; or

(c) Carries a dangerous or deadly weapon, as those terms are defined in ORS 161.015, or a stun gun, pepper mace or night stick.

(25) "Revocation" or "Revoke" is that action taken by the Department after the licensee or certificate holder has had an opportunity for a hearing and the evidence supports allegations that the licensee or certificate holder has violated provisions of these administrative rules resulting in a Department order concluding that the licensee or certificate holder should not be allowed to continue to provide or implement security services.

(26) "Security contractor" means any person who provides the services of one or more private security officers or private security officer-alarm monitors for consideration.

(27) "Supervisory Manager" means an employee of a proprietary security manager or security contractor who has as a primary responsibility the supervision of certified private security officers but who does not have authority to hire and terminate personnel. A supervisory manager has authority to issue Temporary Work Permits.

(28) "Suspension" or "Suspend" is that action taken by the Department in temporarily depriving the holder of a license or certificate that authorizes provision or implementation of security services.

(29) "Temporary work permit" or Form PS-20 means a form issued by the employer to allow a company to employ and deploy a private security unarmed officer, private security officer-alarm monitor or manager while the application for certification or licensure is being processed. No temporary work permit shall be issued for armed security applicants.

Stat. Auth.: ORS 181.870 & ORS 181.878

Stats. Implemented: ORS 181.870 & ORS 181.878

Hist.: PS 9-1997, f. & cert. ef. 8-20-97; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 3-1999(Temp), f. & cert. ef. 3-9-99 thru 9-5-99; BPSST 4-1999, f. & cert. ef. 9-5-99; BPSST 3-2000, f. & cert. ef. 8-10-00; BPSST 8-2001(Temp), f. & cert. ef. 8-22-01 thru 2-18-02; BPSST 18-2001(Temp), f. & cert. ef. 11-28-

## 259-060-0015

### Prohibited Acts

(1) It is unlawful:

(a) For a person to engage in the business of, or perform any service as, a private security officer or private security officer-alarm monitor, or to offer services in such capacity unless the person has obtained a certificate under the Private Security Service Providers Act and these rules.

(b) For a person to engage in the business of, or perform any service as, a proprietary security manager, supervisory manager or security contractor, or to offer services in such capacities unless the person has obtained a license under ORS 181.878.

(c) For a person to perform supervisory duties over persons performing crowd management or guest services, as described in ORS 181.871, unless the person has obtained a license or certificate under ORS 181.878.

(d) Except as otherwise provided in ORS 181.873(2) and OAR 259-060-0120(1)(b)(c) (relating to temporary assignments), for a proprietary security manager or security contractor to assign a person to perform security services unless the person is certified as a private security officer, or private security officer-alarm monitor under ORS 181.878 and these rules.

(e) For purposes of these administrative rules, these prohibitions apply to any business, employer, or entity which provides within this state, contract security services, proprietary security services, or the monitoring of alarm systems designed to detect unauthorized intrusion, regardless of whether the business, employer or entity is located in this state.

(2) Exemptions: The following persons are exempt from regulation as private security providers:

(a) Persons holding a current Department certification as a police officer or parole and probation officer.

(b) A law enforcement officer of the United States.

(c) A person while on active duty as a member of the United States armed forces.

(d) An officer or employee of this state, Oregon Health Sciences University established by ORS 353.020 or the United States.

(e) A person appointed or commissioned by the Governor to perform law enforcement or security services.

(f) An attorney admitted to practice law in this state.

(g) An insurance adjuster licensed in this state and performing duties authorized by the license.

(h) A person who monitors fire alarm systems and other alarm systems that are not designed to detect unauthorized intrusions.

(i) A person while protecting the person's property.

(j) A person who repairs and installs intrusion alarms.

(k) A person acting as an investigator or operative as defined in ORS 703.401.

(l) A person performing crowd management or guest services, including, but not limited to, a person described as a ticket-taker, an usher, parking attendant or event staff, who is not armed, does not wear a uniform or clothing described in ORS 181.870(14)(a) or (b) and is not hired with the primary responsibility of taking enforcement action as described in ORS 181.870(4)(f).

(m) A person who performs security services at a facility regulated by the United States Nuclear Regulatory Commission and the facility is operated by the person's employer.

(3) The exemption provided by subsection (2)(L) of this section applies only:

(a) If there is at least one person on-site who is certified or licensed under ORS 181.878 for every 10 or fewer uncertified persons performing the services described in subsection (2)(L) of this section;

(b) If any enforcement action, as described in ORS 181.870 (4)(f), other than incidental or temporary action, is taken by or under the supervision of a person certified or licensed under ORS 181.878; and

(c) During the time when a crowd has assembled for the purpose of attending or taking part in an organized event, including pre-event assembly, event operation hours and post-event departure activities.

Stat. Auth.: ORS 181.873, ORS 181.871 & ORS 181.878

Stats. Implemented: ORS 181.873, ORS 181.871 & ORS 181.878

Hist.: PS 9-1997, f. & cert. ef. 8-20-97; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 3-1999(Temp), f. & cert. ef. 3-9-99 thru 9-5-99; BPSST 4-1999, f. & cert. ef. 9-5-99; BPSST 3-2000, f. & cert. ef. 8-10-00; BPSST 8-2001(Temp), f. & cert. ef. 8-22-01 thru 2-18-02; BPSST 18-2001(Temp), f. & cert. ef. 11-28-01 thru 2-18-02; BPSST 4-2002(Temp), f. & cert. ef. 2-25-02 thru 7-1-02; BPSST 13-2002, f. & cert. ef. 4-30-02; DPSST 4-2003, f. & cert. ef. 1-22-03

# ADMINISTRATIVE RULES

## 259-060-0070

### 15-Hour Firearms Course and Marksmanship Qualifications

(1) The training requirements for certification as an armed private security officer are:

(a) Satisfactory completion of the training requirements set forth in OAR 259-060-0060;

(b) An additional 15 hours of instruction based upon a curriculum consistent with the content requirements of ORS 181.883(2)(b) and approved by the Board or its designated staff;

(c) Successful completion of an additional written examination, administered in accordance with OAR 259-060-0065, covering additional firearms instructional materials, as mandated by ORS 181.883(2)(b); and

(d) A minimum marksmanship qualification score of 70 per cent on a firearms qualification course and target approved by the Board or its designated staff.

(2) The firearms instructional course and marksmanship qualification shall be administered by a certified private security or public safety firearms instructor (OAR 259-060-0135(3)). Only the administering instructor may complete the Form PS-6, and the form shall be completed fully.

(3) It shall be the responsibility of the applicant to obtain a completed Form PS-6 sealed in an approved tamper-proof bag and to submit this sealed bag to the Department. The instructor shall provide to the applicant the fully-completed original Form PS-6, sealed in a tamper-proof bag, if the applicant successfully completed all requirements. Additionally, the instructor shall provide the applicant with a Form PS-6 colored carbon copy, and the instructor shall retain the other carbon copy in the instructor's files for the life of the training (two years).

(4) The Department or its designated staff may cause inspections of training methods or the instructors to be made pursuant to ORS 181.878(1)(b), 181.878(2)(c), and OAR 259-060-0050(7).

[ED. NOTE: Forms referenced in this rule are available from the agency.]

Stat. Auth.: ORS 181.878 & ORS 181.883

Stats. Implemented: ORS 181.878 & ORS 181.883

Hist.: PS 9-1997, f. & cert. ef. 8-20-97; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 3-1999(Temp), f. & cert. ef. 3-9-99 thru 9-5-99; BPSST 4-1999, f. 4-29-99, cert. ef. 9-5-99; BPSST 3-2000, f. & cert. ef. 8-10-00; BPSST 8-2001(Temp), f. & cert. ef. 8-22-01 thru 2-18-02; BPSST 18-2001(Temp), f. & cert. ef. 11-28-01 thru 2-18-02; BPSST 4-2002(Temp), f. & cert. ef. 2-25-02 thru 7-1-02; BPSST 13-2002, f. & cert. ef. 4-30-02; DPSST 4-2003, f. & cert. ef. 1-22-03

## 259-060-0120

### Private Security Officer or Private Security Officer-Alarm Monitor Certification

(1) Under ORS 181.873(1)(a), it is unlawful for a person to engage in the business of, or perform any service as, a private security officer or private security officer-alarm monitor, or to offer services in such capacity, unless the person has obtained certification as an armed or unarmed private security officer or private security officer-alarm monitor, in accordance with these rules.

(a) A Department-licensed executive manager may temporarily assign a person who is not certified as required by these rules to perform security services within this state for a period of time not to exceed 90 days if:

(A) The person is employed in another state;

(B) The person holds a private security officer-alarm monitor or private security officer's certification or licensure from another state; and

(C) The certification or licensing standards of the other state meet or exceed the standards of this state.

(D) The intent of this provision is to allow a company to transfer its employees to this state for the purpose of temporary assignment.

(E) A Department-licensed executive manager shall provide to DPSST a copy of the authorizing state's statutory requirements for private security officers, demonstrating that the officer has undergone a criminal history fingerprint background check. Additionally, the executive manager shall complete Form PS-9 (Private Security Waiver for Reciprocity), a triplicate form; the original shall be mailed to the Department or its designated staff, one copy shall be retained by the employer, and one copy shall be retained by the employee. The employee copy of this form shall be carried on the employee's person at all times while performing security services in this state or while on duty. It shall be presented to any law enforcement officer upon demand and shall be displayed to any other person upon reasonable request.

(F) The reciprocity packet shall bear a postmark on or before the first day the applicant performs security services in this state.

(b) A Department-licensed executive manager may temporarily assign a person, whose application for certification as a private security officer or private security officer-alarm monitor is being processed, to perform secu-

urity services within this state for a period of time not to exceed 120 days under the following conditions:

(A) The applicant has completed all the requirements under this section (OAR 259-060-0120), including training;

(B) A Department-licensed manager has completed and signed the applicable portions of Form PS-20 (Private Security Temporary Work Permit), affirming the above requirements have been met;

(C) The Department-licensed executive manager or supervisory manager has attached the original of Form PS-20 to Form PS-1 (Application for Licensure or Certification of Private Security Services Provider); and

(D) The Department-licensed manager has mailed to the Department each of the items in this section, [Form PS-1 (Application for Licensure or Certification), Form PS-4 (Affidavit of Person Rolling Prints) and fingerprint cards, Form PS-6 (Affidavit of Instructor and Private Security Provider Testing Results) and applicable fees] as a complete packet. Form PS-4 is a sworn statement and must be sealed in a tamper-proof bag, along with the fingerprint cards, by the person rolling the prints; Form PS-6 is a sworn statement, and must be sealed in a tamper-proof bag by the issuing instructor. The application packet shall bear a postmark on or before the first day the applicant performs security services. Form PS-27 (Private Security Code of Ethics) is for the use of the applicant.

(E) If an applicant has not completed each step of the application process, including training, the applicant shall not perform unsupervised security services. Such persons may only provide security services under the direct supervision of a certified private security officer, licensed proprietary security manager or security contractor. The person being monitored shall not make decisions regarding any course of action independent of the person providing the direct supervision. The duration for direct supervision for an applicant is no more than 21 calendar days, during which time the applicant must be under the uninterrupted presence of a certified private security officer or certified private security officer-alarm monitor.

(F) The intent of the Form PS-20 provision is to allow a company to employ and deploy a private security officer, private security officer-alarm monitor or manager, while the application for certification or licensure is being processed. No temporary work permit shall be issued for armed security applicants.

(G) The Form PS-20 will last no longer than 120 days and, in any event, shall end upon written notice from the Department to the applicant that the permit has been administratively terminated under subsection (1)(b)(H) of this rule.

(H) Upon written notice from the Department to the applicant and the manager who signed the Form PS-20, the permit and authority to provide private security services may be administratively terminated for the following reasons:

(i) The Department has reason to believe that a person with the applicant's name and birth date has been convicted of a disqualifying crime listed in OAR 259-060-0020.

(ii) The application is incomplete or the Department has been unable to verify application information to its satisfaction due to non-response or non-compliance of the applicant.

(iii) Applicant has violated any private security administrative rule or condition imposed by Form PS-20. Applicants who provide false information in their application, contrary to their sworn oath, shall be disqualified from reapplying for a period of 10 years.

(iv) The fingerprint cards of applicant have been rejected under subsection 5(b) of this rule.

(I) Upon notification from the Department that the Form PS-20 has been administratively terminated because of a deficiency in application, the manager who signed the permit shall notify the applicant that he or she may not perform security services. A new application with corrected deficiencies must be filed, along with a new certification fee, prior to the applicant resuming duties. This provision does not apply to terminations based upon criminal conviction disqualification.

(J) The termination of the Form PS-20 due to a criminal conviction disqualification is subject to the contested case hearing procedures set forth in OAR 259-060-0300.

(c) The Department or its designated staff may administratively terminate the application process if the Department is unable to complete the certification process due to non-response or non-compliance of the applicant after exhausting the following efforts:

(A) A letter shall be mailed by the Department to the applicant, and the last known employer of the applicant, identifying the deficiencies in the Form PS-1, or the rejection of the fingerprint cards of applicant.

(B) The applicant and any manager supervising the applicant shall have 14 calendar days from the date of mailing to bring the applicant into

## ADMINISTRATIVE RULES

compliance and to notify the Department that the deficiencies are corrected. The Department may, in its discretion, elect to extend the time for compliance upon good cause shown by the applicant or its manager.

(C) If the Department is unable to determine a current address for the applicant, or if the applicant or manager does not respond and correct the deficiencies within 14 calendar days, or such additional time authorized by the Department, the Department shall list the applicant's status as "administratively terminated." The Department shall notify the applicant at his or her last known address, and notify the last known employer of the applicant, that the Department has administratively terminated the application process.

(D) Once the application process has been administratively terminated, the applicant will be required to submit a new Form PS-1, with another certification fee. An applicant whose application process has been administratively terminated shall not be eligible to perform security services until a new, complete application and fees are submitted to the Department, along with a Form PS-6 providing proof of new basic training.

(2) The requirements for certification as an unarmed private security officer or alarm monitor are as follows:

(a) Compliance with the minimum standards for certification under OAR 259-060-0020;

(b) Successful completion of the mandatory eight-hour basic classroom instruction required under OAR 259-060-0060, including successful completion of the written examination;

(c) Successful completion of the mandatory four-hour assessment module required under OAR 259-060-0075; and

(d) Submission to the Department of the completed application packet as required under Sub (5) of this rule, together with the appropriate fees.

(3) The requirements for certification as an armed private security officer are as follows:

(a) Compliance with the minimum standards for certification under OAR 259-060-0020;

(b) Successful completion of the mandatory eight-hour basic classroom instruction required under OAR 259-060-0060, including successful completion of the written examination;

(c) Successful completion of the mandatory four-hour assessment module required under OAR 259-060-0075;

(d) Successful completion of the mandatory 15-hour firearms course and marksmanship qualification required under OAR 259-060-0070, including successful completion of the written examination and satisfaction of marksmanship requirements; and

(e) Submission to the Department of the completed application packet as required under (5) of this rule, together with the appropriate fees.

(4) A certified private security officer or private security officer-alarm monitor or applicant shall carry the certificate or Form PS-20 on his or her person at all times while performing security services or while on duty. The certificate or Form PS-20 shall be presented to any law enforcement officer upon demand, and shall be displayed to any other person upon reasonable request.

(5) The application packet for certification as a private security officer or private security officer-alarm monitor shall include:

(a) A completed Form PS-1, including a sworn affidavit attesting to the truth and correctness of the information provided by the applicant, and acknowledging the Department's right to terminate a temporary work permit. Falsification of this application can result in a denial of certification for up to ten years, as well as pursuit of criminal charges.

(b) A completed fingerprint packet. The Department shall accept fingerprint cards correctly rolled and completed by private security or public safety personnel trained to roll fingerprints, or a person who is employed and trained by a private business that provides fingerprinting services. These fingerprint cards must be submitted on the pre-printed FBI fingerprint cards supplied by the Department, and shall be sealed in a tamper-proof bag by the person rolling the prints. There shall be a fee charged for the third submittal of fingerprint cards if rejected twice by the Federal Bureau of Investigation;

(A) A fingerprint packet shall include two fingerprint cards, and a Form PS-4. The person rolling the fingerprints shall complete Form PS-4, enclose the two completed fingerprint cards and the Form PS-4 in the tamper-proof bag, seal it, and return it to the applicant.

(B) When the fees, application and completed fingerprint packet are received, the Department will assign a Private Security Identification number to the applicant, record that number on the fingerprint cards and forward the fingerprint cards to Oregon State Police. The Oregon State Police shall process one set of the prints and send the other set of prints to the Federal Bureau of Investigation (FBI) for processing;

(C) The applicant's fingerprints will be retained and kept on file by the Oregon State Police Identification Services Section;

(D) The Oregon State Police Identification Services Section will notify the Department or its designated staff of any criminal record disclosed through processing the applicant's fingerprint cards; and

(E) 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;

(c) The original Form PS-6 sealed by the instructor in the approved tamper-proof bag;

(d) A completed Form PS-7 (Private Security Instructor Evaluation) (optional);

(e) The original of completed Form PS-20 (if employed).

(6) The applicant shall submit the nonrefundable certification fee (including the fingerprint processing fee) to the Department or its designated staff, along with the application packet. The application will be rejected unless the certification fee is paid by business check, money order or cashier's check. No personal checks, credit cards or cash will be accepted.

(7) The completed application packet shall be mailed to the Department or its designated staff prior to the applicant performing any security services.

(8) Renewal of certification shall occur every two years subject to the following conditions:

(a) The certificate holder shall, within the 90-day period prior to certificate expiration, obtain refresher training as provided for in OAR 259-060-0080, submit the Form PS-6, required fees and a completed Form PS-21 (Renewal of Private Security Licensure or Certification). A copy of the Form PS-21 must be carried on the provider's person, while performing private security duties, until a new certificate is received.

(b) The provider shall submit the nonrefundable renewal fee to the Department or its designated staff. The renewal application will be rejected unless the renewal fee is paid by business check, money order or cashier's check. No personal checks, credit cards or cash will be accepted.

(c) The renewal documents shall be received by the Department not more than 90 days prior to the anniversary date of the certification or licensure to allow for processing of the forms and criminal history check. The background check may determine convictions or other conditions under OAR 259-060-0020 that would disqualify the provider.

(d) Failure to comply with renewal requirements shall result in the expiration of certificate or license.

(A) Persons reapplying within 90 days of expiration shall complete the Form PS-21, and shall submit the certification fee.

(B) Persons reapplying after 90 days of expiration shall complete the Form PS-1 (Application for Licensure or Certification), and shall submit the certification fees, plus a \$25.00 late submission penalty fee.

(C) Persons continuing to provide private security services, after the certification has expired shall be subject to penalties as provided for in ORS 181.991.

(9) Any certified private security officer who is arrested or charged criminally shall notify the officer's employer, or the Department if the officer is not employed, of that fact not later than 48 hours after the arrest or charge is filed. Any employer who knows that an employee has been arrested or charged with a crime shall notify the Department of that fact not later than 48 hours after the employer acquired knowledge. The initial notification may be by telephone, but must be immediately followed by written notification. The notification shall include the specific charges, the county and state where any charges are pending, the investigating agency, and the date of the arrest. Failure to notify the Department may result in suspension of the arrested person's certification or licensure.

(10) The applicant or private security provider shall notify the Department or its designated staff within 14 calendar days of any change of address by using Form PS-23 (Private Security Services Provider Change of Information). Executive managers may use the form to advise the Department of the termination of employment, or provide their own list. Under ORS 305.385, a summary of all private security providers and applicants is provided annually to the Oregon Department of Revenue, including name, address and Social Security number.

[ED. NOTE: Forms referenced in this rule are available from the agency.]  
Stat. Auth.: ORS 181.873 - ORS 181.878 & ORS 181.883 - ORS 181.885

Stats. Implemented: ORS 181.873 - ORS 181.878 & ORS 181.883 - ORS 181.885

Hist.: PS 9-1997, f. & cert. ef. 8-20-97; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 3-1999(Temp), f. & cert. ef. 3-9-99 thru 9-5-99; BPSST 4-1999, f. & cert. ef. 4-29-99, cert. ef. 9-5-99; BPSST 3-2000, f. & cert. ef. 8-10-00; BPSST 8-2001(Temp), f. & cert. ef. 8-22-01 thru 2-18-02; BPSST 18-2001(Temp), f. & cert. ef. 11-28-01 thru 2-18-02; BPSST 4-2002(Temp), f. & cert. ef. 2-25-02 thru 7-1-02; BPSST 13-2002, f. & cert. ef. 4-30-02; DPSST 4-2003, f. & cert. ef. 1-22-03



# ADMINISTRATIVE RULES

259-060-0130

## Licensing of Proprietary Security Managers and Security Contractors

(1) Under ORS 181.873(1)(b), it is unlawful for a person to engage in the business of, or perform any service as a proprietary security manager or security contractor, or to offer services in such capacities, unless the person has obtained a license in accordance with these rules.

(2) Each business, employer, or entity with a private security officer or private security officer-alarm monitor staff of at least one person shall cause one employee who performs the duties of an "Executive Manager", as described in these rules, to obtain an Executive Manager license. An employer may obtain licensure for more than one executive manager. Any person who has responsibility and authority in supervising persons providing security services, who has not been licensed as an Executive Manager, shall obtain a Supervisory Manager license. This provision shall apply to any business, employer or entity which provides within this state contract security services, proprietary security services or the monitoring of alarm systems designed to detect unauthorized intrusion, regardless of whether the business, employer or entity is located in or out of this state.

(a) In the event contract security is utilized, and the business or entity is not itself engaged in providing security services, or engaging employees in security services, there is no requirement for that business or entity to obtain a license under these rules.

(b) Issuance of an executive manager or supervisory manager license requires that the applicant meet the qualifications set forth in OAR 259-060-0010. This license authorizes the holder to distribute temporary work permits to unarmed security officers and alarm-monitor security officers. No temporary work permit shall be issued for armed security applicants. The executive manager or supervisory manager shall review each application for completeness and criminal history, prior to mailing. DPSST must deny certification for applicants with certain convictions, as outlined in OAR 259-060-0020. Fees are not refundable.

(4) The requirements for licensing as an executive manager or supervisory manager are as follows:

(a) Compliance with the minimum standards for licensing under OAR 259-060-0020;

(b) Successful completion of training required under OAR 259-060-0060, including successful completion of the written examination and orientation under OAR 259-060-0065, and OAR 259-060-0075. The training orientation specific to managers is required; and

(c) Submission to the Department of the completed application packet as required under subsection (6) of this rule, together with the appropriate fees. Because the manager training is completed through self-study, the training manual shall be mailed to the manager by the Department upon receipt of the Form PS-1 (Application for Licensure or Certification of Private Security Providers), the fingerprint packet and the appropriate fees. To complete the application process, the manager must complete the written examination and attend the mandated manager orientation. Licensure as a manager does not allow the manager to provide security services as an officer; the appropriate training course (unarmed, armed or alarm monitor) must be completed in order to do so.

(5) The application packet for licensure as an executive manager or supervisory manager shall include:

(a) A completed Form PS-1 (Application for Licensure or Certification of Private Security Services Providers);

(b) A completed Form PS-4 (Affidavit of Person Rolling Fingerprints) and fingerprint cards, sealed in a tamper-proof bag;

(c) A completed Form PS-20 (Temporary Work Permit), if the manager-designate qualifies for pre-training employment under the provisions of sub-section (11) in this rule.

(6) The applicant shall submit the nonrefundable applicable fee to the Department or its designated staff, along with the application packet. The application will be rejected unless the fee is paid by business check, money order or cashier's check. No personal checks, credit cards or cash will be accepted.

(7) The completed application packet shall be mailed to the Department prior to the performance by the applicant of any services as an executive manager or supervisory manager.

(8) Renewal of licensure shall occur every two years subject to the following conditions:

(a) The license holder shall complete and submit Form PS-21 (Renewal of Private Security Licensure or Certification). Completion of a biennial four-hour refresher course is required under OAR 259-060-0080(1)(a).

(b) The applicant shall submit the nonrefundable renewal fee to the Department or its designated staff. The renewal application will be reject-

ed unless the renewal fee is paid by business check, money order or cashier's check. No personal checks, credit cards or cash will be accepted.

(c) The renewal documents shall be received by the Department not more than 90 days prior to the expiration of the current license.

(d) Failure to comply with renewal requirements shall result in the expiration of the license as provided for in OAR 259-060-0120(8)(d). Managers with expired licensure shall not be eligible to perform security services until a new, complete application and fees are submitted to the Department, along with a \$25.00 late submission penalty fee. New manager orientation training will also be required.

(9) During the two-year certification period, in the event of a staff change of executive manager(s) or supervisory manager(s), the company or entity shall select a replacement manager, and shall cause that person to apply for licensure as an Executive Manager or Supervisory Manager, as required. The company or entity shall immediately notify the Department of the staff change on Form PS-23 (Change of Information). The new manager shall complete a four-hour management orientation.

(10) A licensed manager who performs armed or unarmed security services or alarm monitoring services must complete the full training required for that classification and be certified.

(11) An applicant or person may hold a temporary work permit as an executive manager or supervisory manager for up to 120 days under the following conditions:

(a) A company or entity has newly established a private security workforce over whom the person will command, or an existing licensed executive or supervisory manager is suddenly unable to perform such duties due to death, termination or other unexpected circumstance.

(b) The person seeking a temporary work permit as an executive manager or supervisory manager or security contractor holds at least one of the following qualifications:

(A) Certified in this state as a private security officer; or

(B) Holds a management position that, in the chain of supervision, is equal to, or higher than, the vacated licensed position.

(c) A Form PS-20 (Private Security Services Provider Temporary Work Permit) shall be completed and forwarded to the Department or its designated staff prior to performing any duties as an executive manager or supervisory manager relating to providing security services in this state, and is subject to the conditions found under OAR 259-060-0120(1)(b)(G)-(J).

(d) If the person seeking a temporary work permit as an executive manager or supervisory manager has not completed each step of the application process, the person shall not have oversight responsibilities for security services or staff, and the business or entity shall not provide security services.

(e) The intent of the Form PS-20 provision is to allow a business or entity to employ an executive manager or supervisory manager to provide security services while the recruitment is in process.

(f) An executive manager or supervisory manager may also be temporarily assigned to provide security services under the provisions of OAR 259-060-0120(1)(a).

(12) The Department or its designated staff may administratively terminate the application process as provided for in OAR 259-060-0120(1)(c)(A)-(D).

[ED. NOTE: Forms referenced in this rule are available from the agency.]

Stat. Auth.: ORS 181.873 - ORS 181.878 & ORS 181.883 - ORS 181.885

Stats. Implemented: ORS 181.873 - ORS 181.878 & ORS 181.883 - ORS 181.885

Hist.: PS 9-1997, f. & cert. ef. 8-20-97; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 3-1999(Temp), f. & cert. ef. 3-9-99 thru 9-5-99; BPSST 4-1999, f. 4-29-99, cert. ef. 9-5-99; BPSST 3-2000, f. & cert. ef. 8-10-00; BPSST 8-2001(Temp), f. & cert. ef. 8-22-01 thru 2-18-02; BPSST 18-2001(Temp), f. & cert. ef. 11-28-01 thru 2-18-02; BPSST 4-2002(Temp), f. & cert. ef. 2-25-02 thru 7-1-02; BPSST 13-2002, f. & cert. ef. 4-30-02; DPSST 4-2003, f. & cert. ef. 1-22-03

## 259-060-0300

### Denial/Suspension/Revocation

(1) Grounds for Denying, Suspending or Revoking the Certificate of a Private Security Officer (armed or unarmed), Private Security Officer-Alarm Monitor, Instructor or the License of an Executive or Supervisory Manager; Process for Requesting Board Waiver:

(a) The Department may suspend, revoke or deny a license or certificate after written notice, and a hearing, if requested, based upon a finding that:

(A) The applicant or holder of the certificate or license falsified any information submitted on the application for certification or licensing or on any documents submitted to the Department;

(B) The license holder or applicant for licensure has violated the temporary assignment provisions of OAR 259-060-0120(1);

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(C) The applicant or holder of the certificate or license has failed to timely submit properly completed forms, documentation or fees required under these rules;

(D) The applicant or holder of the certificate or license has violated the provisions of the Private Security Service Providers Act or these administrative rules or has failed to perform any acts required by these rules.

(b) The Department shall revoke or deny a license or certificate after written notice and a hearing, if requested, based upon a finding that:

(A) The applicant or holder of the license or certificate at any time fails to meet the criminal history requirements of OAR 259-060-0020(3);

(B) The holder of an armed security officer or firearms instructor certificate, or an applicant for such a certificate, fails to meet the minimum qualifications and requirements set forth in OAR 259-060-0020(4);

(C) The holder of an armed security officer or firearms instructor certificate, or an applicant for such a certificate, suffers any disqualification, condition or circumstance which, under federal law or the law of this state, would disqualify the person from owning, possessing or purchasing a firearm; or

(c) The Department may suspend a license or certificate after written notice, and a hearing, if requested, based upon a finding that:

(A) The holder of the certificate or license has been arrested for or charged with any crime listed in OAR 259-060-0020(3);

(B) The holder of the certificate or license has failed to successfully complete or timely report the annual or biennial refresher training and examination(s) required in OAR 259-060-0080; or

(C) The holder of the armed private security officer certification has failed to successfully complete or timely report the annual firearms marksmanship requalification required under OAR 259-060-0085.

### (2) Denial, Suspension and Revocation Procedure

(a) Employer Request: When the employer of the private security officer, private security officer-alarm monitor, private security manager or private security instructor requests that the person's certification or licensure be denied, suspended or revoked, the request shall be submitted in writing to the Department or its designated staff, stating the reason for the requested suspension, revocation or denial and all factual information supporting the request.

(b) Department Initiated Request: Upon receipt of factual information from any source, and pursuant to ORS 181.878, the Department or its designated staff may request that the person's certification or licensure be suspended, revoked or denied.

(c) Department Staff Review: The Department or its designated staff shall review the request and the supporting factual information to determine if the request for suspension, revocation or denial meets statutory and administrative rule requirements. If the reason for the request does not meet the statutory and administrative rule requirements for suspension, revocation or denial, the Department's designated staff shall so notify the employer. If the reason for the suspension, revocation or denial meets statutory and administrative rule requirements, but is not supported by adequate factual information, the Department or its designated staff shall request further information from the requesting employer or conduct its own investigation of the matter.

(d) Initiation of Proceedings: The Department's designated staff shall determine if the reason for suspension, revocation or denial and supporting factual data meet the statutory and administrative rule requirements and so advise the Department or its designated committee.

(e) Contested Case Notice: The Department or its designated staff shall cause to be prepared a "Contested Case Notice" in accordance with OAR 137-003-0001 of the Attorney General's Model Rules of Procedure adopted under OAR 259-005-0015. The Department or its designated staff shall have a copy of the "Notice" served on the person whose certification or licensure is being affected.

### (f) Response Time:

(A) Revocation or Denial: If the Department is seeking revocation or denial of a license or certificate, a party who has been served with the "Contested Case Notice" shall have 60 calendar days from the date of mailing or personal service of the notice in which to file with the Department a written request for a hearing.

(B) Suspension: If the Department is seeking suspension of a license or certificate, a party who has been served with the "Contested Case Notice" shall have 90 calendar days from the date of mailing or personal service of the notice in which to file with the Department a written request for a hearing.

(g) Default Order: In the absence of a timely request for a hearing, the Contested Case Notice will become a final order revoking or denying certification pursuant to OAR 137-003-0075(5).

(h) Hearing Request: When a request for a hearing is received in a timely manner, the Department shall refer the matter to the Hearings Officer Panel in accordance with OAR 137-003-0075(5).

(i) Waiver Request: It is the responsibility of the Board to set the standards, and of the Department to uphold them in such a manner so as to ensure the highest levels of professionalism and discipline. Those standards shall be upheld at all times, unless there is a specific finding of substantial and compelling reason that demonstrates that neither the safety of the public nor the respect of the profession will be compromised by a waiver. Certain criminal convictions will not qualify for waiver request, as identified in OAR 259-060-0020(3). In the event that a waiver of denial, suspension or revocation is granted, the Board's decision shall be in writing. The waiver request will suspend timelines for a contested case hearing until an order granting or denying the waiver has been issued.

(A) The advisory committee may consider limited waivers to the Department's notice of intent to deny, suspend or revoke certification or licensure, and forward a recommendation to the Board, based upon:

(i) The petitioner having been licensed or certified under the Private Security Service Providers Act of 1995 on or before October 23, 1999; and

(ii) The length of time that has elapsed between petitioner's disqualifying conviction and application to the Department is substantial and in the case of a lifetime disqualifier, the length of time exceeds 20 years; and

(iii) The substance of reference checks attests to good moral and ethical fitness; and

(iv) The petitioner's age at the time of the conviction; and

(v) Absence of other criminal convictions; and

(vi) Other substantial and compelling reasons, including but not limited to mitigating circumstances of the arrest.

(B) It shall be the responsibility of the petitioner to present to the advisory committee all information relative to the request for waiver, in writing, not less than 15 days prior to the next regularly scheduled advisory committee meeting. The advisory committee will make its recommendation to the Board, following review of those documents.

Stat. Auth.: ORS 181.878, ORS 181.882 & ORS 181.885

Stats. Implemented: ORS 181.878 & ORS 181.885

Hist.: PS 9-1997, f. & cert. ef. 8-20-97; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 3-1999(Temp), f. & cert. ef. 3-9-99 thru 9-5-99; BPSST 4-1999, f. & cert. ef. 9-5-99; BPSST 3-2000, f. & cert. ef. 8-10-00; BPSST 8-2001(Temp), f. & cert. ef. 8-22-01 thru 2-18-02; BPSST 18-2001(Temp), f. & cert. ef. 11-28-01 thru 2-18-02; BPSST 4-2002(Temp), f. & cert. ef. 2-25-02 thru 7-1-02; BPSST 13-2002, f. & cert. ef. 4-30-02; DPSST 4-2003, f. & cert. ef. 1-22-03

## 259-060-0450

### Compliance

(1) The Department or its designated staff may cause inspections of records and procedures of proprietary security managers or security contractors, instructors, private security officers and private security officer-alarm monitors, relating to the minimum employment standards and training standards that are mandated by the Private Security Service Providers Act, as well as those records and procedures which are under the purview of OAR 259-060-0000 to 259-060-0500, in order to verify adherence to and compliance with any applicable rule or statute.

(2) The Department or its designated staff may cause any administrative proceeding and/or court action to be initiated to enforce compliance with the provisions of the Private Security Service Providers Act, and the administrative rules promulgated thereunder.

(3) Scope and authority. Application of a civil penalty includes, but is not limited to, the violations set out in sub-section (5) of this rule.

(a) This rule sets guidelines for civil penalties for violations of the private security laws under ORS 181, and the administrative rules under chapter 259, division 60;

(b) This rule is authorized by ORS 181.870-181.991 and carries out ORS 181.991.

(4) Definitions. For the purposes of this rule:

(a) "Flagrant violation" is:

(A) An act by a provider, contractor, owner or manager who, after being notified of a violation, intentionally continues it;

(b) "Penalty order" is the entry of an administrative order, either:

(A) Assessing a penalty; or

(B) Finding a violation, regardless of whether a penalty is assessed.

(c) "Subsequent violation" is a repeat violation of any statute or rule within a 36-month period following any order for the same violation.

(5) Civil penalty amounts. For non-flagrant violations,

(a) A penalty of no less than \$250 for the first violation and \$500 for subsequent violations shall be charged for each of the following:

## ADMINISTRATIVE RULES

(A) Failure by an unarmed private security officer or private security officer-alarm monitor to complete training, apply for certification or obtain a temporary work permit, prior to providing private security services;

(B) Falsification of DPSST-submitted documents by an unarmed private security officer or private security officer-alarm monitor;

(C) Failure of an unarmed private security officer or private security officer-alarm monitor to cease providing private security services upon notice of termination, suspension, denial or revocation;

(D) Failure of an unarmed private security officer or private security officer-alarm monitor to report his or her own arrest.

(b) A penalty of no less than \$500 for the first violation and \$750 for subsequent violations shall be charged for each of the following:

(A) Failure by an armed private security officer to complete training or apply for certification prior to providing private security services;

(B) Falsification of DPSST-submitted documents by an armed private security officer;

(C) Failure of an armed private security officer to cease providing private security services upon notice of termination, suspension, denial or revocation;

(D) Failure of an armed private security officer to report his or her own arrest

(c) A penalty of no less than \$500 for the first violation and \$750 for subsequent violations shall be charged for each of the following:

(A) Failure by a private security unarmed or alarm monitor instructor to complete training or apply for certification, prior to providing private security training;

(B) Falsification of DPSST-submitted documents by a private security unarmed or alarm monitor instructor;

(C) Failure of a private security unarmed or alarm monitor instructor to cease providing private security training upon notice of termination, suspension, denial or revocation;

(D) Failure of a private security unarmed or alarm monitor instructor to report his or her own arrest;

(E) Failure of a private security unarmed or alarm monitor instructor to instruct the full DPSST-certified curriculum as required by ORS 181.883.

(d) A penalty of no less than \$750 for the first violation and \$1,000 for subsequent violations shall be charged for each of the following:

(A) Failure by a private security firearms instructor to complete training or apply for certification, prior to providing private security training;

(B) Falsification of DPSST-submitted documents by a private security firearms instructor;

(C) Failure of a private security firearms instructor to cease providing private security training upon notice of termination, suspension, denial or revocation;

(D) Failure of a private security firearms instructor to report his or her own arrest;

(E) Failure of a private security firearms instructor to instruct the full DPSST-certified curriculum as required by ORS 181.883.

(e) A penalty of no less than \$1,000 for the first violation and \$1,500 for subsequent violations shall be charged for each of the following:

(A) Failure by a private security manager to complete training or apply for certification, prior to providing private security services, except as provided for in OAR 259-060-0130(11);

(B) Falsification of DPSST-submitted documents by a private security manager;

(C) Failure of a private security manager to cease providing private security services upon notice of termination, suspension, denial or revocation;

(D) Failure of a private security manager to report his or her own arrest, or the known arrest of an employed private security services provider;

(E) Failure of a private security manager to terminate the employment of a private security services provider or applicant whose application has been terminated, or whose certificate has been suspended, denied or revoked, upon notice from the Department to do so.

(F) The employment of private security providers who have not completed the training and application process required under the Private Security Service Providers Act.

(6) Procedures.

(a) Except as provided in section (8) of this rule, a case report of the designated failure to comply and subsequent recommendation of civil penalty shall be forwarded by staff for review by the Advisory Committee on Private Security Services, which in turn, shall forward its recommendation to the Board for final dispensation.

(b) Written notice of the violation of administrative rule or statute shall be served upon the licensee or certificate holder by certified and regular mail, with an opportunity for the licensee or certificate holder to remedy the violation within 14 days of the mailing of the notice, except for providers who have falsified the criminal history section of an application;

(c) Civil penalties may be lowered from the amount set in this rule, waived where further mitigation is warranted, or resolved by stipulation as provided in section (8) of this rule. Providers who remedy the stated violation and come into compliance without hearing may be assessed half of the penalty provided for in this rule.

(7) Options.

(a) If civil penalties are sought under ORS 181.991 for a continuing flagrant violation of the private security laws or rules, staff shall seek, and the committee shall recommend to the Board on Public Safety Standards and Training, the assessment of \$1,500 per occurrence.

(b) If judicial review of any application of a penalty under this section is requested under ORS 183.480:

(A) No civil penalty shall be sought or assessed for the alleged violation until after the review has been completed and the assessment upheld;

(B) Notwithstanding a request for judicial review, civil penalties can be brought or assessed for failure to comply with other laws or rules that do not involve the matter under review;

(C) The obligation to advise the Department of a judicial review request is on the person charged or about to be charged for the violation.

(8) Resolution by stipulation.

(a) Department staff is authorized to seek resolution by stipulation, subject to acceptance and approval by the Board or Director, if:

(A) The matter is resolved before entry of an order assessing penalty;

(B) The respondent corrects or proceeds to correct all deficiencies itemized by Department staff within the time allowed; and

(C) The penalty amount agreed to is tendered in certified check, bank draft, cashier's check or postal money order, along with the stipulation.

(b) A stipulation shall not be accepted for less than the guideline provided for in this rule if the violation is for failure to obtain a required certificate or license, and such is not obtained as part of the resolution.

Stat. Auth.: ORS 181.878

Stats. Implemented: ORS 181.878

Hist.: PS 9-1997, f. & cert. ef. 8-20-97; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 3-1999(Temp), f. & cert. ef. 3-9-99 thru 9-5-99; BPSST 4-1999, f. 4-29-99, cert. ef. 9-5-99; BPSST 3-2000, f. & cert. ef. 8-10-00; BPSST 8-2001(Temp), f. & cert. ef. 8-22-01 thru 2-18-02; BPSST 18-2001(Temp), f. & cert. ef. 11-28-01 thru 2-18-02; BPSST 4-2002(Temp), f. & cert. ef. 2-25-02 thru 7-1-02; BPSST 13-2002, f. & cert. ef. 4-30-02; DPSST 4-2003, f. & cert. ef. 1-22-03

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### Department of Transportation Chapter 731

**Adm. Order No.:** DOT 1-2003(Temp)

**Filed with Sec. of State:** 1-16-2003

**Certified to be Effective:** 1-16-03 thru 7-14-03

**Notice Publication Date:**

**Rules Amended:** 731-010-0030

**Subject:** The amendment to OAR 731-010-0030 results in the adoption of the current Department of Administrative Services' (DAS) rules governing "Consultant Selection Procedures: Architects, Engineers, and Related Professional Consultants." The DAS rules were amended and renumbered from OAR 125-065 effective January 1, 2002, and the current citation is OAR 125-025. ODOT is adopting all of 125-025 with the exception of OAR 125-025-0100 related to the requirement to use DAS standard contracting forms. ODOT has developed and uses its own contracting forms that were negotiated with the American Council of Engineering Companies.  
**Rules Coordinator:** Brenda Trump—(503) 945-5278

**731-010-0030**

**Architectural, Engineering and Related Services Contracting**

The Department of Transportation adopts OAR 125-025-0000 through 125-025-0090 and OAR 125-025-0110 (effective January 1, 2002), the Department of Administrative Services rules, Consultant Selection Procedures: Architect, Engineer and Related Professional Consultants. The Model Rules adopted by the Attorney General under ORS 279.049 (OAR 137-035) shall not apply to the Department of Transportation.

Stat. Auth.: ORS 184.616, ORS 184.619, ORS 279.051 & ORS 279.712

Stats. Implemented: ORS 279.049, ORS 279.051 & ORS 279.712

# ADMINISTRATIVE RULES

Hist.: DOT 3-1994, f. & cert. ef. 11-22-94; DOT 1-2000(Temp.), f. 1-19-00, cert. ef. 2-12-00 thru 6-29-00; administrative correction 9-16-00; DOT 5-2000, f. & cert. ef. 12-19-00; DOT 1-2003(Temp), f. & cert. ef. 1-16-03 thru 7-14-03

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

**Adm. Order No.:** DMV 1-2003  
**Filed with Sec. of State:** 2-13-2003  
**Certified to be Effective:** 2-13-03  
**Notice Publication Date:** 12-1-02  
**Rules Adopted:** 735-062-0135

**Subject:** This rule establishes how a person may voluntarily surrender all or part of the driving privileges granted. Prior to adoption of this rule a person could surrender a license or permit, but the underlying privileges remained. Some people ask to surrender not only the license or permit but also the driving privilege itself. This rule establishes procedures for surrendering all or part of the driving privileges granted and procedures for regaining surrendered privileges.

**Rules Coordinator:** Brenda Trump—(503) 945-5278

**735-062-0135**

**Voluntary Surrender of Driving Privileges**

A person may surrender all or part of the driving privileges granted to that person by the State of Oregon, through the Driver and Motor Vehicle Services Division of the Department of Transportation (DMV).

(1) To surrender all or part of a person's driving privileges, that person must sign a DMV form and must surrender to DMV any license or permit issued for the driving privilege. DMV will allow the person to surrender all driving privileges, or part of the driving privileges granted to that person under any class of license, indorsement or driver permit.

(2) When driving privileges are surrendered, the driving privileges are immediately withdrawn and the person is no longer authorized to operate vehicles pursuant to those driving privileges. A person who surrenders all driving privileges may not exercise any driving privileges, except those granted by statute under ORS 807.020. A person who surrenders part of the person's driving privileges may exercise only those driving privileges retained. Operation of a vehicle on Oregon highways or premises open to the public without appropriate driving privileges is a violation of law under ORS 807.010.

(3) In accordance with OAR 735-062-0010, DMV may issue an identification card to a person who has surrendered all driving privileges.

(4) A person may surrender only part of the driving privileges granted by DMV by canceling any indorsements or driver permits granted to the person. The person must specify those driving privileges the person seeks to surrender. A person who surrenders an indorsement must pay the renewal or duplicate license fee for issuance of a license that reflects the driving privileges the person retains.

(5) Surrender of driving privileges means the driving privileges are canceled as defined in ORS 801.175(2). When a voluntary surrender of driving privileges is accepted, DMV will cancel driving privileges without providing further notice or an opportunity for hearing to the person. The person's driving record will show that the driving privileges have been surrendered.

(6) A person who seeks to regain surrendered driving privileges must reapply for the privileges and establish eligibility and qualification as provided by law, including payment of all required fees.

Stat. Auth.: ORS 184.616 & ORS 184.619  
Stats. Implemented: ORS 802.010(1)(c)  
Hist.: DMV 1-2003, f. & cert. ef. 2-13-03

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

**Adm. Order No.:** MCTD 1-2003  
**Filed with Sec. of State:** 2-13-2003  
**Certified to be Effective:** 2-13-03  
**Notice Publication Date:** 12-1-02  
**Rules Amended:** 740-055-0120

**Subject:** This rule establishes the process used by the Department in determining how motor carriers must maintain records of motor

vehicle operations and make reports on forms approved by the Department. The amendments allow records generated from on-board recording devices, vehicle tracking systems, or other electronic data recording systems to be used in lieu of, or in addition to, the records currently required as long as they are provided in printed format upon request. These changes are made to accommodate the evolving use of electronic record keeping.

**Rules Coordinator:** Brenda Trump—(503) 945-5278

**740-055-0120**

**Weight-Mile Tax Records Requirements**

(1) All carriers must maintain records of their motor vehicle operations and make reports on forms approved by the Department. Such records must be:

(a) Stored at the carrier's principal office or place of business;  
(b) Made available for inspection by the Department or its representatives upon request; and  
(c) Retained for a period of three (3) years unless otherwise authorized by the Department.

(2) All carriers must maintain records containing the following information for each vehicle:

(a) Origin and destination points;  
(b) Oregon entry and exit points;  
(c) Actual Oregon miles for each trip;  
(d) Pickup and delivery points in Oregon for each trip;  
(e) Routes for travel for each trip;  
(f) Dates of each trip;  
(g) Daily beginning and ending odometer or other mileage recording device readings for each vehicle;

(h) Load tickets and/or bills of lading for each shipment transported;  
(i) Identification of any exempt miles claimed, which shall include beginning and ending odometer or other mileage recording device readings for the exempt portion of each trip. If repeated trips are made to and from the same locations, a one-time recording of odometer or other mileage recording device readings for the exempt portion of those trips may be applied to the total number of trips;

(j) Carriers operating motor vehicles that are issued or required to obtain an annual variance permit under ORS 818.200(1)(a) to (c) with a combined weight of more than 80,000 pounds shall also provide for each reporting period:

(A) Number of axles in the vehicle configuration; and  
(B) A record of changes of operation. A change of operation occurs when the vehicle configuration remains the same but the actual weight of the vehicle and load changes from over 80,000 lbs. to 80,000 lbs. or under. Empty movements are not changes in operation; and

(k) Carriers operating motor vehicles in multiple configurations shall provide the number of miles operated in each motor vehicle configuration for each trip.

(3) All registrants that pay registration fees via registration trip permits must retain a copy of each registration trip permit.

(4) Records generated from on-board recording devices, vehicle tracking systems, or other electronic data recording systems may be used in lieu of, or in addition to, the records required in this rule provided that the electronic records:

(a) Meet all the requirements of sections (1) through (3) of this rule; and

(b) Are provided in printed format upon request.

Stat. Auth.: ORS 823.011 & ORS 825.515

Stats. Implemented: ORS 825.212 & ORS 825.515

Hist.: PUC 18, f. 1-21-55, ef. 9-1-54 (Order No. 33203); PUC 120, f. 10-26-62, ef. 11-15-62 (Order No. 38811); 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 156, f. 8-6-73, ef. 8-15-73 (Order No. 73-507); Renumbered from 860-038-0055; PUC 1-1982(Temp), f. & ef. 2-3-82 (Order No. 82-080); PUC 5-1982, f. & ef. 3-15-82 (Order No. 82-162); PUC 13-1990, f. & cert. ef. 7-6-90 (Order No. 90-949); PUC 4-1993, f. & cert. ef. 1-15-93 (Order No. 93-058); PUC 7-1993, f. & cert. ef. 3-19-93 (Order No. 93-285); MCT 3-1996, f. & cert. ef. 3-14-96; Renumbered from 860-068-0055; MCTD 1-2003, f. & cert. ef. 2-13-03

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**Department of Veterans' Affairs  
Chapter 274**

**Adm. Order No.:** DVA 1-2003(Temp)  
**Filed with Sec. of State:** 1-17-2003  
**Certified to be Effective:** 1-21-03 thru 3-24-03  
**Notice Publication Date:**  
**Rules Amended:** 274-020-0341

## ADMINISTRATIVE RULES

### Rules Suspended: 274-020-0341(T)

**Subject:** This Temporary rule amends and supersedes the Temporary OAR filed September 25, 2002 and effective September 26, 2002 through March 24, 2003.

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 January 21, 2003, shall have the interest rate of 5.55 percent with an origination fee of 1.0 percent; 5.39 percent with an origination fee of 1.5 percent, or 5.25 percent with an origination fee of 2.0 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 January 21, 2003, shall have the interest rate of 5.95 percent with an origination fee of 1.0 percent; 5.79 percent with an origination fee of 1.5 percent; or 5.65 percent with an origination fee of 2.0 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;

(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 a 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

# ADMINISTRATIVE RULES

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. (Temporary)

(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. ef. 5-18-95; DVA 6-1995(Temp), f. 6-23-95, cert. ef. 6-26-96; DVA 13-1995, f. & cert. 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

## Employment Department Chapter 471

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

**Filed with Sec. of State:** 2-7-2003

**Certified to be Effective:** 2-9-03

**Notice Publication Date:** 12-1-02

**Rules Amended:** 471-010-0040

**Subject:** This rule is being amended to clarify the time of receipt for documents faxed to the Employment Department.

**Rules Coordinator:** Richard L. Luthe—(503) 947-1724

**471-010-0040**

**Filing Timely Notices**

(1) When an individual or employing unit is required by ORS Chapter 657, or the rules adopted pursuant thereto, to file a notice, request, appeal, application, payment, report, tax election, claim, or any other document within a specified time, such individual or employing unit may file such document by personal delivery or by mail to any office of the Employment Department in Oregon or similar employment office in any other state. Except for payments and tax reports, all notices, requests, appeals, applications, tax elections, or any other document may be filed by fax.

(2) When the document is filed by mail, the date of filing shall be the postmarked date affixed by the U.S. Postal Service, or in the absence of a postmarked date, the most probable date of mailing as determined by the Director, unless otherwise provided in ORS Chapter 657 or OAR chapter 471.

(3) When the document is 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.

(4) When an individual or employing unit is entitled to notice of an action or decision by the director or authorized representative, the notice may be delivered in person or by first class mail. Unless otherwise provided in ORS Chapter 657 or OAR chapter 471, if the notice is mailed, the notice is considered served on the date it is deposited with the U.S. Postal Service, addressed to such individual or employing unit at the last address known to the Director.

Stat. Auth.: ORS 657.610

Stats. Implemented: ORS 657

Hist.: IDE 2-1978, f. & ef. 7-21-78; ED 1-1991, f. & cert. ef. 4-1-91; ED 2-1996(Temp), f. & cert. ef. 6-26-96; ED 7-1996, f. 11-20-96, cert. ef. 12-2-96; ED 1-2003, f. 2-7-03 cert. ef. 2-9-03

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

**Filed with Sec. of State:** 2-7-2003

**Certified to be Effective:** 2-9-03

**Notice Publication Date:** 12-1-02

**Rules Amended:** 471-030-0015, 471-030-0030, 471-030-0050, 471-030-0076, 471-031-0010, 471-031-0035, 471-031-0040, 471-031-0055, 471-031-0075, 471-031-0095

**Subject:** The Employment Department is amending various rules within OAR Chapter 471 as needed to remove references to specific genders.

**Rules Coordinator:** Richard L. Luthe—(503) 947-1724

**471-030-0015**

**Social Security Account Number**

(1) Each employee in employment subject to the Employment Department Law shall procure a Federal Social Security Account Number and report this number to every employer for whom the employee is engaged in employment.

(2) Employers shall furnish appropriate Social Security Application forms to each employee who does not have an account number.

(3) It shall be the responsibility of the employer that such applications are filed by each such employee within 30 days after the date on which employment begins.

Stat. Auth.: ORS 657

Stats. Implemented: ORS 657

Hist.: IDE 150, f. & ef. 2-9-76; ED 2-2003, f. 2-7-03 cert. ef. 2-9-03

**471-030-0030**

**Applications by Mail**

(1) An individual unable to appear in person at an office of the Employment Department or before an authorized agent thereof to file a claim for benefits may send a written notice to the Employment Department setting forth the individual's name, Social Security Account Number, and mailing address, stating the desire to file a claim for benefits.

(2) Upon receipt of such notice, the Director shall allow such mail application to constitute a claim for benefits, provided the individual shall thereafter, at a time and in a manner specified by the Director, complete such claim for benefits on forms furnished by the Director.

(3) The date of any claim for benefits allowed under the provisions of this section shall be the postmarked date on the mail application or, in the absence of a postmark date, the most probable date of mailing as determined by the Director.

Stat. Auth.: ORS 657

Stats. Implemented: ORS 657.260

Hist.: IDE 150, f. & ef. 2-9-76; ED 2-2003, f. 2-7-03 cert. ef. 2-9-03

**471-030-0050**

**Benefit Payments**

Benefits shall be paid by check or other method as approved by the Director. Checks shall be mailed to the last known address of the claimant except that, when approved by the Director, checks may be personally delivered to the claimant through an Oregon State Employment Department office. Delivery may also be made to a person other than the claimant if

# ADMINISTRATIVE RULES

such person presents a signed authorization from the claimant requesting that the check be delivered to such person. Any person other than the claimant receiving a check under these circumstances shall sign an acknowledgement of receipt of such check and the authorization from the claimant shall be retained by the Employment Department. Nothing in this rule shall authorize the delivery of a benefit check in violation of ORS 657.855.

Stat. Auth.: ORS 657  
Stats. Implemented: ORS 657.255  
Hist.: IDE 150, f. & ef. 2-9-76; ED 2-2003, f. 2-7-03 cert. ef. 2-9-03

## 471-030-0076

### Benefits for Athletes

(1) As used in ORS 657.186, "any services, substantially all of which consist of participating in sports or athletic events" means all services performed by an individual in any subject employment during their base year if such individual was engaged in remunerative sports or athletic events for 90 percent or more of the total time spent in subject employment during such base year.

(2) As used in this section, "participating in sports or athletic events" means any services performed in an athletic activity by an individual as:

- (a) A regular player or team member;
- (b) An alternate player or team member;
- (c) An individual in training to become a regular player or team member;
- (d) An individual who, although performing no active services, is retained as a player or team member while recuperating from illness or injury.

(3) The beginning and ending dates of any sport season and the beginning and ending dates of the time period between two successive sport seasons shall be determined by the Director after taking into consideration factors of custom and practice within a particular sport, published dates for beginning and ending of a season and any other information bearing upon such determination.

(4) For the purposes of ORS 657.186, a reasonable assurance that an individual will perform services in sports or athletic events in a subsequent season is presumed to exist if:

- (a) The individual has an express or implied multi-year contract which extends into the subsequent sport season;
- (b) The individual is free to negotiate with other teams or employers for employment as a participant in the subsequent sport season;
- (c) There is reason to believe that one or more employers of participants in athletic events is considering or would be desirous of employing the individual in an athletic capacity in the subsequent sport season; and
- (d) The individual has not clearly and affirmatively withdrawn from participating in remunerative and competitive sports or athletic events.

Stat. Auth.: ORS 657  
Stats. Implemented: ORS 657.186  
Hist.: IDE 151, f. 9-28-77, ef. 10-4-77; IDE 5-1979, f. & ef. 8-27-79; ED 2-2003, f. 2-7-03 cert. ef. 2-9-03

## 471-031-0010

### Posting of Notices By Employers

Each subject employer shall post, in a place conspicuous to all employees, a notice provided by the Employment Department stating that the employer is subject to the Employment Department Law.

Stat. Auth.: ORS 657  
Stats. Implemented: ORS 657.679  
Hist.: IDE 150, f. & ef. 2-9-76; ED 2-2003, f. 2-7-03 cert. ef. 2-9-03

## 471-031-0035

### Bonuses, Fees, and Prizes

Bonuses, fees, and prizes are wages if paid or given by the employer to an employee as compensation, reward, or added remuneration for services covered by the Employment Department Law. Bonuses, fees, and prizes shall be included in the payroll of the employer at the time they are paid. A bonus, fee, or prize paid to or received during a calendar year shall be wages earned during the calendar year paid, and the employer's tax rate for such year shall be applicable to any bonus, fee, or prize.

Stat. Auth.: ORS 657  
Stats. Implemented: ORS 657.095 & ORS 657.105 - ORS 657.140  
Hist.: IDE 150, f. & ef. 2-9-76; ED 2-2003, f. 2-7-03 cert. ef. 2-9-03

## 471-031-0040

### Accident Compensation

When an employer continues the payment of wages during a disability period, or pays to the employee all or part of the difference between benefits or compensation received from an insurance carrier or State Accident

Insurance Fund and the employee's regular or usual wage, the sums so paid by the employer are wages unless excluded from the term wages by ORS 657.115 and 657.125. Lump sum or other special payments to compensate an employee for an accident sustained in the course of employment are not wages.

Stat. Auth.: ORS 657  
Stats. Implemented: ORS 657.115 & ORS 657.125  
Hist.: IDE 150, f. & ef. 2-9-76; ED 2-2003, f. 2-7-03 cert. ef. 2-9-03

## 471-031-0055

### Remuneration Other than Cash

(1) Subject to the provisions of section (2), the term "wages" includes the cash value of all remuneration paid in any medium other than cash, except for agricultural labor and domestic service and the specific exemptions enumerated in ORS 657.115 to 657.140.

(2) Board, lodging, services, facilities, or privileges furnished by an employer shall be considered remuneration paid for services performed by an employee unless it appears that furnishing of the same was not required by the terms of the contract of hire and that the value thereof was not a material factor in the determination by either party of the amount of any cash remuneration payable for such services.

(3) The cash value of non-cash remuneration shall be either:

(a) The amount of non-cash remuneration which is carried on the employer's payroll, provided such amount is comparable to values prevailing in the community; or

(b) An amount determined by the Director when the value of non-cash remuneration is not carried on the employer's payroll. In such determination, board furnished by an employer as remuneration for services shall have a minimum value of \$150 per month or \$1.50 per meal. If room is furnished in addition to board, no additional value will ordinarily be placed upon the room. If room and board are furnished at hotels, resorts, or lodges, or if a room only, an apartment, a house, or any other consideration is provided, the value for tax purposes will be the actual value thereof.

Stat. Auth.: ORS 657  
Stats. Implemented: ORS 657.095 & ORS 657.115 - ORS 657.140  
Hist.: IDE 150, f. & ef. 2-9-76; IDE 153, f. 12-23-77, ef. 1-1-78; IDE 2-1982, f. & ef. 12-8-82; ED 2-2003, f. 2-7-03 cert. ef. 2-9-03

## 471-031-0075

### Appointment of an Agent to Act on Behalf of a Group of Employers

(1) Employers who are engaged in substantially similar operations, and rotationally employ the same group of employees in employment during the course of a year may:

(a) Pool their employment experience with respect to those employees under the Employment Department Law;

(b) Declare their intention of operating with respect to those employees through an agent in the same manner as though the agent were the employer of those employees as provided in ORS 657.475; and

(c) File with the Director an application requesting the agent appointed by the group be permitted to act for the group.

(2) The agent shall maintain, prepare, and file reports and make tax payments required under the Employment Department Law and these rules. In addition, the employer shall submit as a supplement to each regular tax report a supplementary tax report showing by months the amount of the payroll and the total taxes paid on behalf of each member of the group of employees.

(3) Prior to approval or disapproval by the Director of an application, a copy of the agreement between the agent and the appointing group authorizing the agent to represent them shall be submitted for the consideration of the Director.

(4) The tax rate of each employer in the group shall be the rate assigned in accordance with ORS 657.435 unless there has been one year immediately preceding the computation date throughout which the employer's account has been chargeable with benefits. Any period during which benefits were chargeable against an individual account may be combined with the period of membership in the group during which benefits paid on the basis of wage credits earned with such employer were chargeable to the agent's account, for the purpose of establishing a year of experience.

(5) For the purposes of rate determination pursuant to the Employment Department Law:

(a) The Director shall establish and maintain a separate account in the name of the agent. This account shall be charged with all benefits paid on the basis of wage credits reported by the agent. All wage reports submitted by the agent shall be maintained as if they represented wage reports of employees of such agent;

(b) In addition, the Director shall continue to maintain a separate account for each member of the group and shall transfer to each account the

# ADMINISTRATIVE RULES

amount of payroll reported on each employer's behalf by the agent and the taxes paid on each employer's behalf by the agent;

(c) As of June 30 of each year, the Director shall determine the amount of each employer's share of the total benefit charges which have been made against the agent's account during the year ending on said date; such share shall be in the proportion that the individual employer's payroll in the year, reported by the agent, bears to the total payroll in such year reported by the agent for all of the employer members of the group. When determined, the amount of benefit charges to be allocated to each individual employer shall be transferred to that employer's account.

(6) If any member of the group terminates their relationship with the agent, they shall within ten (10) days thereafter notify the Director. The employer shall continue to be charged their prorated share of benefit charges so long as the base year period against which charges are being made includes any calendar quarter in which the employer was a party to the agency agreement.

Stat. Auth.: ORS 657  
Stats. Implemented: ORS 657.435 & ORS 657.475  
Hist.: 1DE 150, f. & ef. 2-9-76; ED 2-2003, f. 2-7-03 cert. ef. 2-9-03

## 471-031-0095

### Approval of Work Experience Programs

(1) The Director may approve a program of instruction which combines academic instruction with work experience if it meets the requirements of ORS 657.030(3)(d).

(2) The Director shall revoke the approval of a program of an institution if it is determined that the institution no longer meets the requirements in ORS 657.030(3)(d). Upon revoking such approval, the services performed in a work experience program shall be employment subject to ORS Chapter 657.

(3) The approval by the Director of a program of an institution shall be applicable only to those individuals participating in the program who are enrolled at the institution as a full-time student pursuant to the rules and policies of such institution. Upon acquiring a status of less than a full-time student, the services performed in a work experience program shall be employment subject to ORS Chapter 657.

Stat. Auth.: ORS 657  
Stats. Implemented: ORS 657.030  
Hist.: 1DE 150, f. & ef. 2-9-76; 1DE 2-1984, f. & ef. 9-28-84; ED 2-1987, f. & ef. 11-27-87; ED 2-2003, f. 2-7-03 cert. ef. 2-9-03

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

**Filed with Sec. of State:** 2-14-2003

**Certified to be Effective:** 2-16-03

**Notice Publication Date:** 12-1-02

**Rules Adopted:** 471-020-0035, 471-020-0040

**Subject:** The Employment Department is proposing to adopt new Employment Service rules as part of the Department's 3 Year Rule Review Process.

**Rules Coordinator:** Richard L. Luthé—(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 employer shall charge a fee to applicants referred to a job order listed with the Employment Department.

(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

## 471-020-0040

### Discontinuation and Reinstatement of Services To An Employer

(1) The Employment Department may initiate discontinuance of service to an employer who:

(a) Refuses to alter or withdraw job orders containing specifications that are contrary to employment-related law;

(b) Refuses to provide assurances that the jobs offered (and not withdrawn) are in compliance with employment-related laws;

(c) Misrepresents the terms or conditions of employment, or fails to comply fully with assurances made on job orders;

(d) Is found by final determination of an enforcement agency to be in violation of an employment-related law and the Employment Department has been notified of this final determination;

(e) Has violated Employment Department regulations;

(f) Refuses to accept qualified workers referred through the Agricultural Recruitment System;

(g) Refuses to cooperate in the conduct of field checks resulting from referrals on Agricultural Recruitment System orders; or

(h) Repeatedly causes the field office to initiate discontinuation of service procedures.

(2) For employers who are alleged to have not complied with the terms of the temporary labor certification, the Employment Department shall notify the Department of Labor's Regional Administrator of the alleged non-compliance for investigation and pursuant to § 655.210 consideration of ineligibility for subsequent temporary labor certification.

(3) If services are to be discontinued, a notification shall be sent to the employer. The notification may inform the employer of immediate denial of services pending investigation of allegations if, in the judgment of the Department, continuation of services during the investigation would cause substantial harm to a significant number of workers. In all other cases, the notification will inform the employer that services will be discontinued in twenty working days unless the employer:

(a) Provides sufficient evidence that contradicts the finding of a violation; or,

(b) Provides assurances that future actions will be in compliance with the appropriate employment related laws.

(4) The notification from the Employment Department will state that the employer has the right to request a hearing before a hearing officer within the same twenty working days. The option to request a hearing is not available when stoppage of service is the result of final determination by an enforcement agency.

(5) The Employment Department may reinstate service to an employer:

(a) When the Department accepts the employer's presentation of:

(A) Evidence that the policies, procedures, or conditions that led to the discontinuation of services have been corrected and are not likely to recur; or

(B) Evidence that the employer has responded adequately to enforcement agency findings;

(b) Upon the order of a hearing officer to reinstate service; or

(c) The employer is reinstated by order of the Department of Labor's Regional Administrator or Federal Administrative Law Judge following a hearing.

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

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## Health Licensing Office Chapter 331

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

**Filed with Sec. of State:** 1-21-2003

**Certified to be Effective:** 2-1-03

**Notice Publication Date:** 11-1-02

**Rules Amended:** 331-400-0010, 331-405-0020, 331-410-0000, 331-420-0000, 331-420-0010, 331-420-0020

**Subject:** Division 420 Practice Standards is being amended to bring provisions into alignment with current business and industry stan-



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dards and practices. Revisions pertain to denture technology standards of practice and acceptable patient care, facility and clinical requirements.

**Rules Coordinator:** Patricia C. Allbritton—(503) 378-8667, ext. 4322

## 331-400-0010

### Model Rules of Procedure

Pursuant to OAR 183.341, the Health Licensing Office, Board of Denture Technology adopts the Model Rules of Procedure as promulgated by the Attorney General of the State of Oregon under the Administrative Procedures Act as amended and effective October 3, 2001.

Stat. Auth.: ORS 183.341

Stats. Implemented: ORS 183

Hist.: HDLP 3-1998, f. 6-26-98, cert. ef. 7-1-98; HDLP 1-2001, f. 3-21-01, cert. ef. 4-1-01;

HDLP 1-2002, f. 5-31-02, cert. ef. 6-1-02; HLO 1-2003, f. 1-21-03, cert. ef. 2-1-03

## 331-405-0020

### Definitions

As used in ORS 680.500 through 680.990 or OAR chapter 331, divisions 400 through 430:

(1) "Agency" means Health Licensing Office, also referred to as the Oregon Health

Licensing Agency, assigned to carry out the administrative, programmatic and daily operations, and regulatory functions of the Boards, Councils and Programs.

(2) "Board" means the policy-making body known as the State Board of Denture Technology.

(3) "Board office" means Health Licensing Office.

(4) "Clinical procedures" means those procedures in the practice of denture technology as set forth in ORS 680.500(5)(b).

(5) "Contact hours" means academic classroom or course work hours including but not limited to workshops, symposiums, seminars, or laboratory exercises. Contact time does not include personal travel time to or from the training site, registration or check-in periods, breaks or lunchtime granted during attendance at any continuing education seminar or course.

(6) "Dentist" as used in ORS 680.510, and 680.545, and OAR 331-410-0000 and 331-410-0010 means a person holding a degree in dentistry and licensed to practice in the jurisdiction in which the practice is or was established.

(7) "Direct supervision" means the supervisor is present in the facility for the purpose of providing oversight and training to a person who has not completed the training requirements stated in OAR 331-410-0010.

(8) "Director" means the individual who directs the daily functions of the agency, appointed by the Department of Administrative Services Director, to carry out provisions of ORS 680 and the laws and rules of the Boards, Councils and Programs administered by the agency.

(9) "Employed by" means other than independent contractor relationship and does not require remuneration.

(10) "Equivalent" means substantially comparable but not identical, covering the same subject matter.

(11) "Health Licensing Office" means the agency assigned to carry out the administrative, programmatic and daily functions of the Board.

(12) "Indirect supervision" means the supervisor is not required to be on the premises while the procedures are performed by a person undergoing completion of training requirements in OAR 331-410-0010.

(13) "Informed Consent" means the consent obtained following a thorough and easily understood explanation to the patient, or patient's guardian, of the proposed procedures, any available alternative procedures and any risks associated with the procedures. Following the explanation, the licensee shall ask the patient, or the patient's guardian, if there are any questions. The licensee shall provide thorough and easily understood answers to questions asked.

(14) "Laboratory procedures" means those procedures in the practice of denture technology as set forth in ORS 680.500(5)(a).

(15) "Official transcript" means an original document certified by a school or educational institution, on a form approved by the Department of Education or regulating authority, delivered from the school to the Board office by mail or courier, which includes:

- (a) School name and location;
- (b) Student's name, address and date of birth;
- (c) Enrollment and completion or termination dates;
- (d) Hours and types of course work;
- (e) Final examination scores;
- (f) School seal or stamp;
- (g) Signature of authorized school representative or registrar.

(16) "Oral pathology" means the pathology that deals with the nature, identification, and management of diseases affecting the oral and maxillofacial regions. It is a science that investigates the causes, processes, and effects of these diseases.

(17) "Premises" means the structure in which laboratory and/or clinical procedures are performed, not necessarily the same room in which procedures take place.

(18) "Predominant" means located within the place of business and positioned so it may be seen and read without difficulty by consumers who have entered the place of business.

(19) "Restoration" means licensure of a previously licensed person, who has not made application for renewal within three years of expiration of the previous license.

(20) "1,000 hours in the practice of denture technology under direct supervision" or "1,000 hours of clinical and laboratory training in an approved work experience program" means engaging in the clinical and laboratory procedures of the practice of denture technology over a period of not less than six months, with a minimum of 400 hours devoted to clinical procedures. The 1,000 hours under direct supervision shall include construction of no less than 30 units of upper or lower full dentures, with a full set counting as two units.

(21) "Treatment" means the clinical or laboratory procedures in the practice of denture technology.

(22) "Valid license" means the authority to practice pursuant to ORS 680 that has not been revoked, suspended, or expired without renewal.

Stat. Auth.: ORS 680.565

Stats. Implemented: ORS 680.565

Hist.: HD 11-1979(Temp), f. & ef. 8-23-79; HD 2-1980, f. & ef. 2-14-80; HD 12-1981(Temp), f. & ef. 7-15-81; HD 1-1983, f. & ef. 1-20-83; HD 4-1988, f. & cert. ef. 3-4-88; HD 25-1988 (Temp), f. & cert. ef. 11-1-88; HD 4-1989, f. & cert. ef. 6-1-89; HD 10-1989, f. & cert. ef. 11-21-89; 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 333-020-0005; HDLP 1-2001, f. 3-21-01, cert. ef. 4-1-01; HLO 1-2003, f. 1-21-03, cert. ef. 2-1-03

## 331-410-0000

### Training

(1) Training, or formal education, required for licensure is a planned sequence of instruction of specific content structured to meet stated curriculum objectives which includes evaluation of attainment of those objectives; offered by a post-secondary educational institution or equivalent training as determined following evaluation by educational professional(s) from the Governor's Office of Education Work Force Policy/Office of Degree Authorization. The Governor's Office of Education and Work Force Policy/Office of Degree Authorization will be consulted in the evaluation of the program, including but not limited to school accreditation, instructor credentials, and lecture and lab hours as they equate to standard academic credit hours.

(2) The education or training to be approved by the agency pursuant to ORS 680.515(2) in consultation with the Board, shall meet the curriculum objectives as established by the agency. A current list of approved training courses is available at the Board office.

(3) All individuals or institutions requesting approval of a course or training program must submit a copy of the curriculum, a list of educational materials, books audiovisual aids, and a copy of handouts and tests to the Board office for review to ensure the program meets established training standards and curriculum objectives. The following conditions will apply:

(a) No curriculum shall be approved without submission of complete curriculum documentation;

(b) The agency shall retain a copy of the approved curriculum on file as part of the official permanent record;

(c) Approved education and training program curricula shall be reevaluated for approval every three years or when any portion of the curriculum is modified, or where changes in denture technology or health practices make it necessary. Approved programs existing on the effective date of this rule are subject to immediate re-evaluation, whichever occurs first; and

(d) The agency shall incur any reasonable duplication costs associated with complying with the provisions mandated in ORS 680.515.

(4) A work experience program for completion of the additional 1,000 hours of training required for examination or re-examination in accordance with ORS 680.515(1)(b) and (c) is considered approved by the agency if it is directly supervised by an approved school. Completion of the additional hours of training may also be awarded provided an individual is employed to perform denture technology under the direct supervision of a licensed dentist or licensed denturist who has met the following requirements:

(a) Applies on forms provided by the agency prior to commencing direct supervision and training of any individual;

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(b) Holds a valid license issued from a State Board of Dentistry or a State Board of Denture Technology, and has been in active practice for the past three (3) years;

(c) Holds an oral pathology endorsement if training and supervision is to be conducted by a licensed dentist;

(d) Operates an on-site laboratory and clinic where the direct supervision and training will occur;

(e) Certifies that training provider and facility, where the direct supervision and training will occur, is in compliance with all provisions of Division 420 Practice Standards;

(f) Limits direct supervision and training to two dentist trainees at any given time;

(g) Undergoes Board review of licensing record, if licensee has been subject to disciplinary action, to determine whether the discipline is germane to qualification as a trainer.

(5) Credit for courses previously taken can be counted toward completion of schooling requirements for a denture technology program, provided the courses were completed within the five years immediately prior to making application and cover those subjects listed in ORS 680.515(2).

(6) Documentation to prove completion of an Associate Degree program in denture technology shall be official school transcripts from the agency approved schools or the equivalent, and may include published course outlines showing that training included curriculum objectives as determined by the agency in consultation with the Board and the Governor's Office of Education Work Force Policy/Office of Degree Authorization.

(7) Documentation to prove additional training to satisfy ORS 680.515(1)(b) in a work experience program shall be:

(a) Official transcripts as defined in OAR 331-405-0020(15) from the approved school, including a description of training content, hours of clinical and laboratory training, examination scores, school location, dates of attendance, and the name of the supervisor; or

(b) Signed statement from the dentist or denturist certifying dates of training, places of employment, description of training content, and verification that work included both clinical and laboratory procedures as defined in OAR 331-405-0020(4) and (14).

(8) Any denturist trainee who makes more than two (2) changes in supervision must receive approval from the Board prior to making another change in their supervision and training.

Stat. Auth.: ORS 680.515

Stats. Implemented: ORS 680.515

Hist.: HD 11-1979(Temp), f. & ef. 8-23-79; HD 2-1980, f. & ef. 2-14-80; HD 1-1983, f. & ef. 1-20-83; HD 4-1989, f. & cert. ef. 6-1-89; HD 10-1989, f. & cert. ef. 11-21-89; 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 333-020-0040; HDLP 1-2001, f. 3-21-01, cert. ef. 4-1-01; HLO 1-2003, f. 1-21-03, cert. ef. 2-1-03

## 331-420-0000

### Practice Standards

Licensed denturists shall adhere to the following practice standards:

(1) Oral Health Certificate. Denturists must either have an oral pathology endorsement on their license, or if they have not qualified for and received the endorsement, must comply with requirements for obtaining an Oral Health Certificate as described in ORS 680.545 and OAR 331-410-0080.

(2) Patient Documentation. Licensed denturists must record, update and maintain documentation for each patient relevant to health history, clinical examinations and treatment, and financial data. Documentation shall be written or computerized. Records should include the following information:

(a) Patient data, including name, address, date and description of examination;

(b) Evidence of informed consent (may be in the form of an acronym such as "PARQ" to denote procedure, alternatives, risks and questions);

(c) Date and description of treatment or services rendered, and any treatment complications;

(d) Health history as applicable; and

(e) Any other information deemed appropriate to patient care.

(3) Clinical Examination. Licensed denturists must conduct and record a clinical examination of each patient that will include as a minimum, information relative to:

(a) Appearance of gingiva, oral mucosal membranes, pharynx, tongue and all other oral soft tissue; and

(b) Oral conditions that may affect successful denture construction and use.

(4) Record Retention. Patient documentation, written or archived electronically by computer, must be retained for a minimum of seven (7) years and available upon request by the agency.

(5) Minimum Standards of Acceptable Patient Care. Licensees must adhere to the following practice standards in rendering acceptable patient care:

(a) Maintain accurate patient records;

(b) Provide goods and services within a reasonable amount of time;

(c) Seek consultation/referral if indicated;

(d) Make accurate representation to the patient on services or denture functionality;

(e) Provide or arrange for continuity of care or emergency treatment for a patient currently receiving treatment;

(f) Employ current denture technology practices and materials;

(g) Adhere to appropriate use of quality materials;

(h) Adhere to Centers for Disease Control infection control standards and the Board's clinical requirements;

(i) Provide a copy of the patient record in a reasonable amount of time for a reasonable amount of money as requested by the patient.

(6) Minimum Standards of Acceptability for Full Dentures: Licensees must adhere to the following practice standards in constructing full dentures that provide appropriate function. Acceptability is measured against the following criteria:

(a) The maxillary denture covers the entire hard palate, with a postdam that extends from the hamular notch to form a posterior seal on the soft palate;

(b) The mandibular denture has full posterior flanges, extending near the floor of the mouth and extending distally to include a portion of the retromolar pad;

(c) The denture base material adapts to the soft tissues and the extension achieves stability;

(d) Tooth position, size, and shade appear natural;

(e) Contour and shade of the denture base material appear natural;

(f) Centric relation, if not correct, is correctable;

(g) Vertical dimension is within the physiologic tolerance of the patient;

(h) No occlusal interferences are present in lateral and protrusive excursions;

(i) Occlusal surfaces have anatomic or nonanatomic detail, but and masticatory forces are evenly distributed;

(j) Occlusal disharmony is not present; and

(k) There may not be movement of the denture when biting pressure is applied in anterior and posterior segments of the arch except when it is not reasonably possible to achieve the desired result.

(7) Any deviation from the standards outlined in subsection (6)(a) through (k) of this rule, must be based on the patient's individual physiology, in the best interest of the patient, and in conformance with generally accepted standards of patient care. On such occasion, the denturist must document the reasons for the deviation in the patient record. Failure to document the reasons for deviation from stated standards creates a presumption that the deviation was not in the best interest of the patient.

(8) Violation of Standards. Violation of any practice standard in OAR 331-420-0000 shall constitute grounds for discipline.

Stat. Auth.: ORS 680.550 & ORS 680.565

Stats. Implemented: ORS 680.550 & ORS 680.565

Hist.: HD 4-1988, f. & cert. ef. 3-4-88; 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; Subsections (9)(a) through (h) renumbered to 333-020-090 and 333-020-100; 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 333-020-0085; HLO 1-2003, f. 1-21-03, cert. ef. 2-1-03

## 331-420-0010

### Business Premise Requirements

The clinical procedures of denture technology shall be conducted in business premises that meet the following criteria:

(1) All areas of the business premises where denture technology is practiced shall be kept clean and in good repair.

(2) Denturists shall be subject to all Oregon Department of Human Services, Health Services and other city, county, state and federal regulations pertaining to public health and safety. Compliance with building, state fire, plumbing and electrical regulations is required.

(3) When an employee/employer relationship exists, denturists shall comply with ORS 654 and the Oregon Safe Employment Act, and adhere to all Oregon Occupational Safety and Health Codes (OR-OSHA), and Centers for Disease Control (CDC) infection control standards.

(4) Pets or other animals shall not be permitted in the business premises. This prohibition does not apply to registered therapy animals, trained

# ADMINISTRATIVE RULES

guide animals for the disabled, sightless or hearing impaired, or fish in an aquarium.

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

Stat. Auth.: ORS 680.550 & ORS 680.565

Stats. Implemented: ORS 680.550 & ORS 680.565

Hist.: HD 13-1991(Temp), f. & cert. ef. 9-30-91; HD 3-1992, f. & cert. ef. 3-25-92; Renumbered from 333-020-085(9)(a) through (h); 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 333-020-0090; HLO 1-2003, f. 1-21-03, cert. ef. 2-1-03

## 331-420-0020

### Clinical Requirements

The Board will consider current Centers for Disease Control guidelines when determining acceptable patient care and requirements for the clinical practice of denture technology. Additionally, denturists must comply with the following standards:

(1) Instruments, implements, supplies and impression trays used in intra-oral procedures that come in contact with body fluids shall be sterilized prior to each use, using a method that destroys all living microbes and spores.

(2) Instruments or other equipment which are "heat-sensitive" shall be disinfected by complete immersion of the object(s) or portion(s) thereof to be disinfected, in an FDA approved chemical sterilant, and used according to the manufacturer's instructions.

(3) Mechanical sterilizing devices shall be tested for functionality on a quarterly basis by means of a biological monitoring system that indicates the destruction of micro-organisms, and chemical indicators (color change) to assure sufficient temperature and correct functioning of equipment during each sterilization cycle.

(4) Chemical and biological test indicators shall be available at the business premises at all times and test results available for inspection by the Health Licensing Office enforcement officers.

(5) Environmental surfaces that are contaminated by blood or saliva shall be disinfected with a high-level disinfectant, which is tuberculocidal and labeled accordingly.

(6) Disposable gloves shall be worn whenever placing fingers into the mouth of a patient or when handling blood or saliva contaminated instruments or equipment. Hands shall be washed and re-gloved before performing procedures on another patient.

(7) All contaminated wastes and sharps shall be disposed of according to governmental requirements, specifically ORS 459.386 through 459.405 and OARS 333-018-0040 through 333-018-0070.

(8) All procedures performed shall be in such a manner as to avoid cross contamination of blood borne pathogens.

Stat. Auth.: ORS 680.550 & ORS 680.565

Stats. Implemented: ORS 680.550 & ORS 680.565

Hist.: HD 3-1992, f. & cert. ef. 3-25-92; Renumbered from 333-020-085(9)(a) through (h); 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 333-020-0100; HDLP 1-2001, f. 3-21-01, cert. ef. 4-1-01; HLO 1-2003, f. 1-21-03, cert. ef. 2-1-03

## Land Conservation and Development Department

### Chapter 660

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

**Filed with Sec. of State:** 1-17-2003

**Certified to be Effective:** 1-17-03

**Notice Publication Date:** 6-1-02

**Rules Adopted:** 660-026-0000, 660-026-0010, 660-026-0020, 660-026-0030, 660-026-0040

**Subject:** The purpose of these rules is to interpret and clarify how certain statutes (including ORS 197.296 to 197.302 and Statewide Planning Goals (including Goals 2 and 14 (OAR 660, Division 015)) are applied to amendments of the regional Urban Growth Boundary (UGB) in the Portland Metropolitan area. These rules clarify whether and how land needs are determined and allocated based on subregions of the Portland Metropolitan area.

**Rules Coordinator:** Victoria J. Schiller—(503) 373-0050, ext. 231

## 660-026-0000

### Purpose

This Division describes how ORS 197.295 to 197.302, 197.732, Goals 2 and 14, and OAR chapter 660, division 004 apply to the administration of a regional urban growth boundary (UGB). This Division is not intended to apply to the provisions of ORS 197.298(3)(a) regarding "specific types of identified land need."

Stat. Auth.: ORS 183, 195 & 197

Stats. Implemented: ORS 197.295-197.302, 197.626 & 268

Hist.: LCDD 1-2003, f. & cert. ef. 1-17-03

## 660-026-0010

### Definitions

For the purposes of this division, the definitions in ORS Chapter 197 and 268 and the definitions in the statewide planning goals apply unless the context requires otherwise:

(1) "Central City" means an area identified as such in the regional framework plan of a district.

(2) "District" means a metropolitan service district organized under ORS Chapter 268 that administers a regional UGB (e.g., Metro).

(3) "Need" means the 20-year urban population growth, housing need, employment opportunities, and livability needs, as specified under Goal 14, other applicable statewide planning goal requirements and ORS 197.296.

(4) "Regional center" means an area identified as such in the regional framework plan of a district.

(5) "Regional urban growth boundary" or "regional UGB" means an urban growth boundary adopted by a metropolitan service district organized under ORS Chapter 268.

(6) "Subregion" means a distinct geographic area within the regional UGB that has been established by the district consistent with the requirements of OAR 660-026-0030.

(7) "Subregional need" means that portion of the total amount of need for the entire region that a district allocates to a particular subregion based on the application of OAR 660-026-0020 through 660-026-0040.

Stat. Auth.: ORS 183, 195 & 197

Stats. Implemented: ORS 197.295-197.302, 197.626 & 268

Hist.: LCDD 1-2003, f. & cert. ef. 1-17-03

## 660-026-0020

### Determining Need for the Region

A district reviewing the regional UGB as required under ORS 197.296(2) shall determine the total amount of need for the entire region based on the requirements of Goal 14, Factors 1 and 2, other applicable statewide planning goal requirements, and ORS 197.296. If the district chooses to proceed under the provisions of OAR 660-026-0030 through 660-026-0040, below, need for the entire region shall be determined prior to the determination of subregional need.

Stat. Auth.: ORS 183, 195 & 197

Stats. Implemented: ORS 197.295-197.302, 197.626 & 268

Hist.: LCDD 1-2003, f. & cert. ef. 1-17-03

## 660-026-0030

### Allocation of Regional Need to Subregions

A district may allocate regional needs determined under OAR 660-026-0020 to subregions of the region provided:

(1) The sum of the needs allocated to the subregions shall be equal to the total amount of need for the entire region determined under OAR 660-026-0020.

(2) The subregional allocation of need shall be based on provisions of the district's regional framework plan that:

(a) Are adopted by the district, and acknowledged by the Commission, through periodic review pursuant to ORS 197.628 to 197.650; and

(b) Expressly authorize an allocation of need through a subregional approach that:

(A) Clearly indicates the location of the subregions, including maps and other pertinent descriptions of fixed, non-overlapping boundaries for each subregion;

(B) Limits the number of subregions to no more than five, each containing one or more regional centers and/or the central city, and a current population that is at least 15 percent of the population of the regional UGB; and

(C) Sets forth the objectives to be achieved by allocation of regional need to subregions.

(3) If a district allocates regional need to subregions of the regional UGB, findings to support the allocation shall:

(a) Explain how the allocation achieves the objectives of the district's regional framework plan;

(b) Demonstrate that, as a result of the large size of the regional UGB, the allocation of regional need to subregions will achieve a greater efficiency of land uses within and on the fringe of the regional urban area than would be achieved without subregional allocation;

(c) Explain how the subregional need of each subregion fits within the regional context; and

(d) For each subregion, explain why the area is identified as a subregion; and explain why the needs of the subregion should be viewed in isolation.

# ADMINISTRATIVE RULES

(4) The findings specified in Section (3) of this rule, and any associated amendments to the regional UGB, shall be reviewed and acknowledged by the Commission through periodic review.

(5) A district may allocate regional needs to more than one set of subregions in order to achieve different provisions of the district's regional framework plan so long as each set of subregions and each allocation of regional needs to those subregions complies with sections (1) through (3) of this rule.

(6) As part of the periodic review for the regional UGB, the Commission may require the district to evaluate and, if necessary, amend the provisions of the regional framework plan required by section (2) of this rule.

Stat. Auth.: ORS 183, 195 & 197  
Stats. Implemented: ORS 197.295-197.302, 197.626 & 268  
Hist.: LCDD 1-2003, f. & cert. ef. 1-17-03

## 660-026-0040

### Determining How to Meet Need

(1) If a district allocates the regional need to subregions, as provided in OAR 660-026-0030, the district shall first determine what portion (if any) of the need can be reasonably accommodated on lands currently within the existing regional UGB that are within or near each subregion, in the manner provided by ORS 197.296(6)(b), OAR 660-004-0010(1)(c)(B)(ii) and 660-004-0020(2)(b). The analysis under this section shall be deemed to comply with ORS 197.732 and Goal 2, Part II.

(2) For that portion of the subregional need that cannot be reasonably accommodated through application of section (1) of this rule, the district shall:

(a) First, examine alternative lands outside the existing regional UGB that are near the subregion, and that are within the first priority under ORS 197.298(1);

(b) Second, to the extent that the lands examined under Subsection (2)(a) of this rule are inadequate to accommodate the subregional need remaining after application of Section (1), examine alternative lands outside the existing regional UGB that are near the subregion, and that are within the second priority under ORS 197.298(1);

(c) Third, to the extent that the lands examined under subsections (2)(a) and (2)(b) of this rule are inadequate to accommodate the subregional need remaining after application of section (1), examine alternative lands outside the existing regional UGB that are near the subregion, and that are within the third priority under ORS 197.298(1); and

(d) Fourth, to the extent that the lands examined under subsections (2)(a) - (c) of this rule are inadequate to accommodate the subregional need remaining after application of section (1), examine the alternative lands outside the existing regional UGB that are near the subregion, and that are within the fourth priority under ORS 197.298(1).

(3) If lands are identified for addition to the regional UGB under subsection (2)(d) of this rule, they shall be prioritized for inclusion based on ORS 197.298(2).

(4) To determine whether lands of higher priority may be excluded from inclusion in the regional UGB under section (2) of this rule, a district shall apply the reasons in ORS 197.298(3)(b) or determine that the lands cannot reasonably accommodate the subregional need in the manner provided by OAR 660-004-0010(1)(c)(B)(ii) and 660-004-0020(2)(b). An analysis under this section shall be deemed to comply with ORS 197.732 and Goal 2, Part II.

(5) If the amount of land near a subregion under a particular priority of ORS 197.298(1) is more than the amount of need allocated to that subregion, then the land shall be prioritized for inclusion in the regional UGB based on Goal 14, Factors 3-7.

(6) A district shall ensure that land added to the regional UGB under this division will be planned and zoned consistent with subregional need and with the limitations required by OAR 660-004-0018(4).

Stat. Auth.: ORS 183, 195 & 197  
Stats. Implemented: ORS 197.295-197.302, 197.626 & 268  
Hist.: LCDD 1-2003, f. & cert. ef. 1-17-03

## Landscape Contractors Board Chapter 808

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

**Filed with Sec. of State:** 1-31-2003

**Certified to be Effective:** 2-1-03

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

**Rules Amended:** 808-001-0000, 808-001-0005, 808-001-0020, 808-003-0015, 808-003-0020, 808-003-0035, 808-003-0040, 808-003-

0045, 808-003-0060, 808-003-0065, 808-003-0095, 808-003-0105, 808-003-0130

**Rules Repealed:** 808-001-0040

**Subject:** 808-001-0000 - Housekeeping to be in compliance with rulemaking requirements of ORS 183; 808-001-0005 - Updates adoption dates for model rules; 808-001-0020 - Clarifies payment type, amounts charged, refund requests must be in writing and when fees are refundable; 808-001-0040 Eliminates requirement to publish yearly roster.

808-003-0015 - Clarifies requirement amount for surety bond and insurance, and when license will be issued; 808-003-0020 - Clarifies partnership and other business entities must be registered with Corporation Division; 808-003-0035 - Eliminates previous requirements no longer in effect; 808-003-0040 - Clarifies when "all phase license holder" may not install backflow prevention equipment; 808-003-0045 - Clarifies which exam(s) or sections must be taken to upgrade license, and when business must notify agency of change in phase of license and when individual must notify agency of departure from employment from landscape business and business must stop performing at level unless employ licensed contractor at that level. 808-003-0060 - Eliminates previous exam requirements no longer in effect; housekeeping; 808-003-0065 - Clarifies exam score is for each section of an exam; 808-003-0095 - Clarifies requirement for landscape businesses to submit Certificate of Insurance with agency listed as the certificate holder; 808-003-0105 - Clarifies owner must be licensed if business does not employ a licensed landscape contractor, and license will be suspended if bond is canceled; 808-003-0130 - Housekeeping; add requirement for "no-show" fee if applicant misses scheduled appointment.

**Rules Coordinator:** Kim Gladwill-Rowley—(503) 986-6570

## 808-001-0000

### Notice

Except as provided in OAR 808-001-0002, before adoption, amendment, or repeal of any permanent rule, the State Landscape Contractors Board 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 State Landscape Contractors Board mailing list established pursuant to ORS 183.335(7) at least 28 days before the effective date of the rule;

(3) By mailing a copy of the notice to the legislators specified in ORS 183.335(15) at least 49 days before the effective date of the rule; and

(4) By mailing a copy of the notice to the:

(a) Capitol press room;

(b) Associated Press;

(c) Oregon Landscape Contractors Association;

(d) Oregon Association of Nurserymen;

(e) Southern Oregon Landscaping Association;

(f) Agri-Business Council.

Stat. Auth.: ORS 183.310 - ORS 183.545, ORS 670.310 & ORS 671.670

Stats. Implemented: ORS 183.341

Hist.: LC 1, f. & ef. 5-17-76; LC 1-1984, f. & ef. 7-17-84; LCB 1-1988, f. 1-26-88, cert. ef. 2-1-88; LSCB 1-1995, f. & cert. ef. 2-2-95; LCB 1-2003, f. 1-31-03, cert. ef. 2-1-03

## 808-001-0005

### Model Rules

The Landscape Contractors Board adopts the Attorney General's Uniform and Model Rules of Procedure under the Administrative Procedures Act in effect October 3, 2001, with the following exceptions: OAR 137-003-0015, 137-005-0050, 137-005-0060, and 137-005-0070.

[ED. NOTE: The full text of the Attorney General's Model Rules of Procedure is available from the office of the Attorney General or Landscape Contractors Board.]

Stat. Auth.: ORS 671

Stats. Implemented: ORS 183.341 & ORS 279

Hist.: LC 2, f. & ef. 5-18-76; LC 3, f. & ef. 2-7-77; LC 1-1984, f. & ef. 7-17-84; LCB 1-1988, f. 1-26-88, cert. ef. 2-1-88; LCB 4-1988, f. 11-23-88, cert. ef. 12-1-88; LCB 1-1991, f. & cert. ef. 7-22-91; LCB 2-1992, f. 7-14-92, cert. ef. 7-15-92; LSCB 1-1995, f. & cert. ef. 2-2-95; LSCB 1-1996, f. & cert. ef. 6-18-96; LCB 2-1999, f. & cert. ef. 5-4-99; LCB 1-2003, f. 1-31-03, cert. ef. 2-1-03

# ADMINISTRATIVE RULES

## 808-001-0020

### Charges for Documents; Refunds

(1) All requests for copies of public records pertaining to the State Landscape Contractors Board and available at the Board's office shall be in writing.

(2) Charges to the general public and to state agencies shall be payable in cash, check, money order, Visa or Mastercard unless billing to such agencies is authorized by the Administrator. Checks or money orders shall be made payable to the Landscape Contractors Board.

(3) The Board accepts Visa and Mastercard submitted in person or by mail, e-mail or fax. Any Visa or Mastercard that is rejected by the bank and requested to be confiscated will be retained and returned to the bank. All payments by Visa or Mastercard that are rejected must be paid in full by a check or money order within ten days from notification of rejection.

(4) Charges for copies, documents, and services shall be as follows:

(a) For machine copies requested by other state agencies and by the general public, twenty-five cents per image;

(b) \$20 for each certification that an entity has or has not been licensed with the Landscape Contractors Board.

(c) \$20 for certified copies of documents.

(d) \$100 for listing of individual landscape contractors or landscape businesses on CD or disk. Requests for searching or formatting the data will be billed as per subsection (e) of this rule. The Administrator may waive this charge for other public agencies.

(e) \$10 per half-hour unit or portion of a half-hour unit for research of records for each request from a person beginning with the 31st minute of research time;

(f) For both machine copies and documents, an additional amount set at the discretion of the Administrator for staff time required for search, handling, and copying.

(g) \$20 for duplicate tape recording of Board meetings.

(h) \$20 for duplicate tape recordings of a three hour agency hearing or arbitration and \$10 for each additional 90 minute or fraction thereof of the hearing or arbitration.

(5) Refunds: All requests for refunds must be in writing.

(a) The agency shall not refund fees or civil penalties overpaid by an amount of \$25 or less unless requested in writing within three years after the date payment is received by the agency, as provided by ORS 293.445(4).

(b) Except as set forth in subsection (c) of this section, licensing fees are non-refundable and nontransferable.

(c) When an applicant withdraws their application for a landscape contractor license or renewal or fails to complete the licensing process the agency may retain an application-processing fee of \$20. When an applicant withdraws their application for a landscape business license or renewal or fails to complete the licensing process, the agency may retain an application-processing fee of \$50.

(6) If the agency receives payment of any fees or penalty by check and the check is returned to the agency as an NSF check, the payer of the fees will be assessed an NSF charge of \$25 in addition to the required payment of the fees or penalty.

Stat. Auth.: ORS 183, ORS 293.445 & ORS 671

Stats. Implemented: ORS 183, ORS 192.430, ORS 293.445 & ORS 671

Hist.: LC 1-1984, f. & ef. 7-17-84; LCB 1-1988, f. 1-26-88, cert. ef. 2-1-88; LCB 2-1988(Temp), f. 3-17-88, cert. ef. 4-1-88; LCB 4-1988, f. 11-23-88, cert. ef. 12-1-88; LSCB 2-1997, f. & cert. ef. 11-3-97; LCB 2-1999, f. & cert. ef. 5-4-99; LCB 4-2002, f. & cert. ef. 12-4-02; LCB 1-2003, f. 1-31-03, cert. ef. 2-1-03

## 808-003-0015

### Application for License

(1) Application for a landscaping business license shall be on forms provided by the agency and shall be accompanied by:

(a) Required fee;

(b) Surety bond or deposit as required under ORS 671.690;

(c) Certificate of liability insurance as required under ORS 671.565 for an amount not less than \$100,000 listing the Landscape Contractors Board as the certificate holder;

(c) List of licensed landscape contractors, with accompanying license numbers, employed by the business as required under ORS 671.565; and

(d) List all assumed business names under which the landscaping business is conducted. All assumed business names listed shall be on record with the Corporation Division.

(2) Application for a landscape contractor's license shall be on forms provided by the agency and shall be accompanied by:

(a) Required examination fee;

(b) Verification of experience and/or transcripts or copies of completion certificates from courses of study;

(c) If applicable, name of employing licensed landscaping business or businesses; and

(d) Required license fee.

Stat. Auth.: ORS 183 & ORS 671

Stats. Implemented: ORS 671.560 & ORS 671.565

Hist.: LC 3, f. & ef. 2-7-77; LC 3-1980, f. & ef. 2-5-80; LC 1-1984, f. & ef. 7-17-84; LCB 1-1988, f. 1-26-88, cert. ef. 2-1-88; Renumbered from 808-010-0015; LSCB 2-1997, f. & cert. ef. 11-3-97; LCB 3-1999, f. & cert. ef. 11-17-99; LCB 1-2003, f. 1-31-03, cert. ef. 2-1-03

## 808-003-0020

### Assumed Business Names

Before license or renewal of a landscaping business:

(1) An assumed business name shall be registered with the Corporation Division of the State of Oregon.

(2) A corporation or other business entity shall be registered to do business in Oregon with the Corporation Division of the State of Oregon.

Stat. Auth.: ORS 183 & ORS 671

Stats. Implemented: ORS 671.560

Hist.: LC 1-1984, f. & ef. 7-17-84; LCB 1-1988, f. 1-26-88, cert. ef. 2-1-88; Renumbered from 808-010-0033; LCB 1-2003, f. 1-31-03, cert. ef. 2-1-03

## 808-003-0035

### Limited Licenses

(1) In addition to an all phases license, new limited licenses may be issued only for the following:

(a) Standard; or

(b) Irrigation and LIBDI.

(2) Except as set forth in section (3) of this rule, the following previously-issued limited licenses shall remain valid so long as the licensee continues to renew the license:

(a) General;

(b) Irrigation;

(c) Irrigation and LIBDI;

(d) Sod & Seed;

(e) Trees.

(3) The "All Phases" license shall include standard, irrigation, and LIBDI, unless, in lieu of LIBDI, the landscape contractor has signed an agreement with the Board prior to April 30, 1995 stating that the contractor will not perform LIBDI work, with the penalty for violation of the agreement being \$1,000 and suspension of the license.

Stat. Auth.: ORS 670.310 & ORS 671.670

Stats. Implemented: ORS 671.560

Hist.: LC 3, f. & ef. 2-7-77; LC 1-1981, f. & ef. 10-8-81; LC 1-1984, f. & ef. 7-17-84; LCB 1-1988, f. 1-26-88, cert. ef. 2-1-88; Renumbered from 808-010-0020; LCB 2-1990, f. 7-27-90, cert. ef. 8-1-90; LCB 2-1993, f. & cert. ef. 2-1-93; LSCB 1-1994, f. 5-26-94, cert. ef. 6-1-94; LSCB 2-1994, f. 11-8-94, cert. ef. 11-15-94; LSCB 2-1995, f. 8-8-95, cert. ef. 8-15-95; LSCB 2-1997, f. & cert. ef. 11-3-97; LCB 3-1998(Temp), f. & cert. ef. 11-16-98 thru 5-15-99; LCB 1-1999, f. & cert. ef. 2-11-99; LCB 1-2003, f. 1-31-03, cert. ef. 2-1-03

## 808-003-0040

### Limitation of Service by License

(1) A licensed landscaping business shall perform only those phases of landscape contracting for which its landscape contractor employees are licensed.

(2) The landscape contracting service or services a licensee offers shall be limited to the following:

(a) An all phases holder is entitled to perform all areas of landscape contracting, including the installation of backflow prevention equipment unless, in lieu of LIBDI, the landscape contractor has signed an agreement with the Board prior to April 30, 1995 stating that the contractor will not perform LIBDI work;

(b) A general limited license holder may perform all landscape contracting functions except irrigation;

(c) An irrigation limited license holder may only perform irrigation functions;

(d) A sod and seed limited license holder may only perform grass seed planting or sod laying;

(e) A tree limited license holder may only install new or transplant trees, remove trees, prune trees, remove tree limbs or stumps, or engage in tree or limb guying only;

(f) A Standard limited license holder may perform all areas of landscape contracting except irrigation and backflow prevention;

(g) An irrigation limited license holder may perform only irrigation and backflow prevention equipment work.

(3)(a) Tapping into the potable water supply and installation of irrigation or ornamental water feature backflow prevention equipment shall be done by plumbers licensed by the State Plumbers Board or by landscape contractors who have been qualified by examination and are licensed by the Landscape Contractors Board to install backflow prevention devices. If the

# ADMINISTRATIVE RULES

device is installed by a landscape contractor, the landscape contractor shall obtain all required permits and shall install the devices in conformance with the permits;

(b) If a landscape contractor or a landscaping business fails to obtain permits to tap into the potable water system and install irrigation or ornamental water feature backflow prevention devices or fails to comply with applicable code requirements, in addition to any other remedy, the Board may suspend, condition or revoke the landscape contractor's and the landscaping business's license.

Stat. Auth.: ORS 183.325 - ORS 183.500, ORS 670.310 & ORS 671.670

Stats. Implemented: ORS 671.560

Hist.: LC 1-1984, f. & ef. 7-17-84; LCB 1-1988, f. 1-26-88, cert. ef. 2-1-88; Renumbered from 808-010-0021; LCB 2-1990, f. 7-27-90, cert. ef. 8-1-90; LCB 2-1992, f. 7-14-92, cert. ef. 7-15-92; LCB 2-1993, f. & cert. ef. 2-1-93; LSCB 2-1994, f. 11-8-94, cert. ef. 11-15-94; LSCB 2-1997, f. & cert. ef. 11-3-97; LCB 1-2001, f. 12-4-01, cert. ef. 1-1-02; LCB 1-2003, f. 1-31-03, cert. ef. 2-1-03

## 808-003-0045

### Addition to Limited Licenses

(1) Landscape contractors holding limited licenses may add to the phase of landscape contracting they perform by taking and passing additional exams. Licensees shall submit the required fees and a written request to take the additional exams.

(2) The following tests must be taken and passed to hold a standard landscape license:

(a) General license holders must take Laws and Rules, General A, General B, General C, and General D;

(b) Sod & Seed license holders must take General A, General B, General C, and General D;

(c) Tree license holders must take General A, General B, General C, and General D.

(3) Holders of a General license, Sod & Seed license or a Tree license must take and pass the irrigation and LIBDI sections of the landscape examination to become licensed to perform irrigation work

(4) If a landscaping business's phase of license change because its employed landscape contractors' phase of license changes, the business shall notify the agency in writing within 10 days of the change of license phase to obtain an updated license.

(a) If the individual license holder for a business leaves the employ of the business, the individual license holder must notify the agency in writing (fax or email) within ten days of date of departure; and

(b) The business for which this licensee worked must immediately stop performing landscape work until they have an owner that is licensed, or employ an individual landscape contractor licensed, at the level that the business desires to perform.

(5) When license limitations change, the agency will issue new licenses at no cost to licensee.

Stat. Auth.: ORS 183 & ORS 671

Stats. Implemented: ORS 671.560

Hist.: LC 1-1984, f. & ef. 7-17-84; LCB 1-1988, f. 1-26-88, cert. & ef. 2-1-88; Renumbered from 808-010-0022; LCB 1-2003, f. 1-31-03, cert. ef. 2-1-03

## 808-003-0060

### Examinations

(1) The exam will consist of the following tests:

(a) Laws & Rules which includes Contract Law, General Business, and Agency Involvement;

(b) General which includes the following sections:

(A) Plants and turf,

(B) General construction,

(C) Grading and drainage, and

(D) General safety, estimating, soil science, chemicals.

(c) Irrigation, which includes, but is not limited to pipes and fittings, electrical, head and nozzles, Hydraulics, installation/practical application, plan questions, winterizing, repair/troubleshooting, valves, plant culture, drip irrigation, design, and pumps.

(d) LIBDI, which includes, but is not limited to irrigation and ornamental water feature backflow prevention devices, piping, valves, and related plumbing code provisions.

(2) All applicants must take and successfully pass the Laws & Rules exam.

(3) If an applicant desires to be able to perform all landscaping including irrigation and backflow work, the applicant must take and successfully pass the Laws & Rules, General, Irrigation and LIBDI exams.

(4) If an applicant desires to be able to perform all landscaping except irrigation and backflow work, the applicant must take and successfully pass the Laws and Rules and General exams.

(5) If an applicant desires to be able to perform only irrigation and backflow work, the applicant must take and successfully pass the Laws and Rules, Irrigation and LIBDI exams.

Stat. Auth.: ORS 183.325 - ORS 183.500, ORS 670.310 & ORS 671.670

Stats. Implemented: ORS 671.570

Hist.: LC 3, f. & ef. 2-7-77; LC 1-1981, f. & ef. 10-8-81; LC 1-1984, f. & ef. 7-17-84; LCB 1-1988, f. 1-26-88, cert. ef. 2-1-88; Renumbered from 808-010-0025; LCB 4-1993, f. & cert. ef. 11-1-93; LSCB 2-1994, f. 11-8-94, cert. ef. 11-15-94; LCB 1-1998, f. & cert. ef. 2-6-98; LCB 3-1998(Temp), f. & cert. ef. 11-16-98 thru 5-15-99; LCB 1-1999, f. & cert. ef. 2-11-99; LCB 1-2001, f. 12-4-01, cert. ef. 1-1-02; LCB 1-2003, f. 1-31-03, cert. ef. 2-1-03

## 808-003-0065

### Scoring

(1) Each exam and each section of the General exam shall be scored separately.

(2) Based on 100 percent, the passing score shall be 75 percent or higher for each section of an exam.

(3) A passing score shall be valid for one year from the date the examination was taken. An applicant who fails to pass all the exams required for a particular license within one year of passing an exam shall retake that exam.

Stat. Auth.: ORS 183.325 - ORS 183.500, ORS 670.310 & ORS 671.670

Stats. Implemented: ORS 671.570

Hist.: LC 1-1984, f. & ef. 7-17-84; LCB 1-1988, f. 1-26-88, cert. ef. 2-1-88; Renumbered from 808-010-0026; LSCB 2-1994, f. 11-8-94, cert. ef. 11-15-94; LCB 3-1998(Temp), f. & cert. ef. 11-16-98 thru 5-15-99; LCB 1-1999, f. & cert. ef. 2-11-99; LCB 1-2003, f. 1-31-03, cert. ef. 2-1-03

## 808-003-0095

### Liability Insurance

(1) An applicant for the landscape business license or renewal shall submit a "Certificate of Insurance" from an insurance company authorized to do business in Oregon, as required by ORS 671.565 and will continue to meet those insurance requirements for as long as the applicant is licensed. The certificate shall include the name of the insurance company, policy number, and coverage amount, and may also include the agent's name, and agent's telephone number and state that the Oregon Landscape Contractors Board is the certificate holder.

(2) This certificate constitutes satisfactory evidence of insurance and is in lieu of any other evidence of insurance.

(3) If the requirements of subsection (1) of this rule have been met, and the agency receives a notice of cancellation, the agency may send a notice to the licensee, by regular mail, reminding the licensee of the obligation imposed by the licensee's insurance certification.

Stat. Auth.: ORS 183.325 - ORS 183.410, ORS 670.310 & ORS 671.670

Stats. Implemented: ORS 671.565

Hist.: LCB 2-1991(Temp), f. 9-27-91, cert. ef. 9-29-91; LCB 1-1992, f. 1-27-92, cert. ef. 2-1-92; LSCB 2-1997, f. & cert. ef. 11-3-97; LCB 1-2003, f. 1-31-03, cert. ef. 2-1-03

## 808-003-0105

### License Cards

(1)(a) A license card issued to a landscaping business is valid for the term for which it is issued only if the following conditions are met throughout the license period:

(A) The business has a licensed landscape contractor as an owner or as an employee at all times; and

(B) The surety bond remains in effect and undiminished by payment of Landscape Contractors Board final orders; and

(C) The insurance required by ORS 671.565 remains in effect; and

(D) If the licensee is a sole proprietorship, survival of the sole proprietorship; or

(E) If the licensee is a partnership or limited liability partnership, no change in the composition of that partnership, by death or otherwise; or

(F) If the licensee is a corporation or limited liability company, survival of that corporation or limited liability company, including compliance with all applicable laws governing corporations or limited liability companies.

(b) If the licensee's bond is cancelled, the license will lapse 30 days from the date the cancellation is received by the agency.

(c) An entity whose license has lapsed is considered unlicensed from the date the lapse occurred until the date the license is backdated and renewed, reissued, or reinstated. During a period of lapse, the entity shall not perform the work of a landscaping business.

(d) A period of lapse will end and the license previously issued will again become valid on the date upon which the agency receives the missing items that caused the lapse. This includes but is not limited to a new bond or a notice of reinstatement for the existing bond or on the effective date of a backdated bond or backdated reinstatement for the existing bond.

# ADMINISTRATIVE RULES

(2) If a license becomes invalid, the agency may require the return of the license and pocket card(s).

(3) No person shall advertise or otherwise hold out to the public that person's services as a landscaping business unless that person holds a current, valid license, nor shall any person claim by advertising or by any other means to be licensed, bonded, insured, or licensed unless that person holds a current, valid license.

Stat. Auth.: ORS 670.310 & ORS 671.670  
Stats. Implemented: ORS 671.560 & ORS 671.565  
Hist.: LCB 2-2002, f. & cert. ef. 5-24-02; LCB 1-2003, f. 1-31-03, cert. ef. 2-1-03

## 808-003-0130

### Fees

(1) July 1, 2002, Landscaping business, initial license or renewal, \$225.

(2) Effective July 1, 2002, Landscape contractor, initial license or renewal, \$75.

(3) Effective July 1, 2002, Landscaping business, late penalty fee, \$25.

(4) Effective July 1, 2002, Landscape contractor, late penalty fee, \$25.

(5) Effective July 1, 2002, Examination, first attempt, \$100 per sitting.

(6) Effective July 1, 2002, Examination, each succeeding attempt, \$40 per sitting.

(7) Examination, failure to show for a scheduled appointment:

(a) Board office, \$20 without a 24 hour advance cancellation notice to the Board office.

(b) Proctor Exam Site, forfeits full payment for that exam sitting.

(8) If a landscape contractor license expires, the amount to be paid for reinstatement equals the required fee for each year of lapse (up to two years) plus a late penalty fee for each year.

(9) If a landscaping business license expires, and the landscaping business has continuously maintained its bond, the amount to be paid for reinstatement equals the required fee for each year of lapse (up to two years) plus a late penalty fee for each year.

(10) If a landscaping business license expires, and no bond has been in effect during the interim, and a new bond is issued, the amount to be paid for reinstatement equals the required fee for one year plus a late penalty fee.

(11) The agency may waive the late fee if:

(a) The properly completed renewal form and correct fee are received by the agency prior to the expiration date and all other renewal requirements are met within one month after the expiration date; or

(b) The licensee's failure to meet the renewal date was caused entirely or in part by an agency error or omission.

(12) Payments received after Board deadlines, including, but not limited to payments for renewals, applications and civil penalties will be considered late and penalties shall be assessed.

Stat. Auth.: ORS 183.310 - ORS 183.545, ORS 670.310 & ORS 671.670

Stats. Implemented: ORS 671.650 & ORS 671.660

Hist.: LC 3, f. & ef. 2-7-77; LC 1-1981, f. & ef. 10-8-81; LC 1-1983(Temp), f. 10-14-83, ef. 10-15-83; LC 1-1984, f. & ef. 7-17-84; LCB 1-1988, f. 1-26-88, cert. ef. 2-1-88; Renumbered from 808-010-0035; LCB 3-1988(Temp), f. 4-11-88, cert. ef. 5-1-88; LCB 4-1988, f. 11-23-88, cert. ef. 12-1-88; LCB 1-1989(Temp), f. 5-16-89, cert. ef. 7-1-89; LCB 2-1989, f. & cert. ef. 7-24-89; LSCB 1-1995, f. & cert. ef. 2-2-95; LSCB 1-1997(Temp), f. & cert. ef. 6-10-97; LSCB 2-1997, f. & cert. ef. 11-3-97; LCB 3-2002, f. & cert. ef. 7-1-02; LCB 1-2003, f. 1-31-03, cert. ef. 2-1-03

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

**Filed with Sec. of State:** 1-31-2003

**Certified to be Effective:** 2-1-03

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

**Rules Adopted:** 808-004-0590, 808-008-0030, 808-008-0085, 808-008-0090, 808-008-0425, 808-008-0430, 808-009-0200

**Rules Amended:** 808-004-0440, 808-004-0560, 808-008-0020, 808-008-0040, 808-008-0060, 808-008-0080, 808-008-0100, 808-008-0110, 808-008-0120, 808-008-0140, 808-008-0160, 808-008-0180, 808-008-0220, 808-008-0300, 808-008-0400, 808-008-0420, 808-008-0440, 808-008-0460, 808-008-0480, 808-009-0020, 808-009-0160, 808-009-0400, 808-009-0420

**Subject:** 808-004-0440 - Clarifies how claims with contracts that include mediation or arbitration will be processed; 808-004-0560 - Implements arbitration as the default hearing procedure and clarifies that hearings under this rule may be held as an arbitration or a contested case hearing. 808-004-0590 - Adopts procedure for referring a case for arbitration or a contested case hearing to the Hearing Officer Panel, allows parties to request contested case in place of arbitration, clarifies when a claim should be decided in court, an untimely request for contested case hearing, and the effective date for hearings to be held as arbitration.

tration, clarifies when a claim should be decided in court, an untimely request for contested case hearing, and the effective date for hearings to be held as arbitration.

808-008-0020 - Implements arbitration as the default hearing procedure; 808-008-0030 - Incorporates Hearing Officer Panel Rules regarding contested case hearings; 808-008-0040 - Clarifies when agency may refuse to arbitrate a dispute; 808-008-0060 - Clarifies when a party may request a different arbitrator; 808-008-0080 - Clarifies the Hearing Officer Panel may not perform the duties of the agency; 808-008-0085 - Adopts procedures for service of documents; 808-008-0090 - Establishes procedure if Hearing Officer Panel receives a request to hear a claim as a contested case or notice that the claim has been removed to court; 808-008-0100 - Clarifies who may require an on-site meeting before arbitration; 808-008-0110 - Clarifies requirement to provide a declaration of damages and an amended declaration of damages; 808-008-0120 - Clarifies that the Hearing Officer Panel will schedule arbitration, Sections (2), (3) and (4) moved to 808-008-0110; 808-008-0140 - Clarifies who determines when the arbitrator should be disqualified; 808-008-0160 - Clarifies who may substitute arbitrator; 808-008-0180 - Clarifies that legal entities may appear or be represented by an attorney in a hearing; 808-008-0220 - Clarifies postponement option; 808-008-0300 - Establishes that award is not made solely based on a party failing to appear at the hearing; 808-008-0400 - Clarifies the initial notice of arbitration is sent by the agency and when items are considered delivered or served; 808-008-0420 - Clarifies when the arbitration award may be issued, that all issues must be discussed in the arbitration award, that no award may be greater than the total alleged owed, when arbitrator can reduce the amount of an award, language regarding effective date of award and procedure if sum of items of damages does not equal the total amount requested; 808-008-0425 - Clarifies the procedures for filing a petition for reconsideration, for arbitrator to respond to petition for reconsideration, and for granting or denying reconsideration; 808-008-0430 - Clarifies form for filing a petition for reconsideration; 808-008-0440 - Clarifies when an arbitration award becomes effective for purposes of payment from a contractor's bond; 808-008-0460 - Clarifies the effect of a party filing exceptions with the circuit court on delivery of an unpaid award to a contractor's surety company; 808-008-0480 - Clarifies agency administrator or person designated by the agency administrator may interpret and apply rules.

808-009-0020 - Clarifies good cause to postpone the scheduled hearing; 808-009-0160 - Clarifies Hearing Officer proposed order may require respondent to perform specific tasks, when a proposed order does not become a final order and procedures if the sum of items of damages does not equal the total amount requested; 808-009-0200 - Clarifies when the hearing officer will return the claim to the agency after a settlement is reached at the hearing; 808-009-0400 - Amends days prior to Board meeting date written arguments to proposed order will be accepted; 808-009-0420 - Amends days prior to Board meeting date written arguments to proposed order will be accepted.

**Rules Coordinator:** Kim Gladwill-Rowley — (503) 986-6570

## 808-004-0440

### Contracts With Mediation or Arbitration Agreements

(1) If a claim is received that is based upon a contract that contains an agreement by the parties to mediate or arbitrate disputes arising out of the contract, the specific terms of the mediation or arbitration agreement supersede agency rules except as provided in this rule. Unless the contract requires mediation or arbitration by the agency, the agency will take the following action:

(a) The agency shall inform the claimant in a written notice that complies with the requirements of OAR 808-004-0260 that the agency will close the claim unless the agency receives within 60 days of the date of the notice:

(A) A written waiver of mediation or arbitration under the contract signed by the claimant and respondent; or

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(B) Evidence that the claimant or respondent initiated mediation or arbitration under the contract to resolve the same facts and issues raised in the claim.

(b) If the agency does not receive the written waiver or evidence of initiation of mediation or arbitration required under subsection (a) of this section from the claimant within 60 days of the date of the written notice described in subsection (a) of this section, the agency may close the claim under OAR 808-004-0260. The agency may not close the claim under this section if the respondent initiates mediation or arbitration under the contract prior to the expiration of the 60-day period for providing the waiver or evidence of initiation of mediation or arbitration.

(c) The agency will request that the respondent sign and submit to the agency a written waiver of mediation or arbitration under the contract. If the respondent does not waive mediation or arbitration under the contract, the agency will allow the respondent the time allowed under section 1 of this rule to commence mediation or arbitration. If the respondent fails to submit evidence to the agency that mediation or arbitration under the contract commenced within the time allowed under section 1 of this rule and if the claimant waived mediation or arbitration within the time allowed under section 1 of this rule, the agency will continue to process the claim.

(d) If mediation or arbitration under the contract is properly commenced under this rule, the agency may suspend processing the claim until the mediation or arbitration is complete.

(2) If a claim is based on a contract that contains an agreement by the parties to mediate and/or arbitrate disputes arising out of the contract, the claim shall be processed as required under section (1) of this rule, except that the respondent will be deemed to have commenced mediation and/or arbitration within the time allowed under section (1) of this rule if:

(a) The respondent commences mediation within the time allowed under section (1) of this rule; and

(b) If the claim is not resolved in mediation, the respondent submits to arbitration within 60 days of the completion of mediation, unless the parties to the claim mutually agree on a different schedule.

(3) Nothing in this rule prevents the parties from mutually agreeing to have the agency arbitrate the dispute, rather than process the claim as a contested case.

Stat. Auth.: ORS 183, ORS 670.310 & ORS 671.670

Stats. Implemented: ORS 671.703

Hist.: LCB 1-2000, f. & cert. ef. 2-1-00; LCB 4-2002, f. & cert. ef. 12-4-02; LCB 2-2003, f. 1-31-03, cert. ef. 2-1-03

## 808-004-0560

### Requirements for Proposed Default Order or Referral to Hearing Officer Panel, Hearing Request

(1) A proposed default order on a claim issued by the agency shall include a contested case notice that complies with OAR 137-003-0505.

(2) A referral to the Hearing Officer Panel for a hearing must comply with the following:

(a) OAR 808-004-0590, which regulates whether the claim will be arbitrated or heard as a contested case hearing.

(b) OAR 137-003-0515, which sets out requirements for the referrals including, but not limited to formal requirements.

(c) If the agency did not issue a contested case notice under OAR 137-003-0505 prior to the agency's referral of a claim to the Hearing Officer Panel the agency shall issue a contested case notice with the referral in all cases, including but not limited to referrals for arbitration.

(3) If the agency refers a claim to the Hearing Officer Panel for arbitration or a contested case hearing on the amount, if any, that the respondent owes the claimant, the following requirements apply:

(a) The referral to the Hearing Officer Panel must identify by date the declaration of damages on the Statement of Claim that limits the amount that the respondent may be ordered to pay the claimant and state the amount that the order is limited to under OAR 808-009-0160.

(b) The agency shall serve on the parties an explanation of

(A) The limitation on the amount a respondent may be ordered to pay a claimant under OAR 808-009-0160; and

(B) The procedure to file a new declaration of damages under OAR 808-009-0020 and 808-008-0110.

(4)(a) To be timely, a request for a hearing must be in writing and be received by the agency within 21 days from the date a proposed default order is mailed by the agency.

(b) An untimely request for a hearing must comply with the requirements of OAR 137-003-0528. The agency may require that the request be supported by an affidavit setting out facts that affirmatively show that the failure to make a timely request was beyond the reasonable control of the party.

(5) The agency may issue a proposed default order under OAR 137-003-0670(4) that will automatically become a final order 21 days after the date of issue without further notice if no party makes a timely request for a hearing.

(6)(a) Except as provided in subsection (b) of this section, a contested case notice issued under this rule must include a statement that the agency's file on the claim is designated as the record only for purposes of a default order issued under this rule and not for purposes of an order by default issued after a hearing under OAR 808-009-0140.

(b) If a proposed default order issued under this rule is an order to dismiss a claim, a contested case notice issued under this rule may include a statement that the agency's file on the claim is designated as the record for purposes of a default order issued under this rule and of an order by default issued after a hearing under OAR 808-009-0140.

Stat. Auth.: ORS 183.415, ORS 183, ORS 670.310 & ORS 671.670

Stats. Implemented: ORS 183.415

Hist.: LCB 1-1988, f. 1-26-88, cert. & ef. 2-1-88; LCB 2-1990, f. 7-27-90, cert. ef. 8-1-90; LCB 1-2000, f. & cert. ef. 2-1-00, Renumbered from 808-001-0025; LCB 2-2000(Temp), f. 5-31-00, cert. ef. 5-31-00 thru 11-26-00; LCB 3-2000, f. & cert. ef. 7-26-00; LCB 4-2002, f. & cert. ef. 12-4-02; LCB 2-2003, f. 1-31-03, cert. ef. 2-1-03

## 808-004-0590

### Referral of Claim to Arbitrator or Contested Case Hearing or Removal to Court

(1) If a hearing on a claim is conducted by the Hearing Officer Panel:

(a) The hearing shall be held as an arbitration under the rules in Division 8 of this chapter, unless a party requests that the hearing be held as a contested case hearing under subsection (b) of this section or files the dispute in court under section (2) of this rule.

(b) Except as provided in sections (2) and (6) of this rule, the hearing shall be held as a contested case hearing under OAR 137-003-0501 to OAR 137-003-0700 and the rules in division 9 of this chapter if:

(A) A party to the claim makes a timely written request under section (4) of this rule that the claim be heard as a contested case; or

(B) The agency requests under sections (4) and (6) of this rule that the claim be heard as a contested case.

(2) Subject to section (3) of this rule, a claim shall be decided in court if:

(a) The claimant files a complaint in court that alleges the elements of the claim in the complaint; or

(b) The respondent files a complaint in court for damages, a complaint for declaratory judgment, or another complaint that arises from the contract or work that is the subject of the claim and that allows the claimant to file a response alleging the elements of the claim.

(3) A copy of a complaint filed under section (2) of this rule must be received by the agency or the Hearing Officer Panel no later than 30 days after the Hearing Officer Panel sends the first notice that an arbitration or contested case hearing is scheduled. Failure to deliver the copy of the complaint within the time limitation in this rule constitutes waiver of the right to have the claim decided in court and consent to the hearing being held as binding arbitration or a contested case hearing under section (1) of this rule. Delivery shall be either to the agency or the Hearing Officer Panel as required by OAR 137-003-0520 or 808-010-0085, whichever is applicable.

(4) A request that a claim be heard as a contested case filed under section (1)(b) of this rule is subject to the following:

(a) The request by a party or the agency must be in writing and received by the agency or the Hearing Officer Panel no later than 30 days after the Hearing Officer Panel sends the first notice that an arbitration is scheduled. Delivery shall be either to the agency or the Hearing Officer Panel as required by OAR 137-003-0520 or 808-008-0085, whichever is applicable.

(b) A referral of a claim to the Hearing Officer Panel by the agency for a contested case hearing shall be deemed a request that the claim be heard as a contested case under section (1)(b) of this rule.

(c) A party or the agency may not withdraw a request made under this section without the written consent of the agency and all parties to the claim.

(5) Failure to deliver a timely written request for a contested case hearing under sections (1)(b) and (4) of this rule or a copy of a filed complaint under sections (2) and (3) of this rule constitutes consent to the hearing on the claim being held as binding arbitration under section (1)(a) of this rule.

(6) The agency may request under section (1)(b)(B) of this rule that a hearing be held as a contested case hearing if:

(a) The agency's jurisdiction to decide the claim under ORS 671.690 to 671.710 is at issue; or



# ADMINISTRATIVE RULES

(b) The agency determines that the agency has an interest in interpreting the rules and statutes that apply to the claim.

(7) The amendment to this rule that became effective on or after March 1, 2003 apply to a claim that is referred to the Hearing Officer Panel after March 1, 2003.

Stat. Auth.: ORS 670.310, ORS 671.703  
Stats. Implemented: ORS 671.703  
Hist. LCB 2-2003, f. 1-31-03, cert. ef. 2-1-03

## 808-008-0020

### Applicability of Rules

(1) The rules in this division shall apply when:

(a) A claim is referred to the Hearing Officer Panel for arbitration under OAR 808-004-0590;

(b) The parties to the arbitration agree that the Landscape Contractors Board may arbitrate a landscape dispute and the agency accepts the dispute for arbitration under ORS 671.703;

(c) A timely claim is filed relative to work performed under a contract which contains an arbitration clause specifying that the Landscape Contractors Board shall arbitrate disputes arising from the contract and the agency accepts the dispute for arbitration under ORS 671.703; or

(d) Arbitration by the Landscape Contractors Board is ordered by a court in accordance with ORS 36.310.

(2) The amendments to the rules in division 8 of this chapter that became effective on or after March 1, 2003 apply only to disputes referred to the Hearing Officer Panel for arbitration:

(a) On or after March 1, 2003; and

(b) Before March 1, 2003, if each party to the dispute files a written consent to the application of these amendments to the arbitration.

Stat. Auth.: ORS 183.310 - ORS 183.500, ORS 670.310 & ORS 671.670  
Stats. Implemented: ORS 183 & ORS 671.703(3)  
Hist.: LCB 1-1993, f. & cert. ef. 1-19-93; LCB 1-2000, f. & cert. ef. 2-1-00; Renumbered from 808-004-0100; LCB 2-2003, f. 1-31-03, cert. ef. 2-1-03

## 808-008-0030

### Incorporation of Hearing Officer Panel Rules

(1) The following rules related to the contested case hearings conducted by hearings officers assigned to the Hearing Officer Panel are incorporated into these rules by this reference and apply to arbitrations conducted under the rules in this division:

- (a) OAR 137-003-0580 (Summary judgment);
- (b) OAR 137-003-0590 (Qualified interpreters); and
- (c) OAR 137-003-0605 (Telephone testimony).

(2) In interpreting rules incorporated under section (1) of this rule:

(a) "Hearing" in the incorporated rule shall be given the same meaning as "arbitration" in these rules; and

(b) "Hearing officer" in the incorporated rule shall be given the same meaning as "arbitrator" in these rules.

Stat. Auth.: ORS 670.310, & ORS 671.670  
Stats. Implemented: ORS 183, ORS 671  
Hist.: LCB 2-2003, f. 1-31-03, cert. ef. 2-1-03

## 808-008-0040

### Arbitration of Disputes Outside Jurisdictional Requirements

A dispute involving a landscaping contractor that does not meet timeliness filing or other jurisdictional requirements under this chapter or ORS 671.690 to 671.710 may be arbitrated by the agency only if both parties agree in writing to submit the dispute to the Landscape Contractors Board for binding arbitration. At the discretion of the agency, the agency may refuse to accept a dispute submitted for binding arbitration under this rule.

Stat. Auth.: ORS 183.310 - ORS 183.500, ORS 670.310 & ORS 671.670  
Stats. Implemented: ORS 183 & ORS 671.703(3)  
Hist.: LCB 1-1993, f. & cert. ef. 1-19-93; LCB 1-2000, f. & cert. ef. 2-1-00; Renumbered from 808-004-0100; LCB 2-2003, f. 1-31-03, cert. ef. 2-1-03

## 808-008-0060

### Appointment of Arbitrator

Appointment of arbitrator shall be as provided in ORS 671.703 and shall be subject to a request for a different hearing officer to act as arbitrator under section 11, chapter 849, Oregon Laws 1999 and OAR 471-060-0005.

Stat. Auth.: ORS 670.310 & ORS 671.670  
Stats. Implemented: ORS 671.703  
Hist.: LCB 1-1993, f. & cert. ef. 1-19-93; LCB 1-2000, f. & cert. ef. 2-1-00; Renumbered from 808-004-0100; LCB 2-2000(Temp), f. 5-31-00, cert. ef. 5-31-00 thru 11-26-00; LCB 3-2000, f. & cert. ef. 7-26-00; LCB 2-2003, f. 1-31-03, cert. ef. 2-1-03

## 808-008-0080

### Delegation of Duties

If the agency refers a dispute to the Hearing Officer Panel for arbitration under these rules, the duties of the agency under these rules may be carried out through representatives as directed by the Chief Hearing Officer or a person designated by the Chief Hearing Officer, except that the Chief Hearing Officer or a person designated by the Chief Hearing Officer may not perform the duties of the agency under OAR 808-008-0040, 808-008-0100 or 808-008-0440.

Stat. Auth.: ORS 670.310 & ORS 671.670  
Stats. Implemented: ORS 671.703  
Hist.: LCB 1-1993, f. & cert. ef. 1-19-93; LCB 1-2000, f. & cert. ef. 2-1-00; Renumbered from 808-004-0100; LCB 2-2000(Temp), f. 5-31-00, cert. ef. 5-31-00 thru 11-26-00; LCB 3-2000, f. & cert. ef. 7-26-00; LCB 2-2003, f. 1-31-03, cert. ef. 2-1-03

## 808-008-0085

### Filing and Service of Pleadings and Other Documents

(1) Unless otherwise provided by these rules, documents, correspondence, motions, pleadings, rulings and orders filed in an arbitration under these rules shall be filed as follows:

(a) With the agency before the claim is referred by the agency to the Hearing Officer Panel.

(b) With the Hearing Officer Panel or assigned arbitrator after the agency refers the claim to the Hearing Officer Panel and before the arbitrator issues an award.

(c) With the agency after the arbitrator issues an award.

(2) After the agency refers the claim to the Hearing Officer Panel and before the arbitrator issues an award, a person who files a document such as a correspondence, motion, pleading, ruling or order with the Hearing Officer Panel or arbitrator in an arbitration shall serve copies of the document filed on the parties to the claim or their counsel if the parties are represented.

(3) Service shall be by hand delivery, by facsimile or by mail.

(4) A party shall notify the Hearing Officer Panel or arbitrator, the agency and other parties to the claim of any change in the party's address or withdrawal or change of the party's legal counsel.

Stat. Auth.: ORS 183.310 - 183.500, ORS 670.310 & ORS 671.670  
Stats. Implemented: ORS 183, 671  
Hist.: LCB 2-2003, f. 1-31-03, cert. ef. 2-1-03

## 808-008-0090

### Request for Contested Case Hearing or Removal to Court

(1) If the Hearing Officer Panel receives a request under OAR 808-004-0590 to conduct the hearing on a claim as a contested case, the Panel shall retain jurisdiction over the claim. The Panel shall hold the contested case hearing at the time scheduled for the arbitration unless good cause exists to reschedule the hearing date and time.

(2) If the Hearing Officer Panel receives notice under OAR 808-004-0590 that a party to the claim filed a complaint under that rule that requires that the claim be decided in court, the Panel shall return the claim to the agency.

Stat. Auth.: ORS 183.310 - 183.500, ORS 670.310, & ORS 671.670  
Stats. Implemented: ORS 183 & ORS 671  
Hist.: LCB 2-2003, f. 1-31-03, cert. ef. 2-1-03

## 808-008-0100

### On-Site Investigation, Settlement Discussions

(1) At the discretion of the agency the arbitration hearing may be preceded by an on-site investigation or settlement discussions.

(2) At the discretion of the arbitrator, the arbitration may be preceded by settlement discussions.

(3) The arbitrator may request that the agency conduct an on-site investigation prior to arbitration. The agency may grant or deny the request at its discretion.

Stat. Auth.: ORS 183.310 - ORS 183.500, ORS 670.310 & ORS 671.670  
Stats. Implemented: ORS 183 & ORS 671.703(3)  
Hist.: LCB 1-1993, f. & cert. ef. 1-19-93; LCB 1-2000, f. & cert. ef. 2-1-00; Renumbered from 808-004-0100; LCB 2-2003, f. 1-31-03, cert. ef. 2-1-03

## 808-008-0110

### Declaration of Damages and Amendment to Declaration of Damages

(1) If the party asserting the claim has not previously filed a Statement of Claim or declaration under OAR 808-004-0340, 080-004-0540 or 808-004-0550, the party shall file with the agency on a form provided by the agency a declaration of damages stating the amount the party alleges any other party owes the party, together with any supporting documents required by the agency.

(2) If the parties to an arbitration have agreed in writing that the arbitration will bind all of them and if any other party to the proceeding asserts

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a counter claim, the counterclaiming party shall file with the agency on a form provided by the agency a declaration of damages stating the amount that the counterclaiming party alleges any other party owes to the counterclaiming party, together with any supporting documents required by the agency.

(3) Notwithstanding section (2) of this rule, a party is not required to file the declaration stating the amount that the party alleges any other party owes the party, if the party alleges only an offset.

(4) A party may amend the amount the party alleges another party owes the party by filing an amended declaration of damages. An amended declaration of damages must be delivered to the arbitrator as required by OAR 808-008-0085. An amended declaration of damages filed under this section must be received by the arbitrator no later than 14 days prior to the scheduled date of an arbitration on the matter.

(5) An amended declaration of damages filed under section (4) of this rule must be on a form provided by the agency or on a form that substantially duplicates the form provided by the agency. The amended declaration of damages must state the amount alleged to be owed to the party filing the amended declaration by the other party. If the subject of the arbitration is a claim, the amount alleged to be owed must be limited to items of complaint in the Statement of Claim. The amended declaration of damages must be signed by the party filing the amended declaration.

(6) An amended declaration of damages making a significant change in the amount a party alleges that another party owes the party may be good cause to postpone the scheduled arbitration under OAR 808-008-0220 if the time left before the arbitration is insufficient to prepare for arbitration on the amended amount.

Stat. Auth.: ORS 183.310 - 183.500, ORS 670.310 & ORS 671.670  
Stats. Implemented: ORS 183 & ORS 671.703(3)  
Hist.: LCB 1-2000, f. & cert. ef. 2-1-00  
Hist.: LCB 1-1993, f. & cert. ef. 1-19-93; LCB 1-2000, f. & cert. ef. 2-1-00; Renumbered from 808-004-0100; LCB 2-2003, f. 1-31-03, cert. ef. 2-1-03

### 808-008-0120

#### Time and Place of Arbitration Hearing; Notice

The Hearing Officer Panel shall fix a time and place for the arbitration hearing. The Hearing Officer Panel will mail notice of the time and place of the arbitration at least 21 days prior to the arbitration, unless otherwise agreed to by the parties.

Stat. Auth.: ORS 183.310 - ORS 183.500, ORS 670.310 & ORS 671.670  
Stats. Implemented: ORS 183 & ORS 671.703(3)  
Hist.: LCB 1-1993, f. & cert. ef. 1-19-93; LCB 1-2000, f. & cert. ef. 2-1-00; Renumbered from 808-004-0100; LCB 2-2003, f. 1-31-03, cert. ef. 2-1-03

### 808-008-0140

#### Qualifications of Arbitrator

No person shall serve as arbitrator in any arbitration if that person has a financial or personal interest in the result of the arbitration. Upon objection of a party to the continued service of an arbitrator, the agency administrator or a person designated by the agency administrator shall determine whether the arbitrator should be disqualified. This decision shall be final.

Stat. Auth.: ORS 183.310 - ORS 183.500, ORS 670.310 & ORS 671.670  
Stats. Implemented: ORS 183 & ORS 671.703(3)  
Hist.: LCB 1-1993, f. & cert. ef. 1-19-93; LCB 1-2000, f. & cert. ef. 2-1-00; Renumbered from 808-004-0100; LCB 2-2003, f. 1-31-03, cert. ef. 2-1-03

### 808-008-0160

#### Substitution of Arbitrator

(1) The agency administrator or a person designated by the agency administrator may substitute another arbitrator at any time before the arbitration hearing begins.

(2) If the agency refers a dispute to the Hearing Officer Panel for arbitration under these rules, the Chief Hearing Officer or a person designated by the Chief Hearing Officer may substitute another arbitrator at any time before the arbitration hearing begins.

Stat. Auth.: ORS 670.310 & ORS 671.670  
Stats. Implemented: ORS 671.703  
Hist.: LCB 1-1993, f. & cert. ef. 1-19-93; LCB 1-2000, f. & cert. ef. 2-1-00; Renumbered from 808-004-0100; LCB 2-2000(Temp), f. 5-31-00, cert. ef. 5-31-00 thru 11-26-00; LCB 3-2000, f. & cert. ef. 7-26-00; LCB 2-2003, f. 1-31-03, cert. ef. 2-1-03

### 808-008-0180

#### Representation by Counsel

Any party may be represented at the hearing by an attorney. A corporation, partnership or other business entity may appear or be represented as provided by ORS 183.457.

Stat. Auth.: ORS 183.310 - ORS 183.500, ORS 670.310 & ORS 671.670  
Stats. Implemented: ORS 183 & ORS 671.703(3)  
Hist.: LCB 1-1993, f. & cert. ef. 1-19-93; LCB 1-2000, f. & cert. ef. 2-1-00; Renumbered from 808-004-0100; LCB 2-2003, f. 1-31-03, cert. ef. 2-1-03

### 808-008-0220

#### Postponement, Recess and Continuance

An arbitration may postpone or recess and later continued by the arbitrator. A party requesting a postponement or continuance must show good cause. The arbitrator will determine whether to grant a postponement or continuance. The arbitrator's determination shall be final.

Stat. Auth.: ORS 183.310 - ORS 183.500, ORS 670.310 & ORS 671.670  
Stats. Implemented: ORS 183 & ORS 671.703(3)  
Hist.: LCB 1-1993, f. & cert. ef. 1-19-93; LCB 1-2000, f. & cert. ef. 2-1-00; Renumbered from 808-004-0100; LCB 2-2003, f. 1-31-03, cert. ef. 2-1-03

### 808-008-0300

#### Arbitration in the Absence of a Party

(1) Except as provided in section (2) of this rule, an arbitration may proceed in the absence of a party who, after due notice, fails to appear. An award shall not be made solely on the default of a party. The arbitrator may require the attending party to submit such evidence as the arbitrator may require for the making of an award.

(2) Notwithstanding section (1) of this rule, an arbitrator may dismiss a claim without an evidentiary hearing if the party making the claim fails to appear after due notice and without good cause.

Stat. Auth.: ORS 183.310 - ORS 183.500, ORS 670.310 & ORS 671.670  
Stats. Implemented: ORS 183 & ORS 671.703(3)  
Hist.: LCB 1-1993, f. & cert. ef. 1-19-93; LCB 1-2000, f. & cert. ef. 2-1-00; Renumbered from 808-004-0100; LCB 2-2003, f. 1-31-03, cert. ef. 2-1-03

### 808-008-0400

#### Service of Notices and Other

(1) Initial notice of an arbitration hearing by the agency shall be considered delivered or served on a party when deposited in the United States mail and sent registered certified or post office receipt secured addressed to the last known address of record of the party.

(2) Any communication other than hearing notices, including the arbitrator's award, sent by the agency or the Hearing Officer Panel shall be considered delivered or served on a party when deposited in regular mail addressed to the last known address of record of the party.

Stat. Auth.: ORS 183.310 - ORS 183.500, ORS 670.310 & ORS 671.670  
Stats. Implemented: ORS 183 & ORS 671.703(3)  
Hist.: LCB 1-1993, f. & cert. ef. 1-19-93; LCB 1-2000, f. & cert. ef. 2-1-00; Renumbered from 808-004-0100; LCB 2-2003, f. 1-31-03, cert. ef. 2-1-03

### 808-008-0420

#### Time, Form, and Scope of Award; Limitation on Award

(1) The award shall be rendered promptly by the arbitrator and, unless otherwise agreed by the parties, not later than thirty days from the date of the closing of the arbitration hearing.

(2) The agency may extend the time to issue an award under section (1) of this rule.

(3) The award shall be in writing and shall be signed by the arbitrator. The award shall fully dispose of all issues presented to the arbitrator that are required to resolve the dispute. The arbitrator may summarily dismiss issues that raise no substantive factual or legal questions. The award shall contain sufficient rulings on issues and explanations of the reasoning of the arbitrator so that a party may reasonably understand the basis of the decision and evaluate the award to determine if filing a petition for reconsideration would be appropriate.

(4) An arbitrator may not issue an award in an amount greater than the total amount a party alleges another party owes the party in:

(a) The most recent declaration of damages or amended declaration of damages filed by the party under OAR 808-004-0540, 808-004-0550 or 808-008-0110; or

(b) The Statement of Claim filed by the party under OAR 808-004-0340, if no declaration of damages was filed.

(5) When a claimant makes a claim against a respondent's surety bond required under ORS 671.690 and the parties to an arbitration have not agreed that the arbitrator may award damages against the claimant, only the claimant may assert damages. The arbitrator may award damages to claimant, but not to respondent. Respondent may assert amounts owed to it as an offset under section (6) of this rule.

(6) An arbitrator shall consider any amounts owed by a party claiming damages to another party under the terms of the contract at issue in the arbitration and reduce the amount of an award of damages to the party claiming the damages by the amount owed as an offset to the damages, regardless of whether the other party asserting the offset filed a declaration of damages. If the party asserting the offset did not file a declaration of damages, the amount of the offset may not exceed the amount of the award.

## ADMINISTRATIVE RULES

(7) Except as provided in OAR 808-008-0440 and 808-008-0460, an arbitration award is effective as an order to pay under OAR 808-004-0600 or may be delivered to the clerk of a circuit court under ORS 36.350;

(a) Only after the 21st day after service on the parties; and

(b) Only if no party files a timely petition for reconsideration under OAR 808-008-0425.

(8) Except as provided in section (4) of this rule, the arbitrator may dismiss a claim or may grant to any party any remedy or relief, including equitable relief, that the arbitrator deems just and equitable, consistent with the parties' contract or their agreement to arbitrate.

(9) If a limitation on damages under section (4) is based on a declaration of damages or Statement of Claim that includes an itemization of claim items and the total of those items is different from the total damages claimant alleges is due from the respondent, the limitation on damages shall be based on the larger of the two totals.

Stat. Auth.: ORS 183.310 - ORS 183.500, ORS 670.310 & ORS 671.670

Stats. Implemented: ORS 183 & ORS 671.703(3)

Hist.: LCB 1-1993, f. & cert. ef. 1-19-93; LCB 1-2000, f. & cert. ef. 2-1-00; Renumbered from 808-004-0100; LCB 2-2003, f. 1-31-03, cert. ef. 2-1-03

### 808-008-0425

#### Petition for Reconsideration

(1) A party to an arbitration may petition the arbitrator to reconsider an award. A party may file only one petition for reconsideration of an award.

(2) The petition for reconsideration must be in writing and substantially conform to the requirements of OAR 808-008-0430.

(3) To be considered, a petition for reconsideration must be received by the arbitrator within 21 days of mailing the proposed award.

(4) If the arbitrator receives a timely petition for reconsideration, the arbitrator shall mail copies of the petition to the other parties to the arbitration and the agency. A party may respond to the petition for reconsideration. To be considered, a response to the petition must be received by the arbitrator within 14 days of the date that the arbitrator mailed a copy of the petition for reconsideration to the party.

(5) The arbitrator may waive or extend the time limitations in sections (3) and (4) of this rule on a showing of good cause by the person requesting the waiver or extension.

(6) Within 30 days after the date allowed for receiving a response to the petition, the arbitrator shall issue and serve on the parties and the agency a written decision to grant the petition and reconsider the award or deny the petition and refuse reconsideration. The following apply to a decision under this section:

(a) The decision may include an award on reconsideration under section (8) of this rule.

(b) The arbitrator may deny a petition for reconsideration if the petition is untimely, defective in form or raises no substantial grounds for reconsideration.

(7) The agency may extend the time to issue a decision on a petition for reconsideration under section (6) of this rule.

(8) If the arbitrator grants reconsideration, the arbitrator shall consider the petition and any response received from a non-petitioning party, except that the arbitrator may not consider evidence that was not introduced at the arbitration. The arbitrator shall issue an award on reconsideration that addresses each substantial issue raised in the petition. The award on reconsideration may summarily dismiss issues as appropriate. The arbitrator may:

(a) Affirm the original award and incorporate it in the award on reconsideration by reference;

(b) Issue a new award on reconsideration; or

(c) Conduct additional arbitration and issue an award under subsection (a) or (b) of this section as the arbitrator deems appropriate.

(9) If an arbitrator issues denial of a request for reconsideration under section (6) of this rule or an award on reconsideration under section (8) of this rule, a party to the arbitration may not file a further petition for reconsideration on the denial or the award on reconsideration.

(10) If the arbitrator who prepared the award is not available to consider a petition for reconsideration on the award, the Chief Hearing Officer or a person designated by the Chief Hearing Officer may assign another arbitrator to review the tapes and exhibits of the arbitration, the award, the petition and any response and render a decision on the petition. If the new arbitrator is unable to render a decision on the petition, the petition shall be deemed denied.

Stat. Auth.: ORS 183.310 - 183.500, ORS 670.310

Stats. Implemented: ORS 183

Hist.: LCB 2-2003, f. 1-31-03, cert. ef. 2-1-03

### 808-008-0430

#### Form of Petition for Reconsideration

(1) A petition for reconsideration filed by a party to an arbitration under OAR 808-008-0425 shall conform to the following requirements:

(a) The petition shall be typed or legibly printed on 8-1/2 by 11" sheets of paper.

(b) The first page of the petition shall be titled "Petition for Reconsideration of Arbitration Award" and shall show the names of the parties to the arbitration and the party submitting the petition at the top of the page. If the petition is filed in a claim, the first page shall show the claim number.

(c) Each page of the petition shall be numbered at the bottom of the page.

(d) For each finding of fact in the award that the party alleges is not supported by the evidence introduced at the arbitration, the following information shall be included in the petition:

(A) The pages on which the finding of fact appear and the number, if any of the finding of fact;

(B) The text of the finding of fact; and

(C) An explanation or argument supporting the party's contention that the finding of fact was not supported by the evidence.

(e) For each conclusion or explanation in the award that the party alleges is not supported by the findings of fact, is based on an erroneous interpretation or application of a statute or administrative rule or is contrary to an appellate court decision the following information shall be included in the petition:

(A) The pages on which the conclusion or explanation and the opinion that supports it appear;

(B) The text of the conclusion or explanation; and

(C) An explanation or argument supporting the party's contention that the conclusion or explanation is based on an erroneous interpretation or application of a statute or administrative rule or is contrary to an appellate court decision.

(f) For each procedural error committed by the arbitrator that the party contends directly affected the decision in the award in a manner prejudicial to the party, the following information shall be included in the petition:

(A) A description of the procedural error; and

(B) An explanation or argument supporting the party's contention that the procedural error affected the decision and was prejudicial to the party filing the motion.

(g) The party submitting the petition shall sign and date the petition. The date shall be the date the petition is served on the arbitrator and on the other parties to the arbitration.

(2) The arbitrator may refuse to consider a petition that does not substantially meet the requirements of section (1) of this rule.

Stat. Auth.: ORS 183.310 - 183.500, ORS 670.310

Stats. Implemented: ORS 183

Hist.: LCB 2-2003, f. 1-31-03, cert. ef. 2-1-03

### 808-008-0440

#### Payments from Licensee's Bond

(1) As used in this rule, award means an award that becomes effective;

(a) Under OAR 808-008-0420(7);

(b) After a denial of a request for reconsideration is issued under OAR 808-008-0425(6); or

(c) After an award on reconsideration is issued under OAR 808-008-0425(8).

(2) If an award requires payment by a licensee and the licensee fails to pay the award, the award is payable from the surety bond or deposit of the business to the extent payment is authorized under ORS 671.710. Payments from the bond or deposit shall be limited to sums for arbitrated claims and shall be subject to the laws in ORS chapter 671 and rules in division 4 of this chapter.

(3) An award may be submitted to a surety company for payment under OAR 808-004-0600 if no party delivers a copy of exceptions to the award filed with the circuit court under ORS 36.350 within 30 days of the date the award becomes effective.

Stat. Auth.: ORS 183.310 - ORS 183.500, ORS 670.310 & ORS 671.670

Stats. Implemented: ORS 183 & ORS 671.703(3)

Hist.: LCB 1-2000, f. & cert. ef. 2-1-00; Renumbered from 808-004-0100; LCB 2-2003, f. 1-31-03, cert. ef. 2-1-03

### 808-008-0460

#### Filing with Court; Exceptions

(1) If a timely petition for reconsideration is filed, a party may not file the award with the court under ORS 36.350 until:

# ADMINISTRATIVE RULES

(a) The arbitrator denies the petition under OAR 808-008-0425(6); or  
(b) The arbitrator issues an award on reconsideration under OAR 808-008-0425(8).

(2) After an award becomes effective under OAR 808-008-0420(7), a denial of a request for reconsideration is issued under OAR 808-008-0425(6) or an award on reconsideration is issued under OAR 808-008-0425(8), a party to an arbitration may file the award with the clerk of the circuit court selected to render judgment on the award under ORS 36.350. If a timely petition for reconsideration was filed, the decision on the petition shall be filed with the award under this section.

(3) By proceeding with arbitration under these rules, parties shall be deemed to have consented that a judgment upon the arbitration award may be entered in any federal or state court having jurisdiction thereof.

(4) A party against whom an award is made may file written exceptions to the award with the circuit court under ORS 36.355, for any of the causes listed in ORS 36.355(1). The party filing the exceptions must deliver a copy of the exceptions to the agency within 30 calendar days from the date of the award.

(5) If an award is made on a claim and the claimant does not file the award with the circuit court, the respondent must file the award with circuit court prior to respondent filing exceptions to the award under ORS 36.355.

Stat. Auth.: ORS 183.310 - ORS 183.500, ORS 670.310 & ORS 671.670

Stats. Implemented: ORS 183 & ORS 671.703(3)

Hist.: LCB 1-1993, f. & cert. ef. 1-19-93; LCB 1-2000, f. & cert. ef. 2-1-00; Renumbered from 808-004-0100; LCB 2-2003, f. 1-31-03, cert. ef. 2-1-03

## 808-008-0480

### Interpretation and Application of Rules

The arbitrator shall interpret and apply these rules insofar as they relate to the arbitrator's powers. All other rules shall be interpreted and applied by the agency administrator or a person designated by the agency administrator.

Stat. Auth.: ORS 183.310 - ORS 183.500, ORS 670.310 & ORS 671.670

Stats. Implemented: ORS 183 & ORS 671.703(3)

Hist.: LCB 1-1993, f. & cert. ef. 1-19-93; LCB 1-2000, f. & cert. ef. 2-1-00; Renumbered from 808-004-0100; LCB 2-2003, f. 1-31-03, cert. ef. 2-1-03

## 808-009-0020

### Amendment to Declaration of Damages

(1) If the agency refers a claim to the Hearing Officer Panel for a hearing on the amount that the respondent owes the claimant, the claimant may amend the amount the claimant alleges the respondent owes the claimant by filing a new declaration of damages form. An amended declaration of damages must be filed under OAR 137-003-0520 and 808-009-0085 with the hearing officer or the Hearing Officer Panel if no hearing officer has been assigned to hear the claim. An amended declaration of damages filed under this section must be received by the hearing officer or the Hearing Officer Panel no later than 14 days prior to the scheduled date of a hearing on the matter.

(2) An amended declaration of damages filed under section (1) of this rule must be on a form provided by the agency or on a form that substantially conforms to the form provided by the agency. The amended declaration of damage must state the amount alleged to be owed by the respondent, limited to items of complaint in the Statement of Claim. The new declaration of damages must be signed by the claimant.

(3) An amended declaration of damages making a significant change in the amount the claimant alleges that the respondent owes the claimant may be good cause to postpone the scheduled hearing under OAR 137-003-0525 if the time left before the hearing is insufficient to prepare for a hearing on the amended amount.

Stat. Auth.: ORS 183, ORS 670.310 & ORS 671.670

Stats. Implemented: ORS 183.415 & ORS 671

Hist.: LC 3, f. & cert. ef. 2-7-77; LC 1-1981, f. & cert. ef. 10-8-81; LC 1-1984, f. & cert. ef. 7-17-84; Renumbered from 808-010-0045; LCB 1-1988, f. 1-26-88, cert. ef. 2-1-88; LCB 3-1991(Temp), f. & cert. ef. 12-3-91; LCB 1-1992, f.; LSCB 2-1995, f. 8-8-95, cert. ef. 8-15-95; LCB 1-2000, f. & cert. ef. 2-1-00; Renumbered from 808-004-0030; LCB 2-2000(Temp), f. 5-31-00, cert. ef. 5-31-00 thru 11-26-00; LCB 2-2003, f. 1-31-03, cert. ef. 2-1-03

## 808-009-0160

### Order Based on Hearing, Limitation on Order

(1) "Order" as used in sections (2) to (5) of this rule means a proposed and final order a hearing officer is authorized to issue under section (6) of this rule.

(2) If a claim is referred for a hearing to determine the amount, if any, that a respondent owes a claimant, the hearing officer may not issue an order in an amount greater than the amount claimant alleges respondent owes claimant in:

(a) The most recent declaration of damages filed under OAR 808-004-0540 or 808-009-0020; or

(b) The Statement of Claim filed under OAR 808-004-0340, if no declaration of damages was filed.

(3) If a claim is referred for a hearing to determine whether any portion of a judgment is within the jurisdiction of the agency, the hearing officer may not issue an order requiring payment of an amount greater than the amount of the judgment.

(4) An order issued by a hearing officer may direct specific performance on the part of the respondent, order the respondent to pay monetary damages to the claimant or dismiss the claim.

(5) A hearing officer shall consider any amounts due to the respondent from the claimant under the terms of the contract and reduce the amount of an order by that amount.

(6) Except as provided in OAR 808-009-0200, a hearing officer shall issue a proposed and final order under 137-003-0645(4) that shall automatically become a final order 21 days after the date of issue without further notice unless;

(a) A party files timely exceptions under OAR 808-009-0400;

(b) The agency requests that the hearing officer hold a further hearing or revise or amend the proposed order under OAR 137-003-0655(1);

(c) The agency issues an amended proposed order under OAR 137-003-0655(3); or

(d) The agency notifies the parties and the hearing officer that the agency will issue the final order.

(7) If a limitation on damages under section (2) is based on a declaration of damages or Statement of claim that includes an itemization of claim items and the total of those items is different from the total damages claimant alleges is due from the respondent, the limitation on damages shall be based on the larger of the two totals.

Stat. Auth.: ORS 670.310 & ORS 671.670

Stats. Implemented: ORS 183.415, ORS 671.703

Hist.: LC 3, f. & cert. ef. 2-7-77; LC 1-1981, f. & cert. ef. 10-8-81; LC 1-1984, f. & cert. ef. 7-17-84; Renumbered from 808-010-0045; LCB 1-1988, f. 1-26-88, cert. ef. 2-1-88; LCB 3-1991(Temp), f. & cert. ef. 12-3-91; LCB 1-1992, f.; LSCB 2-1995, f. 8-8-95, cert. ef. 8-15-95; LCB 1-2000, f. & cert. ef. 2-1-00; Renumbered from 808-004-0030; LCB 2-2000(Temp), f. 5-31-00, cert. ef. 5-31-00 thru 11-26-00; LCB 3-2000, f. & cert. ef. 7-26-00; LCB 4-2002, f. & cert. ef. 12-4-02; LCB 2-2003, f. 1-31-03, cert. ef. 2-1-03

## 808-009-0200

### Final Order without a Proposed Order

If the parties voluntarily agree to a settlement of a claim in accordance with ORS 183.415(5) and the settlement agreement includes an agreement for future performance, the hearing officer shall issue an intermediate order containing any necessary findings of fact and return the claim to the agency for further processing and issuance of the final order.

Stat. Auth.: ORS 670.310, & ORS 671.670

Stats. Implemented: ORS 183 & ORS 671

Hist.: LCB 2-2003, f. 1-31-03, cert. ef. 2-1-03

## 808-009-0400

### Exceptions to Agency Orders, Claims

(1) After a contested case claim hearing, claimant or licensee may file written exceptions if they believe that the hearing officer has made a procedural error or that the proposed order is not supported by evidence received at the hearing.

(2) To be considered:

(a) The first exceptions must be received by the agency within 21 days of the date of mailing the proposed order.

(b) If one party files timely exceptions, exceptions by the opposing party, if that party chooses to file them, must be received by the agency within 14 days after the date the agency mails a copy of the first exceptions to the opposing party.

(3)(a) If written exceptions are not timely received, the order will become final under OAR 808-009-0160.

(b) If exceptions are timely received, the matter will be set for consideration by the Board at a regularly scheduled Board meeting for which agenda space is available.

(4) The exceptions must substantially conform to the requirements set forth in OAR 808-009-0430.

(5) Copies of exceptions filed will be mailed to the other side who may respond to the exceptions. Response and any written argument for or against the proposed order will be accepted up to 15 days prior to the Board meeting date if the original exceptions were timely received.

(6)(a) If a party filing exceptions intends to rely on oral testimony given at the hearing, the party must include in the exceptions:

(A) A notice of the intention to rely on oral testimony, and

(B) A request for a copy of the tape of the hearing with the fee required under OAR 808-001-0020.

# ADMINISTRATIVE RULES

(b) After the agency receives a party's exceptions containing a notice of an intention to rely on oral testimony under subsection (a) of this section, the agency must send a copy of the tape of the hearing to the other party to the claim at no charge unless that party also filed exceptions that included a notice of intention to rely on oral testimony.

(c) The party that filed the notice of intention to rely on oral testimony must prepare a typed transcript of the portions of the hearing testimony that the party contends support the exceptions filed. The party must deliver the transcript to the agency 21 days after the date of mailing of the tape of the hearing by the agency to the party.

(d) The agency must mail a copy of the transcript to the other party to the claim.

(7)(a) The party opposing the exceptions may prepare a typed transcript of the portions of the hearing testimony that the party contends support opposition to the exceptions. The opposing party must deliver the transcript to the agency 21 days after the date the agency mailed the transcript under subsection (6)(d) of this rule.

(b) The agency must mail a copy of the transcript prepared under this section to the party that filed the exceptions.

(8) The Board may refuse to consider evidence of oral testimony submitted by a party if the party fails to comply with the requirements of sections (6) and (7) of this rule.

(9) Claimant and respondent may appear before the members of the Board to argue for or against the proposed order.

(10) The agency may waive or extend the time limitations in sections (5) through (7) of this rule on its own motion or on a showing of good cause by the person requesting the waiver.

Stat. Auth.: ORS 183, ORS 670.310 & ORS 671.670

Stats. Implemented: ORS 183.413 - ORS 183.470

Hist.: LCB 1-1988, f. 1-26-88, cert. ef. 2-1-88; LCB 2-1990, f. 7-27-90, cert. ef. 8-1-90;

LCB 1-2000, f. & cert. ef. 2-1-00, Renumbered from 808-001-0025; LCB 4-2002, f. & cert. ef. 12-4-02; LCB 2-2003, f. 1-31-03, cert. ef. 2-1-03

## 808-009-0420

### Exceptions to Agency Orders, Enforcement

(1) After a contested case enforcement hearing, the respondent may file written exceptions if the respondent does not believe the proposed order is supported by the evidence received at the hearing. To be considered, exceptions must be received by the agency within 21 days of the date of mailing of the proposed order. If written exceptions are not timely received, the agency may issue a final order as proposed.

(2) Exceptions must substantially conform to the requirements of OAR 808-009-0430.

(3) If exceptions are timely received, the matter will be set for consideration by the Board at a regular meeting of the Board. Written argument in opposition to the proposed order will be accepted up to 15 days before the Board meeting date if the original exceptions were timely received. The Board may waive the 15-day requirement.

(4) The respondent may appear before the Board to argue against the proposed order, if the agency receives written notice of intent to do so before the Board meeting date. Oral argument will be permitted only if the original exceptions were timely received.

Stat. Auth.: ORS 183, ORS 670.310 & ORS 671.670

Stats. Implemented: ORS 183.413 - ORS 183.470

Hist.: LCB 1-1988, f. 1-26-88, cert. ef. 2-1-88; LCB 2-1990, f. 7-27-90, cert. ef. 8-1-90;

LCSB 2-1995, f. 8-8-95, cert. ef. 8-15-95; LCB 1-2000, f. & cert. ef. 2-1-00, Renumbered from 808-005-0010; LCB 4-2002, f. & cert. ef. 12-4-02; LCB 2-2003, f. 1-31-03, cert. ef. 2-1-03

## Oregon Liquor Control Commission Chapter 845

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

**Filed with Sec. of State:** 1-27-2003

**Certified to be Effective:** 2-1-03

**Notice Publication Date:** 10-1-02

**Rules Amended:** 845-004-0005

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

As part of the License Consolidation project, the Agent license (held by distillery employees) was eliminated, and we dropped language from this rule which addressed prohibitions for holders of Agent licenses. The proposed amendments restore language about persons who represent distilleries.

**Rules Coordinator:** Katie Hilton—(503) 872-5004

## 845-004-0005

### Gifts, Gratuities

(1) Purpose: The Commission expects employees and retail sales agents to do their jobs fairly and impartially and to avoid conduct that compromises or appears to compromise that fairness and impartiality.

(2) No commissioner, employee or retail sales agent will accept any gift, gratuity or thing of value from any alcoholic beverage licensee, or any person representing a distillery.

(3) No alcoholic beverage licensee or person representing a distillery will offer or give any gift, gratuity or thing of value to a Commissioner, employee or retail sales agent.

(4) Despite sections (2) and (3) of this rule a Commissioner, employee or retail sales agent may accept:

(a) Items totalling \$25 or less per year per alcoholic beverage licensee offered to Commissioners, employees or retail sales agents as customers of the licensee as long as the items are offered on an equal basis to all customers irrespective of any connection to the Commission;

(b) Food and beverages provided for immediate consumption at a convention or a business conference or meeting that are offered to all participants irrespective of any connection to the Commission;

(c) A non-alcoholic beverage for immediate consumption that a licensee offers at a business meeting;

(d) Items offered to all participants at a convention irrespective of any connection to the Commission.

Stat. Auth.: ORS 471, ORS 472, ORS 471.030, ORS 471.730(1), ORS 471.730(5), ORS 472.030, 472.060(1) & ORS 472.060(2)(d)

Stats. Implemented: ORS 471.710(5)

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 34, f. 1-23-70, ef. 2-26-70; LCC 17-1979, f. 9-24-79, ef. 10-1-79; LCC 13-1980(Temp),

f. & ef. 4-25-80; LCC 24-1980, f. 9-30-80, ef. 10-1-80; Renumbered from 845-010-0155(9);

LCC 3-1981, f. & ef. 9-18-81; LCC 6-1982, f. 7-30-82, ef. 8-1-82; OLCC 7-1989, f. 7-28-

89, cert. ef. 8-1-89; OLCC 1-2003, f. 1-27-03, cert. ef. 2-1-03

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**Rules Repealed:** 845-015-0085

**Rules Renumbered:** 845-015-0035 to 845-015-0140, 845-015-0045 to 845-015-0143, 845-015-0050 to 845-015-0145, 845-015-0060 to 845-015-0148, 845-015-0090 to 845-015-0130, 845-015-0093 to 845-015-0178, 845-015-0095 to 845-015-0155, 845-015-0096 to 845-015-0180, 845-015-0100 to 845-015-0185

**Rules Transferred:** 845-015-0007 to 845-015-0101, 845-015-0010 to 845-015-0193, 845-015-0012 to 845-015-0105, 845-015-0022 to 845-015-0120, 845-015-0028 to 845-015-0118, 845-015-0030 to 845-015-0196, 845-015-0032 to 845-015-0190, 845-015-0070 to 845-015-0168, 845-015-0075 to 845-015-0170, 845-015-0078 to 845-015-0173, 845-015-0080 to 845-015-0150, 845-015-0020 to 845-015-0110, 845-015-0025 to 845-015-0125, 845-015-0027 to 845-015-0115, 845-015-0055 to 845-015-0165, 845-015-0065 to 845-015-0160, 845-015-0086 to 845-015-0135, 845-015-0091 to 845-015-0175, 845-015-0092 to 845-015-0177

**Subject:** The rules in this division address retail liquor agencies and how they will be operated. Several rules in this division needed housekeeping changes to reflect changes in policy and practice. Some items currently in rule are covered in the retail sales agent manual and/or in the contracts agents sign. The entire section has been renumbered for easy use.

**Rules Coordinator:** Katie Hilton—(503) 872-5004

## 845-015-0101

### Definitions

As used in OAR chapter 845, division 015:

(1) "Agency Agreement" is a written contract between the Commission and a retail sales agent that specifies the terms, conditions, and obligations between both parties.

(2) "Commission" includes the 5 member body of Commissioners appointed by the Governor, the administrator (director) and agency staff. Any of the actions or decisions specified in this division may be delegated to the administrator (director) as provided in ORS 471.040 (2)

(3) "Disabled Retail Sales Agent" is one who has a physical or mental impairment that has continued more than one year or is permanent that prevents a retail sales agent from properly performing contractual duties.

# ADMINISTRATIVE RULES

The Commission determines retail sales agent disability after reviewing medical reports from the retail sales agent's physician. The Commission may require additional medical information from a Commission selected physician.

(4) "Retail Liquor Store" is a premises or a specific area in a premises the Commission approves for the sale of packaged distilled spirits for off premises consumption.

(5) "Retail Sales Agent" is an individual person appointed by the Commission who enters into an agency agreement to sell packaged distilled spirits on behalf of the Commission in a retail liquor store.

(6) "Temporary Agent" is an individual person selected by the Commission to temporarily operate a retail liquor store.

Stat. Auth.: ORS 471, ORS 472, ORS 471.030, ORS 471.730(1), ORS 471.730(5), ORS 472.030, ORS 472.060(1) & ORS 472.060(2)(d)  
Stats. Implemented: ORS 471.750 & ORS 471.752  
Hist.: LCC 25-1980, f. 9-30-85, ef. 1-1-81; LCC 9-1985, f. 11-6-85, ef. 1-1-86; Renumbered from 845-015-0040; LCC 23-1986, f. 10-16-86, ef. 1-1-87; OLCC 2-2003, f. 1-27-03, cert. ef. 2-1-03, Renumbered from 845-015-0007

## 845-015-0105

### Types of Retail Liquor Stores

(1) A retail liquor store is either exclusive or non-exclusive. In an exclusive retail liquor store, a retail sales agent sells only distilled spirits and related items authorized by OAR 845-015-0143. In a non-exclusive retail liquor store, a retail sales agent operates a retail liquor store as an adjunct to another business. A retail sales agent must secure Commission approval for a retail liquor store's association with another business.

(2) The Commission may change the type of a retail liquor store from exclusive to non-exclusive or non-exclusive to exclusive. In making a type change, the Commission evaluates various factors, including retail liquor store sales and customer service. The procedures in OAR 845-015-0110 apply to such changes.

(3) When the Commission changes a retail liquor store from one type to another, the retail sales agent has the right to continue as retail sales agent after the change.

Stat. Auth.: ORS 471, ORS 471.030, ORS 471.730(1) & ORS 471.730(5)  
Stats. Implemented: ORS 471.750(1)  
Hist.: LCC 21-1986, f. 10-16-86, ef. 1-1-87; OLCC 7-2002, f. 5-10-02, cert. ef. 6-1-02; OLCC 2-2003, f. 1-27-03, cert. ef. 2-1-03, Renumbered from 845-015-0012

## 845-015-0110

### Establishment of a Retail Liquor Store

(1) When the Commission decides to establish a new retail liquor store, the Commission:

- (a) Determines the criteria for location and premises;
- (b) Determines a geographic location in which to locate a retail liquor store or a precise location;
- (c) Sets a target date for a retail liquor store to begin operation; and
- (d) Follows the procedure described in OAR 845-015-0120 and 845-015-0125 for selecting and appointing a retail sales agent.

(2) The Commission may discontinue a retail liquor store that has a retail sales agent vacancy. If the Commission continues a retail liquor store, it evaluates whether the existing premises satisfactorily meets the standards for location and premises set forth in the Site Evaluation Form. If it does not meet the minimum standards, the Commission follows the procedure described in section (1) of this rule.

(3) The Commission may arrange for a particular location for a retail liquor store, before appointing a retail sales agent. The Commission may sign an option to lease or enter into a lease that is assignable to a retail sales agent without recourse by the lessor against the Commission. A retail sales agent must reimburse the Commission, on its terms, for appropriate expenses associated with establishing a retail liquor store.

Stat. Auth.: ORS 471, ORS 472, ORS 471.030, ORS 471.730(1), ORS 471.730(5), ORS 472.030, ORS 472.060(1) & ORS 472.060(2)(d)  
Stats. Implemented: ORS 471.750(1)  
Hist.: LCC 14-1978, f. & ef. 10-26-78; Renumbered from 845-010-0343; LCC 15-1986, f. 10-16-86, ef. 1-1-87; OLCC 2-2003, f. 1-27-03, cert. ef. 2-1-03, Renumbered from 845-015-0020

## 845-015-0115

### Retail Sales Agent Eligibility

(1) A retail sales agent must be at least 21 years old. An exclusive retail sales agent must devote full time to operating a retail liquor store. A non-exclusive retail sales agent must devote enough time to a retail liquor store to ensure its efficient operation and reasonable service to the public. A corporation or partnership cannot be a retail sales agent.

(2) A retail sales agent may not have a financial interest or business connection that ORS 471.710(3) or OAR 845-015-0118 prohibits.

(3) A retail sales agent cannot be a Commission licensee or an officer, director or substantial stockholder of a corporate licensee, except that:

(a) A non-exclusive retail sales agent may be an Off Premises Sales licensee;

(b) The Commission may appoint a licensee if the licensee is the only suitable applicant for appointment as retail sales agent in a very small town in a remote area. This retail liquor store must be non-exclusive and must be located in a part of the premises completely separated from the service or consumption of alcoholic beverages; or

(c) The Commission may appoint a retail licensee as a non-exclusive retail sales agent as part of a pilot project that will last no more than two years.

Stat. Auth.: ORS 471, ORS 472, ORS 471.030, ORS 471.730(1), ORS 471.730(5), ORS 472.030, ORS 472.060(1) & ORS 472.060(2)(d)  
Stats. Implemented: ORS 471.750(1)  
Hist.: OLCC 19-1987, f. 6-10-87, ef. 7-1-87; OLCC 15-1989, f. 10-31-89, cert. ef. 11-1-89; OLCC 7-1999(Temp), f. 5-25-99, cert. ef. 6-1-99 thru 11-27-99; OLCC 19-1999, f. 11-2-99, cert. ef. 11-28-99; OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01; OLCC 2-2003, f. 1-27-03, cert. ef. 2-1-03, Renumbered from 845-015-0027

## 845-015-0118

### Retail Sales Agent Prohibited Interests, ORS 471.710(3)

(1) Definitions: As used in ORS 471.710(3) and this rule:

(a) "Liquor Store Agent" has the same meaning as a retail sales agent, as defined in OAR 845-015-0101(4);

(b) "Financial Interest" means knowingly having an ownership interest, as a sole proprietor, partner, limited partner or stockholder or any direct or indirect ownership interest through a device such as a holding company, in a business licensed as a distillery or Full On-Premises Sales or any distillery whose products are sold in Oregon;

(c) "Business Connections" include, but are not limited to:

(A) Knowingly providing anything of value to a person or business licensed as a distillery or Full On-Premises Sales or to any distillery whose products are sold in Oregon, in return for something of value. This rule does not, however, prohibit persons and licensees from providing commodities and services to each other that they routinely provide to the general public under the same terms;

(B) Partnerships with a person or business licensed as a distillery or Full On-Premises Sales, or to any distillery whose products are sold in Oregon, and similar ventures formed for the purpose of making profit,

(d) "Knowingly" means a person actually knew or reasonably should have known;

(e) "Household" means all persons living as a family unit in the same dwelling;

(f) "Immediate Family" means spouse and juvenile dependent children.

(2) Additional Prohibitions:

(a) No retail sales agent or member of the agents household or immediate family may be employed by a business that is licensed as a distillery or Full On-Premises Sales unless:

(A) The persons job duties do not include involvement with that portion of the business that requires an alcoholic beverage license to operate; or

(B) The person exercises no management control over that portion of the business that requires an alcoholic beverage license to operate.

(b) No retail sales agent or member of the agents household or immediate family may be employed by any distillery whose products are sold in Oregon.

(3) Reporting Requirements:

(a) All retail sales agent applicants must complete and sign a form describing any financial interest or business connection the applicant or any person in the applicants household or immediate family has, that the applicant would reasonably know of, with a distillery, Full On-Premises Sales or a distillery whose products are sold in Oregon. The Commission will determine whether any prohibited interest or connection exists. An applicant or person in the applicants household or immediate family who has a prohibited interest or connection must divest the interest or connection before the Commission appoints the applicant;

(b) A retail sales agent must report, to the agents district manager, any prohibited interest or connection with a distillery, Full On-Premises Sales or a distillery whose products are sold in Oregon as soon as the agent would reasonably know of the interest or connection. If ORS 471.710(3) or this rule prohibits the interest or connection, the Commission will set a reasonable time period for divestiture. If the retail sales agent, household member or immediate family member fails to divest, the Commission will terminate the agents contract.

# ADMINISTRATIVE RULES

(4) Gifts and Gratuities: No retail sales agent will accept any gift, gratuity or thing of value from any alcoholic beverage licensee or any person representing a distillery, except that a retail sales agent may accept:

(a) Items totaling \$25 or less per year per alcoholic beverage licensee offered to retail sales agents as customers of the licensee as long as the items are offered on an equal basis to all customers irrespective of any connection to the Commission;

(b) Food and beverages provided for immediate consumption at a convention or a business conference or meeting that are offered to all participants irrespective of any connection to the Commission;

(c) A non-alcoholic beverage for immediate consumption that a licensee offers at a business meeting;

(d) Items offered to all participants at a convention irrespective of any connection to the Commission.

(5) Disciplinary Actions: The Commission will appropriately discipline a retail sales agent who:

(a) Fails to report a prohibited interest or connection as section (2) of this rule requires;

(b) Knowingly acquires an interest or establishes a connection that ORS 471.710 or this rule prohibits; and

(c) Accepts a gift or gratuity that section (4) of this rule prohibits.

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

Stats. Implemented: ORS 471.710(3)

Hist.: OLCC 15-1989, f. 10-31-89, cert. ef. 11-1-89; OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01; OLCC 2-2003, f. 1-27-03, cert. ef. 2-1-03, Renumbered from 845-015-0028

## 845-015-0120

### Retail Sales Agent Selection Procedure

(1) When the Commission fills a retail sales agent vacancy other than as OAR 845-015-0125(2) describes, the Commission seeks applications from the public.

(2) The Commission advertises to fill a vacancy in at least one daily statewide newspaper. It may also publish intent to fill a vacancy in other ways.

(3) After an application deadline, all applications will be screened according to selection criteria in OAR 845-015-0125 and qualified applicants will be selected for interview. After reviewing applications and screening results, an interview committee conducts personal interviews. The interview committee scores the applicants and ranks them by qualifications. The interview committee recommends finalists, who are most qualified based on the selection criteria in OAR 845-015-0125. From the finalists, the Commission appoints a retail sales agent using the criteria in OAR 845-015-0125. A public presentation at a Commission meeting may be required. Advance notice of the public meeting date will be given to all finalists.

(4) An appointed retail sales agent must submit retail liquor store arrangements for approval, enter into an Agency Agreement, purchase fixtures and equipment at the Commission established price, and begin operation of a retail liquor store on the date the Commission specifies. If an appointed retail sales agent cannot purchase, rent or lease, and equip an approved location and begin operation by the required date, the Commission(ers) may select another applicant from the list of finalists.

Stat. Auth.: ORS 471, ORS 472, ORS 471.030, ORS 471.730(1), ORS 471.730(5), ORS 472.030, ORS 472.060(1) & ORS 472.060(2)(d)

Stats. Implemented: ORS 471.750(1)

Hist.: LCC 20-1986, f. 10-16-86, ef. 1-1-87; OLCC 2-2003, f. 1-27-03, cert. ef. 2-1-03, Renumbered from 845-015-0022

## 845-015-0125

### Retail Sales Agent Selection Criteria

(1) When the Commission selects a retail sales agent using the procedure in OAR 845-015-0120, the Commission evaluates the knowledge, skills and abilities of all applicants in the following areas:

(a) Retail business experience including, but not limited to, responsibility for inventory control, cash accountability, supervision of personnel and customer service;

(b) Knowledge of retail operations or business management, including study or training in those or related fields;

(c) Customer service skills and ability to communicate and work effectively with the public;

(d) Whether the applicant's health permits full-time supervision of a retail liquor store;

(e) The applicant's record of felony conviction, conviction of crime relating to money management fraud, or a history of conviction of crimes relating to the abuse of alcohol or controlled substances;

(f) The applicant's financial ability to purchase or lease and equip the retail liquor store at a Commission approved location. The applicant's ability to provide the necessary funds to meet the operating expenses of the

retail liquor store and be bonded under the Commission's blanket position fidelity bond.

(2) In appointing a successor to a deceased or disabled retail sales agent, the Commission gives the preference in ORS 471.752. The Commission evaluates the qualifications of the applicant. After review of the application documents and personal interviews, the Commissioners decide if the applicant is qualified.

Stat. Auth.: ORS 471, ORS 472, ORS 471.030, ORS 471.730(1), ORS 471.730(5), ORS 472.030, ORS 472.060(1) & ORS 472.060(2)(d)

Stats. Implemented: ORS 471.750(1)

Hist.: LCC 14-1978, f. & ef. 10-26-78; Renumbered from 845-010-0344; LCC 6-1981, f. 11-2-81, ef. 1-1-82; LCC 16-1983, f. 12-27-83, ef. 1-1-84; OLCC 18-1987, f. 6-10-87, ef. 7-1-87; OLCC 2-2003, f. 1-27-03, cert. ef. 2-1-03, Renumbered from 845-015-0025

## 845-015-0130

### Advertising a Retail Liquor Store

Advertising a Liquor Store:

(1) The Commission allows a retail sales agent to place:

(a) A public notice about a retail liquor store in a general readership local publication, with prior approval;

(b) An exterior sign on a retail liquor store, with prior approval for sign and contents;

(c) A "mixer shop" sign on an exclusive retail liquor store if it is in smaller size and different color; and

(d) A retail liquor store listing on a shopping center directory, map and roadside tenant reader board.

(2) The Commission prohibits:

(a) Advertising a retail liquor store together with words or symbols referring to alcoholic beverages;

(b) Advertising a retail liquor store other than as section (1) of this rule permits;

(c) A retail sales agent from sponsoring or participating in an activity that promotes a retail liquor store or liquor sale. A retail sales agent may, however, support a local, non-profit community event and receive recognition for that support if the recognition given is the same as the minimum allowed for other supporters.

Stat. Auth.: ORS 471 & ORS 472, ORS 471.030, ORS 471.730(1), ORS 471.730(5), ORS 472.030, ORS 472.060(1) & ORS 472.060(2)(d)

Stats. Implemented: ORS 471.750(1) & ORS 471.750(2)

Hist.: LCC 26-1986, f. 11-20-86, ef. 1-1-87; OLCC 16-1990, f. 6-29-90, cert. ef. 7-1-90; OLCC 15-1991, f. 9-30-91, cert. ef. 10-1-91; OLCC 2-2003, f. 1-27-03, cert. ef. 2-1-03, Renumbered from 845-015-0090

## 845-015-0135

### Public Opinion on Retail Liquor Store Location

(1) The Commission considers public opinion when it evaluates establishing or relocating a retail liquor store. The Commission seeks public opinion by:

(a) Posting a public notice at the proposed location and at the existing location, if any; and

(b) Sending a written notice to any residence, business, pre-elementary, elementary or secondary school, church or alcoholic treatment facility within a minimum of 500 feet of the proposed location and to the appropriate local governing body.

(2) These notices will ask for opinions on the proposed location and identify when, where and how the public can comment.

(3) The Commission will consider liquor-related public opinions. It considers these liquor-related comments together with its criteria for liquor store establishment and relocation. OAR 845-015-0110 and set out these criteria.

Stat. Auth.: ORS 471, ORS 472, ORS 471.030, ORS 471.730(1), ORS 471.730(5), ORS 472.030, ORS 472.060(1) & ORS 472.060(2)(d)

Stats. Implemented: ORS 471.750(1)

Hist.: OLCC 20-1987, f. 9-2-87, ef. 10-1-87; OLCC 2-2003, f. 1-27-03, cert. ef. 2-1-03, Renumbered from 845-015-0086

## 845-015-0140

### Hours and Days of Operation

To ensure adequate service to the public, the Commission requires retail liquor stores to maintain convenient hours of operation:

(1) Except for Sundays and holidays, all retail liquor stores must be open between the hours of 12 noon and 6 p.m. Retail liquor stores may not open earlier than 7 a.m. or close later than 10p.m. any day of the week.

(2) Except for Sundays and holidays, retail liquor stores will be open a minimum of eight hours each day.

(3) Retail liquor stores may be open on Sundays or holidays for any number of hours which comply with (1) of this rule. Sunday and holiday openings are optional for Retail Sales Agents.

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

Stats. Implemented: ORS 471.750(1)

# ADMINISTRATIVE RULES

Hist.: LCC 1-1978(Temp), f. & ef. 1-25-78; LCC 5-1978, f. 5-24-78, ef. 5-25-78; Renumbered from 845-010-0350; LCC 12-1983, f. 11-14-83, ef. 1-1-84; LCC 3-1985, f. 2-28-85, ef. 4-1-85; OLCC 4-2002(Temp), f. & cert. ef. 4-12-02 thru 10-8-02; OLCC 11-2002, f. 8-29-02, cert. ef. 10-9-02; OLCC 2-2003, f. 1-27-03, cert. ef. 2-1-03, Renumbered from 845-015-0035

## 845-015-0143

### Sale of Related Items

(1) In a exclusive retail liquor store, the retail sales agent may sell only distilled spirits distributed by the Commission and related items.

(2) Related items are:

- (a) Ice and mixers;
  - (b) Foods used in drinks, such as olives, onions and cherries;
  - (c) Bartender's guides, shakers, strainers, mixing spoons, swizzle sticks and similar tools used in preparing drinks;
  - (d) Glassware, coasters, straws, napkins and other such items associated with drinking alcoholic liquor; and
  - (e) Items such as chewing gum, breath mints and tobacco products.
- (3) Only the retail sales agent may conduct business out of an exclusive retail liquor store. This business must be authorized by statute or Commission rule.

Stat. Auth.: ORS 471, ORS 472, ORS 471.030, ORS 471.730(1), ORS 471.730(5), ORS 472.030, ORS 472.060(1) & ORS 472.060(2)(d)

Stats. Implemented: ORS 471.750(1)

Hist.: LCC 25-1980, f. 9-30-80, ef. 1-1-81; LCC 19-1986, f. 10-16-86, ef. 1-1-87; OLCC 24-1987, f. 12-9-87, cert. ef. 1-1-88; OLCC 2-2003, f. 1-27-03, cert. ef. 2-1-03, Renumbered from 845-015-0045

## 845-015-0145

### Solicitation; Incentives

(1) A retail sales agent may seek business from any business or Full On-Premises Sales licensee, including any employee or representative by:

- (a) Describing a retail liquor store and its services orally, by personal letter or business card; and
- (b) Inviting a potential business or Full On-Premises Sales customer to visit a retail liquor store.

(2) A retail sales agent must not:

- (a) Solicit, ask, suggest or urge anyone except a Full On-Premises Sales licensee or other business to make a purchase at a particular retail liquor store;
- (b) Give or offer any gift, gratuity, special individualized discount or other incentive to any person if such can be reasonably construed to be an enticement to obtain, maintain, or increase the recipients business with the retail sales agent.

(3) An exclusive retail sales agent must charge the same price for related items of identical brand, type, size and number. An exclusive retail sales agent must keep accurate records of purchases and sales of related items and must make those records available for Commission audit as provided in the Agency Agreement. The Commission may inspect the books and records of the associated business of a non-exclusive retail sales agent.

(4) A retail sales agent must sell Commission merchandise at the Commissions established price.

(5) A retail sales agent may deliver alcoholic liquor or related items to a Full On-Premises Sales licensee premises only as provided in and consistent with the Agency Agreement and the Commissions Retail Operations Manual.

Stat. Auth.: ORS 471.730(5)

Stats. Implemented: ORS 471.750

Hist.: LCC 25-1980, f. 9-30-80, ef. 1-1-81; LCC 6-1983, f. 6-27-83, ef. 7-1-83; LCC 18-1986, f. 10-16-86, ef. 1-1-87; OLCC 9-1996, 5-16-96, cert. ef. 6-1-96; OLCC 15-2000 f. 9-13-00, cert. ef. 10-1-00; OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01; OLCC 2-2003, f. 1-27-03, cert. ef. 2-1-03, Renumbered from 845-015-0050

## 845-015-0148

### Minors in Liquor Stores

Only people 21 years of age or older may enter a retail liquor store, unless accompanied by a parent, or a spouse over the age of 21. Nevertheless, people 18 years or older may be employed in liquor stores to sell distilled spirits and people under the age of 18 may be employed but may not participate in the sale of distilled spirits.

Stat. Auth.: ORS 471, ORS 472, ORS 471.030, ORS 471.730(1), ORS 471.730(5), ORS 472.030, ORS 472.060(1) & ORS 472.060(2)(d)

Stats. Implemented: ORS 471.750(1)

Hist.: LCC 4-1985, f. 2-28-85, ef. 4-1-85; OLCC 2-2003, f. 1-27-03, cert. ef. 2-1-03, Renumbered from 845-015-0060

## 845-015-0150

### Service Refusal in a Retail Liquor Store

(1) A customer who meets the age and identification requirements in ORS 471.130 has the right to purchase alcoholic liquor in a retail liquor store.

(2) Despite section (1) of this rule, a retail sales agent must refuse to sell alcoholic liquor to anyone who is visibly intoxicated, and may refuse service to anyone who is disruptive or abusive in a retail liquor store.

Stat. Auth.: ORS 471, ORS 472, ORS 471.030, ORS 471.730(1), ORS 471.730(5), ORS 472.030, ORS 472.060(1) & ORS 472.060(2)(d)

Stats. Implemented: ORS 471.750(1)

Hist.: LCC 25-1986, f. 11-20-86, ef. 1-1-87; OLCC 2-2003, f. 1-27-03, cert. ef. 2-1-03, Renumbered from 845-015-0080

## 845-015-0155

### Consumption in a Retail Liquor Store

The Commission prohibits alcoholic beverage consumption on the premises of a retail liquor store.

Stat. Auth.: ORS 471, ORS 472, ORS 471.030, ORS 471.730(1), ORS 471.730(5), ORS 472.030, ORS 472.060(1) & ORS 472.060(2)(d)

Stats. Implemented: ORS 471.750(1)

Hist.: LCC 27-1986, f. 11-20-86, ef. 1-1-87; OLCC 2-2003, f. 1-27-03, cert. ef. 2-1-03, Renumbered from 845-015-0095

## 845-015-0160

### Sale of Lottery Tickets

Despite OAR 845-015-0143(1) (sale of related items), retail sales agents may contract with the Oregon State Lottery Commission to sell Oregon State Lottery Tickets in retail liquor stores.

Stat. Auth.: ORS 471, ORS 472, ORS 471.030, ORS 471.730(1), ORS 471.730(5), ORS 472.030, ORS 472.060(1) & ORS 472.060(2)(d)

Stats. Implemented: ORS 471.750(1)

Hist.: LCC 5-1985, f. 3-28-85, ef. 4-1-85; OLCC 2-2003, f. 1-27-03, cert. ef. 2-1-03, Renumbered from 845-015-0065

## 845-015-0165

### Supplier Rebates on Distilled Spirits

(1) The Commission allows suppliers to give consumer rebates on distilled spirits only that identify price reductions which offer consumers the opportunity to switch brands or try new products. The Commission does not allow rebates that encourage consumers to buy distilled spirits in quantity. An example of this would be a rebate that offers \$5 for the purchase of one bottle but \$12 for two.

(2) Suppliers will distribute distilled spirits rebate coupons only through retail liquor stores or by publishing them in newspapers or magazines. Any newspaper or magazine advertising associated with rebate coupons must comply with OAR 845-015-0175, 845-015-0177, 845-015-0178, and any other applicable state and federal regulations.

(3) All rebate coupons offered in the State of Oregon must meet the following requirements:

(a) Rebate coupons must be redeemable for cash only;

(b) Rebate coupon offers must bear an expiration date;

(c) The supplier must require proof of purchase;

(d) Rebate coupons must be valid only for adults of legal drinking age. The Commission may require withdrawal of the rebate coupon if the supplier does not comply with the conditions of the rebate coupon or Commission rules.

(4) The supplier must furnish rebate coupons to all retail liquor stores carrying the product. Any advertising materials such as posters, signs, banners, or display racks the supplier provides to promote rebate coupons in a retail liquor store must comply with OAR 845-015-0175, 845-015-0177, 845-015-0178, and any other applicable state and federal regulations.

(5) The supplier is responsible for the redemption of rebate coupons. The supplier and the retail customer are responsible for settling any disagreement about the supplier's coupon.

Stat. Auth.: ORS 471, ORS 472, ORS 471.030, ORS 471.730(1), ORS 471.730(5), ORS 472.030, ORS 472.060(1) & ORS 472.060(2)(d)

Stats. Implemented: ORS 471.750(1)

Hist.: LCC 2-1983, f. 3-8-83, ef. 7-1-83; LCC 2-1985, f. 2-28-85, ef. 4-1-85; OLCC 19-1991, f. 10-31-91, cert. ef. 11-1-91; OLCC 2-2003, f. 1-27-03, cert. ef. 2-1-03, Renumbered from 845-015-0055

## 845-015-0168

### Refunds, Exchanges

A licensee who is going out of business may make a written request to return resaleable merchandise to the Commission for a refund. If the Commission approves the request, the Commission will issue a refund check after it determines that the merchandise is resaleable.

Stat. Auth.: ORS 471, ORS 472, ORS 471.030, ORS 471.730(1), ORS 471.730(5), ORS 472.030, ORS 472.060(1) & ORS 472.060(2)(d)

Stats. Implemented: ORS 471.740 & ORS 471.750

Hist.: LCC 8-1985, f. 10-9-85, ef. 3-1-86; OLCC 2-2003, f. 1-27-03, cert. ef. 2-1-03, Renumbered from 845-015-0070

## 845-015-0170

### Payment for Distilled Spirits

(1) A customer may pay for distilled spirits at the time of purchase.



# ADMINISTRATIVE RULES

- (2) A retail sales agent accepts these forms of payment:
- (a) United States currency or a United States traveler's check;
  - (b) A cashier's check or money order;
  - (c) Canadian currency or a Canadian traveler's check at the current exchange rate;
  - (d) A licensee business check for the amount of the purchase only, properly dated, personalized and free of alterations;
  - (e) A personal check from a customer with a valid check guarantee card and valid picture driver's license. The check must be under \$200, payable to the OLCC, for the amount of purchase only, properly dated, personalized and free of alterations. The retail sales agent must write the number and expiration date of the customer's check guarantee card on the check; and

(f) At the retail sales agent's option, an approved credit or debit card transaction may be accepted from non-licensees for the amount of purchase of distilled spirits and related items.

(3) A retail sales agent must not accept a check for purchases by a licensee who has given the Commission two checks or other instruments that could not be paid upon presentation.

(4) Despite section (2) of this rule, a retail sales agent is not required to accept payment if a sale is contrary to law, if a customer lacks necessary age identification or if there is a reasonable basis to believe a customer is not lawfully presenting payment.

(5) A retail sales agent may elect to not take personal checks only if the retail sales agent accepts debit and credit cards using Commission-approved equipment.

(6) A retail sales agent must pay the Commission for an uncollected check if the retail sales agent does not comply with this rule.

Stat. Auth.: ORS 471, ORS 472, ORS 471.030, ORS 471.730(1), ORS 471.730(5), ORS 472.030, ORS 472.060(1) & ORS 472.060(2)(d)  
Stats. Implemented: ORS 471.740 & ORS 471.750(1)  
Hist.: LCC 32-1986, f. 12-4-86, ef. 4-1-87; OLCC 10-1989, f. 10-2-89, cert. ef. 10-1-89; OLCC 2-1993(Temp), f. 6-25-93, cert. ef. 7-1-93; OLCC 4-1995, f. 5-2-95, cert. ef. 6-1-95; OLCC 16-2000, f. 11-9-00, cert. ef. 12-1-00; OLCC 2-2003, f. 1-27-03, cert. ef. 2-1-03, Renumbered from 845-015-0075

## 845-015-0173

### Discount for Full On Premises Sales Licensees' Distilled Spirits Purchases

Full On-Premises Sales licensees may purchase distilled spirits from a retail sales agent at a discount of five percent off the listed price fixed by the Commission. Licensees may receive the discount only on distilled spirits purchased for use in their Full On-Premises Sales businesses. The discount will be given at the time of purchase.

Stat. Auth.: ORS 471, ORS 471.030, ORS 471.040, ORS 471.730(1) & ORS 471.730(5)  
Stats. Implemented: ORS 471.745 & ORS 471.750(1)  
Hist.: OLCC 4-1993, f. 11-1-93, cert. ef. 11-4-93; OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01; OLCC 2-2003, f. 1-27-03, cert. ef. 2-1-03, Renumbered from 845-015-0078

## 845-015-0175

### General Requirements for Advertising in a Retail Liquor Store

(1) Advertising Liquor in a Retail Liquor Store. ORS 471.750(2) allows signs and displays advertising distilled spirits products in retail liquor stores and gives the Commission the authority to regulate this advertising. The Commission prohibits advertising liquor in a retail liquor store other than this rule, OAR 845-015-0177 and 845-012-0178 permit.

(2) General Requirements. The Commission allows signs and displays that:

(a) Comply with ORS 471.750(2), and Bureau of Alcohol, Tobacco and Firearms (ATF) regulations;

(b) Are temporary in nature and not permanent fixtures in the retail liquor store;

(c) Are truthful, in good taste and not lewd, sexist or racist;

(d) Do not obstruct another distillery's products;

(e) Advertise a rebate (as OAR 845-015-0165 allows), sweepstakes or offer a premium or an on-pack for the consumer. However,

(A) The sign or display must not include a sample of the premium or on-pack but may include a picture.

(B) The sweepstakes or premium offer must not require the purchase of liquor in order to receive a prize or merchandise, unless the manufacturer or distillery representative donates the prize or merchandise to a charitable cause or community non-profit entity.

(C) When the on-pack is liquor, it must:

(i) Not exceed one 50 ml per bottle;

(ii) Not be a 50 ml that has a current, regular listing;

(iii) Be attached to a non-like product; and

(iv) Be attached only to bottles 750 ml in size or larger.

(3) Signs and displays must not contain:

- (a) False or misleading information;
- (b) Claims that the alcoholic beverage has curative or therapeutic effects;

(c) Claims that any government agency endorses or supports the alcoholic beverage;

(d) Materials so appealing to minors that it encourages them to purchase, possess or drink alcoholic beverages;

(e) A person displayed drinking an alcoholic beverage;

(f) Material that encourages the use of an alcoholic beverage because of its intoxicating effect;

(g) Statements or illustrations that an alcoholic beverage causes athletic or sexual or artistic success or sexual prowess;

(h) Material that encourages excessive or rapid consumption.

(4) In addition to the requirements and restrictions in sections (2) and (3) of this rule, the Commission may prohibit any sign it deems inappropriate for use in a retail liquor store.

(5) Sign and Display Approval Process. A Commission Merchandising Committee must approve all signs and display materials. The distillery representatives must submit materials (pictures or facsimiles are acceptable) for approval at least 30 days before the first day of placement requested by the representative. The Committee will make a decision and notify the representative within 15 working days of the receipt of the request. The Commissioners may review the decision.

(6) The Commission allows and must approve the sale and distribution of on-packs.

(7) For this rule,

(a) "Sweepstakes" means a contest for prizes not prohibited by law and offered by a distillery or its representative. A participant may pick up an entry blank at a retail liquor store, but any prize must be delivered to the winner at a location other than a retail liquor store.

(b) "Premium" means an item, offered to promote a product, which a person may order from the distillery or its representative. A person may pick up an order form at a retail liquor store, but the item must be delivered at a location other than a retail liquor store. Examples of a premium include t-shirts, watches, and cameras.

(c) "On-pack" means any item, including distilled spirits, attached to a distilled spirits product for sale in retail liquor stores.

Stat. Auth.: ORS 471, ORS 472, ORS 471.030, ORS 471.730(1), ORS 471.730(5), ORS 472.030, ORS 472.060(1) & ORS 472.060(2)(d)

Stats. Implemented: ORS 471.750(2)

Hist.: OLCC 15-1991, f. 9-30-91, cert. ef. 10-1-91; OLCC 13-1996, f. 9-30-96, cert. ef. 10-7-96; OLCC 2-2003, f. 1-27-03, cert. ef. 2-1-03, Renumbered from 845-015-0091

## 845-015-0177

### Specific Requirements for Signs and Displays in a Retail Liquor Store

(1) The Commission allows signs that:

(a) Are made of paper or similar inexpensive material that function only to advertise or display the distillery's alcoholic beverage products in the retail liquor store. Some examples of signs include case cards, shelf talkers both price and informational, posters, pole toppers and low voltage lighted signs. Ceiling danglers and inflatables are prohibited;

(b) Are placed in front of or in close proximity to the product the sign advertises;

(c) Are not larger than 15 square feet in size.

(2) The Commission allows displays that:

(a) Contain a distillery's products and material that functions only to advertise or display the distillery's alcoholic beverage products in the retail liquor store. A cardboard product bin is an example of this material;

(b) Contain a distillery's products and material that has another function besides advertising or displaying a distillery's product. The Commission allows this material only under the following conditions:

(A) The distillery representative loans but does not give the material to the retail sales agent and clearly indicates on the display that it is the property of the distillery; and

(B) The retail sales agent uses the material only as a part of a promotional display for the distillery's products and not for the retail sales agent's personal use.

(c) Display the related items described in OAR 845-015-0143 that bear a distilled spirits brand name or trademark that are for sale in the retail liquor store.

(3) Nothing in this rule requires a retail sales agent to order distilled spirits for use in a display. Empty case boxes may be used, if necessary.

Stat. Auth.: ORS 471, ORS 472, ORS 471.030, ORS 471.730(1), ORS 471.730(5), ORS 472.030, ORS 472.060(1) & ORS 472.060(2)(d)

Stats. Implemented: ORS 471.750(2)

Hist.: OLCC 15-1991, f. 9-30-91, cert. ef. 10-1-91; OLCC 5-1994, f. 10-31-94, cert. ef. 11-1-94; OLCC 2-2003, f. 1-27-03, cert. ef. 2-1-03, Renumbered from 845-015-0092

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845-015-0178

## Reasonable Opportunity for Signs and Displays in a Retail Liquor Store

If a retail sales agent chooses to allow signs and displays in the retail liquor store, the agent must allow each distillery representative who wants to advertise his/her products in the store a reasonable opportunity to do so. To facilitate this, the Commission requires that:

(1) The retail sales agent gives each distillery representative who wants to place a sign or display in an agent's store the opportunity to do so at least once per calendar year for each brand he/she represents.

(2) Each brand may have no more than three displays per store per quarter.

(3) Any sign or display must be in place for at least 14 days but for no more than 45 days.

(4) The retail sales agent will, without discrimination, allow all brands an opportunity to be displayed in a fair and equal manner.

Stat. Auth.: ORS 471, ORS 472, ORS 471.030, ORS 471.730(1), ORS 471.730(5), ORS 472.030, ORS 472.060(1) & ORS 472.060(2)(d)

Stats. Implemented: ORS 471.750(2)

Hist.: OLCC 15-1991, f. 9-30-91, cert. ef. 10-1-91; OLCC 2-2003, f. 1-27-03, cert. ef. 2-1-03, Renumbered from 845-015-0093

845-015-0180

## Distilled Spirits Samples Offered by Distillery Representatives

(1) Distillery representatives may not give samples to retail sales agents, their employees or customers in a retail liquor store.

(2) Despite section (1) of this rule, a retail sales agent may accept samples of not more than four 50 ml manufacturer sealed containers of distilled spirits one time per brand. The sample must be a Commission approved brand. If a product is not available in a 50 ml container, the retail sales agent may accept a single sample in the next larger available size if the distillery representative has written approval from the Listing Committee of the Commission to offer samples in a larger size. Samples may not be consumed in a retail liquor store or within its immediate vicinity.

(3) Retail sales agents may give samples received according to section (2) of this rule to their employees that are at least 21 years of age.

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

Stat. Implemented: ORS 471.750

Hist.: OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01; OLCC 2-2003, f. 1-27-03, cert. ef. 2-1-03, Renumbered from 845-015-0096

845-015-0185

## Special Orders for Distilled Spirits

(1) Customers may order distilled spirits products or container sizes that the Commission does not carry in the regular product line. The minimum order is a case. For special orders, the customer pays the wholesale cost, the average handling and freight costs per case and the regular markup. The Commission sets the average handling and freight costs from an annual review of these costs for special orders. Instead of the average handling and freight cost, the Commission may charge a fee that more closely reflects the Commission's actual freight and handling costs on large quantity orders, special decanter orders and Commission purchases of products it wants to test-market.

(2) The Commission may create a list of frequently ordered special order items. The one case minimum order may not apply to the items the Commission puts on this list.

Stat. Auth.: ORS 471, ORS 472, ORS 471.030, ORS 471.730(1), ORS 471.730(5), ORS 472.030, ORS 472.060(1) & ORS 472.060(2)(d)

Stats. Implemented: ORS 471.750(1)

Hist.: LCC 30-1986, f. 11-20-86, ef. 1-1-87; OLCC 21-1991, f. 12-19-91, cert. ef. 1-1-92; OLCC 5-1992, f. 4-30-92, cert. ef. 5-1-92; OLCC 2-2003, f. 1-27-03, cert. ef. 2-1-03, Renumbered from 845-015-0100

845-015-0190

## Resignation Buy-Out Program for Retail Liquor Agents

(1) Purpose. The purpose of the Resignation Buy-Out Program is to provide a monetary benefit to all retail liquor agents when they resign as a contracted liquor store agent. Retail liquor agents receive the buy-out, in part, to recognize their contribution in building a successful business.

(2) Calculating the Buy-Out. The Resignation Buy-Out Program requires the incoming retail liquor agent to pay the outgoing agent, or the agents estate, an amount of money (called the buy-out) at the time of store takeover. The Commission calculates the buy-out by taking two percent of the stores average annual gross alcohol sales for the last five years. The Commission manages this transaction by including the buy-out amount in the information sheet that all applicants receive.

(3) Recruiting Qualified Applicants. The outgoing liquor agent may supplement the Commissions recruiting process to assure finding qualified

applicants. If the Commissions recruiting process does not generate a qualified applicant, or the Commissioners do not appoint a new agent, the outgoing agent may continue to seek qualified applicants. If these efforts fail to result in a qualified applicant after 30 days, the outgoing agent will choose to postpone the resignation or to accept a lower buy-out amount. If the agent chooses to accept a lower buy-out, then the outgoing agent and the Commission will agree on a reasonable buy-out amount reduction. The Commission will then re-advertise the store vacancy with the reduced buy-out amount.

(4) Paying the Buy-Out. An incoming agent must pay a buy-out if the effective date of the incoming agents appointment occurs when the program is in effect. The incoming agent provides full payment to the outgoing agent at the time of the store takeover. As a condition of eligibility for the buy-out, the outgoing agent must allow the incoming agent to spend a minimum of 12 working days in the store working productively together before the store takeover, unless the incoming agent declines the opportunity. During the 12-day period, the outgoing agent will introduce the incoming agent to Full On Premises Sales and commercial accounts, and orient the incoming agent to all aspects of the store operation except the required training and information provided by Commission staff.

(5) Family Transfer of Agency When Agent Dies or is Disabled. If an agent dies or becomes unable to operate an agency due to the agents disability, ORS 471.752(2) allows the Commission to give preference to a qualified surviving spouse or child, or a qualified spouse or child of the disabled agent, in the appointment of a successor agent. If the Commission does appoint a spouse or child in this situation, the Commission will waive the buy-out requirement at the request of the outgoing agent or the agents estate.

(6) Probationary Agents. Except as provided in section (8), an agent who resigns during their probationary period is eligible for a buy-out.

(7) Relocating, Adding, or Closing Stores. The Commission reserves the right to relocate any store, and to add or close stores. Neither the State of Oregon nor the Commission is liable for any changes in the volume of alcohol sales that may occur following the relocation of one or more stores, or from the addition or closure of one or more stores.

(8) Exceptions. Despite sections (1) and (2), a retail liquor agent is not eligible for a buy-out if:

(a) The Commission has terminated the agent for cause relating to fiscal irresponsibility or the agent has shortages that exceed the estimated amount of compensation due that agent. In these situations, the Commission receives the buy-out amount, deducts any dollars owed the State of Oregon, and gives the outgoing agent whatever dollars, if any, remain from the buy-out amount;

(b) The agent is under suspension;

(c) The agent is a temporary agent;

(d) The Commission takes over a store for reasons other than suspension or termination. In this situation, the outgoing agent is not eligible for a buy-out until the agent resigns and an incoming agent is appointed and takes over the store.

(e) The store does not turn over during the time the program is in effect; turnover occurs on the date of the final audit.

(9) Non-Compete Provision. If an outgoing agent participates in the buy-out program, the outgoing agent shall not solicit any Full On-Premises Sales or commercial account (customers) of the retail liquor store the outgoing agent is leaving (store) for the purpose of selling or attempting to sell distilled spirits to such customers. The outgoing agent is also prohibited from using a customer list or any other information about the stores customers to assist any agent (other than the incoming agent) in soliciting the stores customers for the purpose of selling distilled spirits. The outgoing agent recognizes that she/he receives consideration for compliance with this section. The prohibitions in this section:

(a) Are limited to a two-year period. The Commission calculates the two-year prohibition beginning on the date the store is turned over to the incoming agent;

(b) Relate only to Full On-Premises Sales and commercial accounts that have made a purchase from the store within the twelve months immediately preceding turnover of the store to the incoming agent;

(c) Apply only within:

(A) A geographic radius of ten miles from the location of the store if the store is located in a metropolitan or suburban area;

(B) A geographic radius of twenty-five miles from the location of the store for all other areas of the state;

(d) Do not prohibit an agents ability to advertise under OAR 845-015-0130.(10) Definitions.

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## Oregon State Lottery Chapter 177

(a) "Solicit," "solicitation" and "soliciting" have the meaning given them under OAR 845-015-0145. These terms also include any act or contact directed at a specific business, Full On Premises Sales or other like entity for the purpose of asking, encouraging, suggesting, urging or persuading a specific business, Full On Premises Sales or other entity to purchase distilled spirits from a particular retail liquor store.

(b) "Full On Premises Sales" means any person or entity holding a Full On Premises Sales license.

(c) "Commercial Accounts" means any business or association that purchases more than fifty 750 ml bottles of distilled spirits from the store in the twelve months immediately preceding turnover of the store to the incoming agent.

(1) Violation of Section (9). If, during the two-year period:

(a) An outgoing agent violates section (9) of this rule, the incoming agent may take legal action against the outgoing agent;

(b) An outgoing agent violates section (9) of this rule, the Commission may take legal action against the outgoing agent;

(c) The Commission terminates the Resignation Buy-Out Program, the non-compete provisions in section (9) remain in effect.

(12) No Contract Rights in Buy-Out. No agent shall have any entitlement to, or expectation of receiving, any buy-out. The institution and continuation or termination of the buy-out program constitutes unilateral regulatory action by the Commission, and gives no agent any contractual right or expectation in any buy-out payment. The Commission reserves the right to repeal or modify this rule, or otherwise terminate the buy-out program at any time.

Stat. Auth.: ORS 471, ORS 471.030, ORS 471.040, ORS 471.730(1) & ORS 471.730(5)  
Stats. Implemented: ORS 471.725(2) & ORS 471.750  
Hist.: OLCC 14-1996, f. 10-1-96, cert. ef. 1-1-97; OLCC 8-1998(Temp), f. & cert. ef. 9-18-98 thru 3-16-99; OLCC 4-1999, f. 2-16-99, cert. ef. 3-17-99; OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01; OLCC 2-2003, f. 1-27-03, cert. ef. 2-1-03, Renumbered from 845-015-0032

### 845-015-0193

#### Terminating an Agency Agreement

(1) A retail sales agent may terminate an Agency Agreement with at least 120 days written notice to the Commission. The termination date must be the last day of a calendar month unless otherwise agreed to by the retail sales agent and the Commission.

(2) The Commission terminates the Agency Agreement of a retail sales agent who dies or becomes indefinitely unable to operate the retail liquor store, on the last day of the fifth month after the death or disability occurs, unless otherwise agreed to by the Commission. The Commission may appoint a temporary agent to operate the retail liquor store until the Commissioners appoint a new retail sales agent.

(3) The Commission may terminate an Agency Agreement for good cause as defined in the Agency Agreement. The Commission may appoint a temporary agent to operate the retail liquor store until it completes the termination procedure. The Commission provides the termination date to the retail sales agent in writing.

Stat. Auth.: ORS 471, ORS 472, ORS 471.030, ORS 471.730(1), ORS 471.730(5), ORS 472.030, ORS 472.060(1) & ORS 472.060(2)(d)  
Stats. Implemented: ORS 471.750(1)  
Hist.: LCC 14-1978, f. & ef. 10-26-78; LCC 24-1979, f. 10-26-79, ef. 10-29-79; Renumbered from 845-010-0341; LCC 5-1981, f. 9-25-81, ef. 1-1-82; LCC 16-1983, f. 12-27-83, ef. 1-1-84; LCC 22-1986, f. 10-16-86, ef. 1-1-87; OLCC 2-2003, f. 1-27-03, cert. ef. 2-1-03, Renumbered from 845-015-0010

### 845-015-0196

#### Appointment of a Temporary Agent

(1) When the Commission decides that a retail sales agent is unable to operate a retail liquor store, the Commission appoints a temporary agent or operates a store temporarily with Commission staff. The Commission considers any candidate for temporary agent nominated by a retail sales agent but may choose someone else. The Commission sets a temporary agent's compensation and deducts it from the pay due a retail sales agent unless the Commission and retail sales agent agree to some other compensation plan. A retail sales agent's contract continues until the termination date.

(2) A temporary agent or Commission staff operates a retail liquor store until the Commission decides a retail sales agent can resume store duties or until a new retail sales agent is appointed and can assume retail liquor store operations.

(3) All of the rules that apply to a retail sales agent apply to a temporary agent except OAR 845-015-0110, 845-015-0120 and 845-015-0125.

Stat. Auth.: ORS 471, ORS 472, ORS 471.030, ORS 471.730(1), ORS 471.730(5), ORS 472.030, ORS 472.060(1), & ORS 472.060(2)(d)  
Stats. Implemented: ORS 471.750(1)  
Hist.: LCC 15-1978, f. 11-30-78, ef. 12-1-78; Renumbered from 845-010-0347; LCC 16-1986, f. 10-16-86, ef. 1-1-87; OLCC 2-2003, f. 1-27-03, cert. ef. 2-1-03, Renumbered from 845-015-0030

Adm. Order No.: LOTT 1-2003

Filed with Sec. of State: 2-3-2003

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Rules Amended: 177-085-0005, 177-085-0010, 177-085-0015, 177-085-0020, 177-085-0025, 177-085-0030, 177-085-0035, 177-085-0040, 177-085-0045, 177-085-0050, 177-085-0065

Rules Repealed: 177-085-0055

Subject: Effective October 6, 2002, the Powerball game is permanently changed to include additional ball numbers, amendments to the Power Play options, a new "Match 5 Bonus" prize feature and amendments to the annuity prize payments option. These updates are reflected in various sections listed above. OAR 177-085-0055 is being suspended and repealed for redundancy. The other proposed amendments generally are housekeeping and grammar.

Rules Coordinator: Mark W. Hohlt—(503) 540-1417

### 177-085-0005

#### Definitions

The following definitions apply unless the context requires a different meaning.

(1) "Drawing" means the formal process of selecting winning numbers which determine the number of winners for each prize level of the game.

(2) "Game Board" or "Boards" means that area of the play slip which contains two sets of numbered squares to be marked by the player, the first set containing fifty-three squares, numbered 1 through 53, and the second set containing forty-two squares, numbered 1 through 42.

(3) "Game Ticket" or "Ticket" means a ticket produced by a terminal which contains the caption Powerball, one or more lettered game plays followed by the drawing date, the price of the ticket, a six digit retailer number and a serial number that is compatible with the Lottery's on-line operating system.

(4) "Lottery" means the Oregon State Lottery.

(5) "Match 5 Bonus Prize" means the bonus money won when a Grand Prize has reached a new high level and bonus prize monies have been declared by the Product Group. The Match 5 Bonus Prize does not include the original amount declared for the Match 5 Prize. For the purposes of the Match 5 Bonus Prize, Match 5 means matching five of the numbers drawn from the first set containing fifty-three numbers.

(6) "MUSL" means the Multi-State Lottery Association

(7) "MUSL Board" means the governing body of the MUSL which is comprised of the chief executive officer of each Party Lottery.

(8) "Party Lottery" means a state lottery or lottery of a political subdivision or entity that participates in the Multi-State Lottery (MUSL) and, in the context of these Powerball Product Group rules, which has joined in selling the Powerball game.

(9) "Play" means the six numbers, the first five from a field of fifty-three numbers and the last one from a field of forty-two numbers which appear on a ticket as a single lettered selection and are to be played by a player in the game.

(10) "Play Slip" or "Game Slip" means the paper used in marking a player's game plays and containing one or more boards.

(11) "Product Group" means a group of lotteries which has joined together to offer a product pursuant to the terms of the Multi-State Lottery Agreement and the Group's own rules.

(12) "Quick Pick" means the random selection by the computer system of two-digit numbers that appear on a ticket and are played by a player in the game.

(13) "Retailer" means a person or entity authorized by the Lottery to sell lottery tickets.

(14) "Set Prize" means all prizes except the Grand Prize that are advertised to be paid by a single lump sum payment and, except in instances outlined in these rules, will be equal to the prize amount established by the MUSL Board for the prize level.

(15) "Winning Numbers" means the six numbers, the first five from a field of fifty-three numbers and the last one from a field of forty-two numbers, randomly selected at each drawing, which shall be used to determine winning plays contained on a game ticket.

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4)  
Stats. Implemented: ORS 461.200, ORS 461.210, ORS 461.220, ORS 461.230, ORS 461.230, ORS 461.240, ORS 461.250 & ORS 461.260

# ADMINISTRATIVE RULES

Hist.: LC 6-1988(Temp), f. & cert. ef. 1-26-88; LC 9-1988, f. & cert. ef. 2-23-88; LC 3-1989(Temp), f. & cert. ef. 1-23-89; LC 6-1989, f. 2-28-89, cert. ef. 3-2-89; LC 1-1992, f. 2-25-92, cert. ef. 4-19-92; LC 10-1996, f. & cert. ef. 9-4-96; LC 7-1997, f. 10-30-97, cert. ef. 11-2-97; LC 9-1997(Temp), f. & cert. ef. 11-7-97; LOTT 2-1998, f. & cert. ef. 5-28-98; LOTT 9-2002(Temp), f. 9-4-02, cert. ef. 10-6-02 thru 3-31-03; LOTT 1-2003, f. & cert. ef. 2-3-03

Hist.: LC 6-1988(Temp), f. & cert. ef. 1-26-88; LC 9-1988, f. & cert. ef. 2-23-88; LC 1-1992, f. 2-25-92, cert. ef. 4-19-92; LOTT 9-2002(Temp), f. 9-4-02, cert. ef. 10-6-02 thru 3-31-03; LOTT 1-2003, f. & cert. ef. 2-3-03

## 177-085-0010

### Ticket Price

- (1) A Powerball ticket shall cost one dollar (USA\$1) per play.
- (2) An offer to buy and an offer to sell a Powerball ticket shall be made only at a location which has a retailer contract with the Lottery or only by a method which is approved by the Lottery.
- (3) The Lottery shall not directly and knowingly sell a Powerball ticket or combination of tickets to any person or entity which would guarantee said purchaser a Grand Prize win.

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4)

Stats. Implemented: ORS 461.240

Hist.: LC 6-1988(Temp), f. & cert. ef. 1-26-88; LC 9-1988, f. & cert. ef. 2-23-88; LC 3-1989(Temp), f. & cert. ef. 1-23-89; LC 6-1989, f. 2-28-89, cert. ef. 3-2-89; LC 2-1992(Temp), f. & cert. ef. 4-17-92; LC 6-1992, f. & cert. ef. 6-23-92; LOTT 9-2002(Temp), f. 9-4-02, cert. ef. 10-6-02 thru 3-31-03; LOTT 1-2003, f. & cert. ef. 2-3-03

## 177-085-0015

### Game Description

(1) Powerball is a five out of fifty-three numbers plus one out of forty-two numbers on-line lottery game, drawn every Wednesday and Saturday, which pays the Grand Prize, at the election of the player made in accordance with these rules or by a default election made in accordance with these rules, either on an annuitized pari-mutuel basis or as a single lump sum payment of the total amount held for this prize pool on a pari-mutuel basis. Except as provided in the rules, all other prizes are paid on a set lump sum basis.

(2) To play Powerball, a player shall select five different numbers, between 1 and 53 and one additional number between 1 and 42, for input into a terminal. The additional number may be the same as one of the first five numbers selected by the player.

(3) Tickets can be purchased either from a terminal operated by a retailer (i.e., a clerk-activated terminal) or from a terminal operated by the player (i.e., a player-activated terminal). If purchased from a retailer, the player may select a set of five numbers and one additional number by marking six numbered squares in any one game board on a play slip and submitting the play slip to the retailer, or by requesting "Quick Pick" from the retailer. The retailer will then issue a ticket, via the terminal, containing the selected set or sets of numbers, each of which constitutes a game play. Tickets can be purchased from a player-activated terminal by use of a touch screen or by inserting a play slip into the machine. Tickets may be purchased for up to four consecutive drawings.

(4) It is the sole responsibility of the player to verify the accuracy of the game play or plays and other data printed on the ticket. A ticket may not be voided or canceled by returning the ticket to the retailer or to the Lottery, including tickets that are printed in error. No ticket shall be returned to the Lottery for credit. The placing of plays is done at the player's own risk through the on-line retailer.

(5) The winning numbers for the Powerball game shall be determined at a drawing conducted under the supervision of the MUSL Board. The MUSL Board shall determine the frequency of Powerball game drawings. Winning numbers shall be selected at random with the aid of mechanical drawing equipment. The Lottery Director shall designate a Drawing Manager who shall review and randomly observe the drawings conducted by the MUSL Board.

Stat. Auth.: ORS 461.250 & Or. Const. Art. XV, Sec. 4(4)

Stats. Implemented: ORS 461.220

Hist.: LC 6-1988(Temp), f. & cert. ef. 1-26-88; LC 9-1988, f. & cert. ef. 2-23-88; LC 3-1989(Temp), f. & cert. ef. 1-23-89; LC 6-1989, f. 2-28-89, cert. ef. 3-2-89; LC 1-1992, f. 2-25-92, cert. ef. 4-19-92; LC 6-1993, f. & cert. ef. 7-2-93; LC 1-1994, f. 1-27-94, cert. ef. 2-1-94; LC 7-1997, f. 10-30-97, cert. ef. 11-2-97; LOTT 9-2002(Temp), f. 9-4-02, cert. ef. 10-6-02 thru 3-31-03; LOTT 1-2003, f. & cert. ef. 2-3-03

## 177-085-0020

### Prize Claims

A ticket, subject to the validation requirements set forth in these rules, is the only proof of a game play or plays and the submission of a winning ticket to the Lottery or an authorized retailer as required by these rules is the sole method of claiming a prize or prizes. A play slip or a copy of a ticket has no pecuniary or prize value and does not constitute evidence of ticket purchase or of numbers selected.

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4)

Stats. Implemented: ORS 461.250

## 177-085-0025

### Prize Pool

(1) The prize pool for all prize categories shall consist of 50 percent of each drawing period's sales, including tax, that remain after funding the prize reserve accounts to the amounts established by the Product Group. Any amount remaining in the prize pool at the end of this game shall be carried forward to a replacement game or expended in a manner as directed by the Product Group in accordance with state law.

(2) Two percent of sales, including tax, shall be placed in trust in one or more prize reserve accounts until the prize reserve accounts reach the amounts designated by the Product Group. Once the prize reserve accounts exceed the designated amounts, the excess shall become part of the Grand Prize pool. Any amount remaining in a prize reserve account at the end of this game shall be carried forward to a replacement prize reserve account or expended in a manner as directed by the Product Group in accordance with state law.

(3) The Grand Prize shall be determined on a pari-mutuel basis. Except as provided in these rules, all other prizes awarded shall be paid as set lump sum prizes with the following expected prize payout percentages: [Table not included. See ED. NOTE.]

(a) The prize money allocated to the Grand Prize category shall be divided equally by the number of game boards winning the Grand Prize.

(b) The prize pool percentage allocated to the set prizes (the single lump sum prizes of \$100,000 or less) shall be carried forward to subsequent draws if all or a portion of it is not needed to pay the set prizes awarded in the current draw. If the total of the set prizes awarded in a drawing exceeds the percentage of the prize pool allocated to the set prizes, then the amount needed to fund the set prizes awarded shall be drawn from the following sources, in the following order:

(A) The amount allocated to the set prizes and carried forward from previous draws, if any;

(B) An amount from the set Prize Reserve Account, if available, not to exceed \$25,000,000.00 per drawing.

(c) If, after these sources are depleted, there are not sufficient funds to pay the set prizes awarded, then the highest set prize shall become a pari-mutuel prize. If the amount of the highest set prize, when paid on a pari-mutuel basis, drops to or below the next highest set prize and there are still not sufficient funds to pay the remaining set prizes awarded, then the next highest set prize shall become a pari-mutuel prize. This procedure shall continue down through all set prize levels, if necessary, until all set prize levels become pari-mutuel prize levels. In that instance, the money available from the funding sources listed in this rule shall be divided among the winning plays in proportion to their respective prize percentages.

(d) The prize money allocated to the Match 5 Bonus Prize shall be divided equally by the number of game plays winning the Match 5 prize when a game play wins the new high jackpot amount.

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

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4)

Stat. Implemented: ORS 461.220

Hist.: LC 6-1988(Temp), f. & cert. ef. 1-26-88; LC 9-1988, f. & cert. ef. 2-23-88; LC 17-1988(Temp), f. & cert. ef. 6-2-88; LC 18-1988, f. & cert. ef. 6-28-88; LC 3-1989(Temp), f. & cert. ef. 1-23-89; LC 6-1989, f. 2-28-89, cert. ef. 3-2-89; LC 1-1992, f. 2-25-92, cert. ef. 4-19-92; LC 4-1993, f. & cert. ef. 4-2-93; LC 11-1995, f. 10-30-95, cert. ef. 11-1-95; LC 10-1996, f. & cert. ef. 9-4-96; LC 7-1997, f. 10-30-97, cert. ef. 11-2-97; LOTT 9-2002(Temp), f. 9-4-02, cert. ef. 10-6-02 thru 3-31-03; LOTT 1-2003, f. & cert. ef. 2-3-03

## 177-085-0030

### Probability of Winning

(1) The following table sets forth the probability of winning and the probable distribution of winners in and among each prize category, based upon the total number of possible combinations in Powerball: [Table not included. See ED. NOTE.]

(2) The Grand Prize amount is estimated using a 30-payment (30 payments over 29 years) deferred-payment factor of 2.0. The amount does not include the Prize Reserve Account deduction or any other deduction, if any.

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

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4)

Stats. Implemented: ORS 461.220

Hist.: LC 6-1988(Temp), f. & cert. ef. 1-26-88; LC 9-1988, f. & cert. ef. 2-23-88; LC 3-1989(Temp), f. & cert. ef. 1-23-89; LC 6-1989, f. 2-28-89, cert. ef. 3-2-89; LC 1-1992, f. 2-25-92, cert. ef. 4-19-92; LC 7-1997, f. 10-30-97, cert. ef. 11-2-97; LOTT 9-2002(Temp), f. 9-4-02, cert. ef. 10-6-02 thru 3-31-03; LOTT 1-2003, f. & cert. ef. 2-3-03

# ADMINISTRATIVE RULES

177-085-0035

## Prize Payment

(1) Grand prizes shall be paid, at the election of the player made no later than 60 days after validation of the prize, with either a per winner annuity or single lump sum payment. If the payment election is not made by the player within 60 days after validation, then the prize shall be paid as an annuity prize. The election to take the single lump sum payment may be made at the time of validation of the prize claim or within 60 days thereafter. An election made after validation is final and cannot be revoked, withdrawn or otherwise changed. Shares of the Grand Prize shall be determined by dividing the amount available in the Grand Prize pool equally among all winners of the Grand Prize. Winner(s) who elect a lump sum payment shall be paid their share(s) in a single lump sum payment. The annuitized option prize shall be determined by multiplying a winner's share of the Grand Prize pool by the MUSL annuity factor. (Application of the MUSL annuity factor generally is anticipated to result in the Grand Prize winner who elects a single lump sum payment receiving an amount that roughly approximates one-half of the advertised jackpot amount. The actual single lump sum payment amount will vary as a function of the MUSL annuity factor determined as described in subsection (5) of this rule.) The MUSL annuity factor is determined by the best total securities price obtained through a competitive bid of qualified, pre-approved brokers made after it is determined that the prize is to be paid as an annuity prize or after the expiration of 60 days after the winner becomes entitled to the prize. Neither MUSL nor the party lotteries shall be responsible or liable for changes in the advertised or estimated annuity prize amount and the actual amount purchased after the prize payment method is actually known to MUSL. In certain instances announced by the Product Group, the Grand Prize shall be a guaranteed amount and shall be determined pursuant to subsection (5) of this rule. If individual shares of the cash held to fund an annuity are less than \$250,000, the Product Group, in its sole discretion, may elect to pay the winners their share of the amount held in the Grand Prize pool. All annuitized prizes shall be paid annually in thirty equal payments with the initial payment being made directly with available funds, to be followed by twenty-nine payments funded by the annuity. Annual payments after the initial payment shall be made by the lottery on the anniversary date of the first payment or if such date falls on a non-business day, then the first business day following the anniversary date of the selection of the jackpot winning numbers. Funds for the initial payment of an annuitized prize or the lump sum payment prize shall be made available by MUSL for payment by the Party Lottery which sold the winning ticket by the 15th calendar day (or the next banking day if the fifteenth day is a holiday) following the drawing. If necessary, when the due date for the payment of a prize occurs before the receipt of sufficient funds in the prize pool trust to pay the prize, then the transfer of funds for the payment of the full lump sum payment amount may be delayed pending receipt of funds from the party lotteries. A state may elect to make the initial payment from its own funds after validation, with notice to MUSL. In the event of the death of a lottery winner during the annuity payment period, the Product Group, in its sole discretion, upon the petition of the estate of the lottery winner (the "Estate") or the persons identified on the winner's Beneficiary Designation form (BDF), whichever is applicable, to the state lottery of the state in which the deceased lottery winner purchased the winning ticket, and subject to applicable federal, state, or district laws, may make payment to the Estate or the designated beneficiary of the discounted present value of the annuitized prize payments. If the Product Group makes such a determination, then securities and/or amounts held to fund the deceased lottery winner's annuitized prize may be distributed to the Estate or the persons on the BDF. The identification of the securities, if any, to fund the annuitized prize shall be at the sole discretion of the Product Group.

(2) All low-tier cash prizes (all prizes except the Grand Prize) shall be paid directly through the Lottery that sold the winning ticket. The Lottery may begin paying low-tier prizes after receiving authorization to pay from the MUSL central office.

(3) Annuitized payments of the Grand Prize or a share of the Grand Prize may be rounded to facilitate the purchase of an appropriate funding mechanism. Breakage on an annuitized Grand Prize win shall be added to the first payment to the winner or winners. Prizes other than the Grand Prize which, under these rules, may become single-payment, pari-mutuel prizes, may be rounded down so that prizes can be paid in multiples of whole dollars. Breakage resulting from rounding these prizes shall be carried forward to the prize pool for the next drawing.

(4) If the Grand Prize is not won in a drawing, the prize money allocated for the Grand Prize shall roll over and be added to the Grand Prize pool for the following drawing. If a new high Grand Prize is not won in a

drawing, the prize money allocated for the Match 5 Bonus Prizes shall roll over and be added to the Match 5 Bonus Prize pool for the following drawing.

(5) The Product Group may offer guaranteed minimum Grand Prize amounts or minimum increases in the Grand Prize amount between drawings or make other changes in the allocation of prize money where the Product Group finds that it would be in the best interest of the game. If a minimum Grand Prize amount or a minimum increase in the Grand prize amount between drawings is offered by the Product Group, then the Grand Prize amount shall be determined as follows. If there are multiple Grand Prize winners during a single drawing, each selecting the annuitized option prize, then a winner's share of the guaranteed annuitized Grand Prize shall be determined by dividing the guaranteed annuitized Grand Prize by the number of winners. If there are multiple Grand Prize winners during a single drawing and at least one of the Grand Prize winners has elected the annuitized option prize, then the best bid submitted by MUSL's pre-approved qualified brokers shall determine the cash pool needed to fund the guaranteed annuitized Grand Prize. If no winner of the Grand Prize during a single drawing has elected the annuitized option prize, then the amount of the cash in the Grand Prize pool shall be an amount equal to the guaranteed annuitized amount divided by the average annuity factor of the most recent three best quotes provided by MUSL's pre-approved qualified brokers submitting quotes. In no case shall quotes be used which are more than two weeks old, and if less than three quotes are submitted, then MUSL shall use the average of all quotes submitted. Changes in the allocation of prize money shall be designed to retain approximately the same prize allocation percentages, over a year's time, set out in these rules. Minimum guaranteed prizes or increases may be waived if the alternate funding mechanism set out in OAR 177-085-0025(3)(b) or (c) becomes necessary.

(6) The holder of a winning ticket may win only one prize per board in connection with the winning numbers drawn, and shall be entitled only to the prize won by those numbers in the highest matching prize category.

(7) Claims for all prize categories, including the Grand Prize, shall be submitted within one year after the date of the drawing in accordance with these rules.

(8) When the Grand Prize is projected to reach a new high annuitized amount, the maximum amount to be allocated to the Grand Prize pool from the Grand Prize percentage shall be the previous high amount plus \$25 million (annuitized) or as set by the Group. Any amount of the Grand Prize percentage which exceeds the \$25 million (annuitized) increase shall be added to the Match 5 Bonus Prize Pool. The Match 5 Bonus prize pool is hereby created, and shall accumulate until the Grand Prize is actually won, at which time the Match 5 Bonus prize pool shall be divided equally by the number of game boards winning the Match 5 prize. If there are no Match 5 winners on the draw when the new high Grand Prize is won, then the Match 5 Bonus prize pool shall be divided equally by the number of game plays winning the Match 4+1 prize.

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4)

Stats. Implemented: ORS 461.220

Hist.: LC 6-1988(Temp), f. & cert. ef. 1-26-88; LC 9-1988, f. & cert. ef. 2-23-88; LC 3-1989(Temp), f. & cert. ef. 1-23-89; LC 6-1989, f. 2-28-89; cert. ef. 3-2-89; LC 1-1992, f. 2-25-92, cert. ef. 4-19-92; LC 8-1992, f. & cert. ef. 7-23-92; LC 4-1993, f. & cert. ef. 4-2-93; LC 10-1996, f. & cert. ef. 9-4-96; LC 7-1997, f. 10-30-97, cert. ef. 11-2-97; LOTT 9-2002(Temp), f. 9-4-02, cert. ef. 10-6-02 thru 3-31-03; LOTT 1-2003, f. & cert. ef. 2-3-03

177-085-0040

## Ticket Validation

To be a valid ticket and eligible to receive a prize, a Powerball ticket shall satisfy all the requirements established by the Lottery for validation of winning tickets sold through its on-line system and any other validation requirements adapted by the MUSL Board, the Product Group, and published as the Confidential MUSL Minimum Game Security Standards. The Lottery and MUSL shall not be responsible for tickets which are altered in any manner. When a winning ticket is submitted to the Lottery for validation along with the Lottery's completed claim form, and the Lottery has initiated the validation procedures, the Lottery retains possession of the winning ticket and claim form.

Stat. Auth.: ORS 461.250 & Or. Const. Art. XV, Sec. 4(4)

Stats. Implemented: ORS 461.250

Hist.: LC 6-1988 (Temp), f. & cert. ef. 1-26-88; LC 9-1988, f. & cert. ef. 2-23-88; LC 1-1992, f. 2-25-92, cert. ef. 4-19-92; LC 1-1994, f. 1-27-94, cert. ef. 2-1-94; LC 10-1996, f. & cert. ef. 9-4-96; LOTT 9-2002(Temp), f. 9-4-02, cert. ef. 10-6-02 thru 3-31-03; LOTT 1-2003, f. & cert. ef. 2-3-03

# ADMINISTRATIVE RULES

177-085-0045

## Ticket Responsibility

Until such time as a signature is placed in the area designated for signature, a ticket is owned by the bearer of the ticket. MUSL, the Product Group, or the Lottery are not responsible for lost or stolen tickets.

Stat. Auth.: ORS 461.250 & Or. Const. Art. XV, Sec. 4(4)

Stats. Implemented: ORS 461.250

Hist.: LC 6-1988(Temp), f. & cert. ef. 1-26-88; LC 9-1988, f. & cert. ef. 2-23-88; LC 16-1988, f. & cert. ef. 6-2-88; LC 10-1996, f. & cert. ef. 9-4-96; LOTT 9-2002(Temp), f. 9-4-02, cert. ef. 10-6-02 thru 3-31-03; LOTT 1-2003, f. & cert. ef. 2-3-03

177-085-0050

## Ineligible Players

(1) A ticket or share issued by the MUSL or any of its party lotteries shall not be purchased by, and a prize won by any such ticket or share shall not be paid to:

(a) A MUSL employee, officer, or director;

(b) A contractor or consultant under agreement with the MUSL to review the MUSL audit and security procedures;

(c) An employee of an independent accounting firm under contract with MUSL to observe drawings or site operations and actually assigned to the MUSL account and all partners, share-holders, or owners in the local office of the firm; or

(d) An immediate family member of an individual described in subsections (a) through (c) of this section.

(2) Those persons designated by a party lottery's law as ineligible to play its game shall also be ineligible to play Powerball in that party lottery's jurisdiction.

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4)

Stats. Implemented: ORS 461.250

Hist.: LC 6-1988(Temp), f. & cert. ef. 1-26-88; LC 9-1988, f. & cert. ef. 2-23-88; LC 12-1990, f. & cert. ef. 10-2-90; LC 1-1992, f. 2-25-92, cert. ef. 4-19-92; LOTT 9-2002(Temp), f. 9-4-02, cert. ef. 10-6-02 thru 3-31-03; LOTT 1-2003, f. & cert. ef. 2-3-03

177-085-0065

## Power Play

(1) Power Play is an optional, limited extension of the Powerball Game described in OAR Division 85. The Lottery Director, in the Lottery Director's sole discretion and based on agreements with MUSL, is authorized to initiate and terminate the Power Play option.

(2) Power Play multiplies the amount of any of the cash Set Prizes (the cash prizes normally paying \$3 to \$100,000) won in a drawing. The Grand Prize jackpot is not a Set Prize and will not be multiplied. Match 5 Bonus Prizes are awarded independent of the Power Play option and are not multiplied by the Power Play multiplier.

(3) A qualifying Power Play option play is any single Powerball Play for which the player selects the Power Play option on either the Play Slip or by selecting the Power Play option through a clerk-activated or player-activated terminal, pays one extra dollar for the Power Play option play, and which is recorded at the Party Lottery's central computer as a qualifying play.

(4) A qualifying play which wins one of the cash Set Prizes will be multiplied by the number selected (2 through 5), in a separate random selection announced during the official Powerball drawing show.

(5) MUSL will conduct a separate random "Power Play" drawing and announce results during each of the regular Powerball drawings. During each random "Power Play" drawing, one number from fifteen possible numbers will be selected. The numbers available for selection are 2, 2, 2, 3, 3, 3, 4, 4, 4, 5, 5, 5, 5, and 5.

(6) Except as provided in these rules, all prizes awarded shall be paid as lump sum set prizes. Instead of the Powerball set prize amounts, qualifying Power Play option plays will pay the amounts shown below when matched with the Power Play number drawn: [Table not included. See ED. NOTE.]

(7) The following table sets forth the probability of the various Power Play numbers being drawn during a single Powerball drawing: [Table not included. See ED. NOTE.]

(8) The prize pool percentage allocated to the Power Play set prizes shall be carried forward to subsequent draws if all or a portion of it is not needed to pay the set prizes awarded in the current draw.

(9) If the total of the original Powerball set prizes and the multiplied Power Play set prizes awarded in a drawing exceeds the percentage of the prize pools allocated to the set prizes, then the amount needed to fund the set prizes (including the multiplied set prizes) awarded shall be drawn from the following sources, in the following order:

(a) The amount allocated to the set prizes and carried forward from previous draws, if any;

(b) An amount from the Powerball Set-Prize Reserve Account, if available in the account, not to exceed twenty-five million dollars (\$25,000,000) per drawing; and

(c) If, after these sources are depleted, there are not sufficient funds to pay the set prizes awarded (including multiplied prizes), then the highest set prize (including the multiplied prizes) shall become a pari-mutuel prize. If the amount of the highest set prize, when paid on a pari-mutuel basis, drops to or below the next highest set prize and there are still not sufficient funds to pay the remaining set prizes awarded, then the next highest set prize, including the multiplied prize, shall become a pari-mutuel prize. This procedure shall continue down through all set prizes levels, if necessary, until all set prize levels become pari-mutuel prize levels. In that instance, the money available from the funding sources listed in this rule shall be divided among the winning plays in proportion to their respective prize percentages.

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

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4) & ORS 461

Stats. Implemented: ORS 461

Hist.: LOTT 3-2001(Temp), f. 3-1-01, cert. ef. 3-2-01 thru 8-29-01; LOTT 10-2001, f. 5-25-01, cert. ef. 5-29-01; LOTT 9-2002(Temp), f. 9-4-02, cert. ef. 10-6-02 thru 3-31-03; LOTT 1-2003, f. & cert. ef. 2-3-03

## Oregon Youth Authority Chapter 416

Adm. Order No.: OYA 1-2003

Filed with Sec. of State: 1-16-2003

Certified to be Effective: 1-16-03

Notice Publication Date: 11-1-02

Rules Amended: 416-430-0050

**Subject:** This rule defines the process by which persons may visit OYA facilities, for the purpose of interacting with an offender placed there or to tour facilities to increase individual knowledge about OYA services.

**Rules Coordinator:** Michelle Jayna—(503) 378-3864

416-430-0050

## Visitors to OYA facilities

(1) Purpose

(a) The OYA acknowledges the importance of partnerships with community members, knowing that the effectiveness of those partnerships is increased when community members understand the services offered by the OYA. As well, the OYA recognizes the importance of interaction between offenders in its custody with family and members of the community. Such access allows offenders to maintain contact with their families and community, and contributes to effective planning for an offender's treatment needs.

(b) This rule defines the process by which persons may gain entrance to OYA facilities for the purpose of increasing individual knowledge about OYA services or interacting with an offender placed there.

(2) Facility entrance

(a) The OYA will control access into and out of facilities that physically house offenders, in order to maintain the security, sound order, and discipline within the facility.

(A) Approval to enter secure facilities is granted by the facility Superintendent/Camp Director. This approval may be delegated according to local procedure.

(B) Requests to enter a secure facility require advance notice, according to OYA policy and local procedure.

(C) All persons who enter OYA facilities will be supervised by OYA staff and individual contact with offenders is prohibited, unless specifically authorized by the facility Superintendent/Camp Director.

(D) Persons must conform to all security and control procedures enforced at the facility. Failure to do so is grounds for refusal of entry or removal if entry has already been gained.

(i) Facility staff will notify persons of all rules, policies, and procedures prior to entry into the facility.

(ii) Persons may be asked to submit to a search of their person (using metal detectors or other electronic devices) or personal property.

(iii) The facility will place limitations on the type of property that is allowed within the secure perimeter of the facility. No cameras or tape recorders are allowed without specific written authorization of the facility Superintendent/Camp Director.

(3) Tours

(a) Prior authorization and approval by OYA is required for all facility tours, in compliance with these rules and OYA policy and procedure.

# ADMINISTRATIVE RULES

Typically, tours are granted to persons interested or involved in juvenile corrections, such as:

- (A) Oregon state officials;
- (B) Juvenile justice professionals from other agencies;
- (C) Students older than age 18, as part of an educational program (exceptions may be approved by the facility Superintendent/Camp Director).

(b) All tours will be supervised by OYA staff. Some parts of the facility may be off-limits, and individual contact with offenders is prohibited.

(d) As part of the approval process, the OYA requires that the names of persons who plan to participate in the tour be provided in advance. Persons must check-in at the designated reception area and present picture identification.

(A) Persons not prior authorized to participate in the tour will be denied access into the facility.

(B) Persons who are on parole/probation status in the community, former OYA offenders, or family members of offenders currently under OYA custody must be individually approved in writing by the facility Superintendent/Camp Director to participate in a facility tour.

(4) Visits with offenders

(a) Prior authorization and approval by OYA is required for all persons who request to visit an offender, in compliance with these rules and OYA policy and procedure.

(b) OYA staff will consider all requests from individuals who request to visit an offender and allow or deny the visit on the basis of what would best benefit the offender and in the interests of the security and order of the facility.

(A) When making a determination about whether to allow visitation, OYA staff will consider:

- (i) The relationship that exists between the offender and the visitor;
- (ii) The offender's case plan;
- (iii) The goals for the visit;
- (iv) Facility security and order;
- (v) The offender's wishes;
- (vi) Orders of the court;
- (vii) The decision of the Department of Corrections (for adult offenders in the physical custody of the OYA).

(B) Visitation with offenders is limited to those persons who are integral to the offender's case plan. Those persons typically include:

(i) Family members, including but not limited to: parents, siblings, children of offenders, legal guardians, members of step families, surrogate parents, or grandparents;

(ii) Attorney for the offender (subject to OAR chapter 416, division 440);

(iii) Persons involved in treatment planning, including but not limited to mentors, transition resources, or placement options; and

(iv) Other persons, as approved on a case-by-case.

(c) Any person may be denied visitation with an offender for the following reasons.

(A) The person does not have prior authorization to visit an offender.

(B) The person appears to be intoxicated or otherwise behaving in an unlawful or inappropriate manner.

(C) The person has abused or may abuse an offender.

(D) The person has encouraged the offender to violate the law or disobey OYA rules, policies or procedures.

(E) There is reasonable cause to believe the person intends to aid an offender in escaping.

(F) The person has violated OYA rules, policies or procedures.

(G) The person has interfered with the good order, security or operations of the facility and there is reasonable cause to believe he/she will do so again.

(H) The time of the person's visit interferes with daily programming.

(I) The visit interferes with the offender's overall reformation.

(J) The committing court, Department of Corrections, or Community Corrections has ordered that the person not visit;

(K) The offender or his/her parent or legal guardian has requested that the person not visit.

(d) If a request for visitation is denied, the OYA will provide the requestor and the affected offender with a written statement of the determination. An offender may appeal the decision using the grievance process outlined in OAR chapter 416, division 20 and facility procedure.

(e) Persons who visit offenders are subject to the following standards.

(A) Visitors must present picture identification.

(C) Visitors must arrange with facility staff prior to the scheduled visitation if they wish to bring personal items or gifts to the offender.

(D) Visitors less than the age of 18 must be accompanied by a parent or guardian.

(E) Visitors must comply with the visitation schedule for each facility, including the day, time, and length of visit allowed, and check-in at the designated reception area.

(F) The number of visitors will be limited where space, supervision and security require it.

(f) Requests from media representatives to visit an offender are subject to the provisions of OAR chapter 416, division 440.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420.011, ORS 420A.010, ORS 420A.125

Hist.: OYA 15-2002, f. & cert. ef. 10-11-02; OYA 1-2003, f. & cert. ef. 1-16-03

## Parks and Recreation Department Chapter 736

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

**Filed with Sec. of State:** 1-29-2003

**Certified to be Effective:** 2-1-03

**Notice Publication Date:** 12-1-02

**Rules Adopted:** 736-100-0000, 736-100-0010, 736-100-0020, 736-100-0030, 736-100-0040, 736-100-0050, 736-100-0060, 736-100-0070, 736-100-0080

**Subject:** The rules codify the Oregon Parks and Recreation Department's mission statement and set forth eight goals guiding the department's direction over the next twelve years to 2015. The goals include promoting outdoor recreation, embracing natural resource conservation and stewardship, preserving Oregon's cultural heritage, acquiring properties that build on the current system, delivering world-class interpretive experiences, promoting public access to Oregon's beaches, trails and waterways, providing high-quality camping experiences and seeking sufficient and stable long-term funding.  
**Rules Coordinator:** Angie Springer—(503) 378-4168, ext. 223

### 736-100-0000

#### Purpose

The mission of the Oregon Parks and Recreation Department is to provide and protect outstanding natural, scenic, cultural, historic and recreational sites for the enjoyment and education of present and future generations. The Department is guided by the Parks and Recreation Commission, which leads by defining and affirming the Department's core values and direction. The Commission adopted Target 2014 on November 30, 2000, setting the Department's direction for the next fifteen years. These rules set forth the goals that comprise Target 2014.

Stat. Auth.: ORS 390.124

Stats. Implemented: ORS 390.010 & 390.117

Hist.: PRD 1-2003, f. 1-29-03 cert. ef. 2-1-03

### 736-100-0010

#### Goal One — Promote outdoor recreation in Oregon.

The Oregon Parks and Recreation Department will serve as the principal advocate, leader and source of expertise and support for outdoor recreation providers at all levels of government.

Stat. Auth.: ORS 390.124

Stats. Implemented: ORS 390.010 & 390.117

Hist.: PRD 1-2003, f. 1-29-03 cert. ef. 2-1-03

### 736-100-0020

#### Goal Two — Embody the principles of natural resource conservation in land stewardship and agency business practices.

Both the Commission and the Department hold a public trust to protect Oregon's state park properties, as well as the Willamette River Greenway, State Scenic Waterways and ocean beaches. The Department will be a model of natural resource conservation by balancing the needs of today's visitors with sound resource management.

Stat. Auth.: ORS 390.124

Stats. Implemented: ORS 390.010 & 390.117

Hist.: PRD 1-2003, f. 1-29-03 cert. ef. 2-1-03

### 736-100-0030

#### Goal Three — Preserve Oregon's rich cultural heritage and broaden public understanding of Oregon's historic places and events.

Many state parks contain sites important to Oregon's past and present culture. But the cultural history of Oregon — and the structures, landmarks, and special places that represent it — extends well beyond the boundaries of park properties. The Oregon Heritage Commission and State Historic

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Preservation Office, both divisions of the Oregon Parks and Recreation Department, are the safeguards of this public trust.

Stat. Auth.: ORS 390.124  
Stats. Implemented: ORS 390.010 & 390.117  
Hist.: PRD 1-2003, f. 1-29-03 cert. ef. 2-1-03

## 736-100-0040

### Goal Four — Acquire properties that build upon the diversity and strength of our current system.

The Oregon state park system is a diverse and rich collection of properties, showcasing the state's variety of natural resources, scenic landscapes and history. The Department exists to acquire, protect and improve these areas to assure public enjoyment of them.

Stat. Auth.: ORS 390.124  
Stats. Implemented: ORS 390.010 & 390.117  
Hist.: PRD 1-2003, f. 1-29-03 cert. ef. 2-1-03

## 736-100-0050

### Goal Five — deliver world-class interpretive experiences to park visitors.

Interpretive education enriches the lives of our citizens. It not only deepens understanding of our natural resources, history and culture, but instills a compelling sense of what makes Oregon unique. More immediately, interpretive programs create vivid memories for our visitors, affirming the Department's identity as a place where families, individuals and friends share experiences that sustain them throughout their lives.

Stat. Auth.: ORS 390.124  
Stats. Implemented: ORS 390.010 & 390.117  
Hist.: PRD 1-2003, f. 1-29-03 cert. ef. 2-1-03

## 736-100-0060

### Goal Six — Promote access to Oregon's beaches, trails and waterways.

Oregon's park properties belong to the people. The Commission is entrusted with ensuring reasonable access to park lands for public enjoyment while simultaneously considering resource protection and local land use. Access to Oregon's beaches, its scenic waterways and potential trail corridors demands consistent advocacy, sound planning and consensus building.

Stat. Auth.: ORS 390.124  
Stats. Implemented: ORS 390.010 & 390.117  
Hist.: PRD 1-2003, f. 1-29-03 cert. ef. 2-1-03

## 736-100-0070

### Goal Seven — Provide varied, high-quality camping and other overnight experiences.

Camping has always been a cornerstone of the park experience. Demand for camping and other overnight stays in parks is increasing, and becoming more varied. As our population grows, especially around major metropolitan areas, the Department must respond quickly and creatively to that demand.

Stat. Auth.: ORS 390.124  
Stats. Implemented: ORS 390.010 & 390.117  
Hist.: PRD 1-2003, f. 1-29-03 cert. ef. 2-1-03

## 736-100-0080

### Goal Eight — Seek sufficient and stable operational and long-term funding.

Measure 66 accorded the Department a financial stability and sufficiency not seen in many years. However, two major financial issues concern the Commission. One is the loss of General Fund support. The other is that future Lottery revenues, now a part of the Department's budget, will not keep pace with the Department's obligations. The Commission acknowledges the importance and need for fund-raising, leveraged or shared acquisition partnerships and lean, efficient operations.

Stat. Auth.: ORS 390.124  
Stats. Implemented: ORS 390.010 & 390.117  
Hist.: PRD 1-2003, f. 1-29-03 cert. ef. 2-1-03

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**Physical Therapist Licensing Board  
Chapter 848**

**Adm. Order No.:** PTLB 1-2003  
**Filed with Sec. of State:** 2-6-2003  
**Certified to be Effective:** 2-6-03  
**Notice Publication Date:** 9-1-03  
**Rules Amended:** 848-030-0000

**Subject:** New language to clarify that: 1. If continuing education requirements or the refresher course is not completed in time, the licensee will have to retake the 18 hr medical screening class.

2. Privileges to practice without referral will cease at the end of the day that either deadline is not met.

3. Licensee who practices without referral privileges have ceased need to return their license to the Board and be assessed a processing fee. A new license will then be issued.

**Rules Coordinator:** Cathy Zarosinski—(503) 731-4047, ext. 221

## 848-030-0000

### Practice Without Referral

Prior to administering physical therapy to a person without prior referral as allowed by ORS 688.130(1), a licensed physical therapist shall meet the following additional requirements:

(1) Hold a CPR certificate, Level C, issued by the American Heart Association, or equivalent, which shall be kept current.

(2) Complete a course which provides at least 18 hours of instruction designed to enable the physical therapist to identify signs and symptoms of systemic disease, particularly those that can mimic neurological or musculoskeletal disorders, and to recognize conditions which require timely referral to a medical doctor, osteopathic physician, chiropractic physician, podiatrist, dentist, licensed physician assistant or licensed nurse practitioner. The course provider and course criteria shall be approved by the Board. The content of the course shall include, but not be limited to:

(a) Subjective and objective evaluation, including interview techniques and screening examination;

(b) An overview of systemic symptoms;

(c) An overview of pain;

(d) A regional/systemic review (e.g., the cardiopulmonary system, spine, etc);

(e) Pharmacology, including drug precautions, interactions and side effects;

(f) Overview of diagnostic imaging techniques;

(g) Significant conditions associated with chronic pain, acute athletic injuries, geriatric patients and cancer;

(h) Case studies.

(3) Within the three years immediately following the completion of the requirements in section (2) of this rule, a physical therapist who is administering physical therapy without prior referral shall complete at least an additional 32 hours of continuing education. Thereafter, such physical therapist must complete at least 50 hours of continuing education every three years. Ten of these 50 hours must be completed six months prior to or in the first year of this three-year period as a refresher course and must cover the criteria set out in subsection (2) of this rule. All 10-hour refresher courses must comply with the following:

(a) Course providers must be approved by the Board;

(b) Course criteria must be approved by the Board;

(c) Approval of a 10-hour refresher course is independent from approval of the initial 18-hour medical screening course; and

(d) Course providers may offer approved refresher courses without having presented the medical screening course.

(4) The content of courses taken to satisfy the continuing education requirement specified in section (3) of this rule must relate to the delivery of clinical physical therapy services. Courses which may be taken include:

(a) Courses, seminars, and workshops sponsored or approved by an established and recognized medical or dental health-related organization or professional association recognized by the Board;

(b) Courses approved for continuing education by other states which require continuing education for physical therapists;

(c) Courses certified for continuing education units (CEU) by a recognized physical therapy professional association;

(d) Courses provided by an accredited institution of higher education;

(e) Individual study courses requiring an examination and recognized by an accredited institution or recognized health-related organization or professional association recognized by the Board;

(f) Courses approved by the Board by special request.

(5) Activities which will not satisfy the continuing education requirement include:

(a) Orientation and inservice programs;

(b) Professional association meetings for purposes of business or policy decision making;

(c) Entertainment or recreational meetings;

(d) Attending meetings, holding office, or representing a professional association as a lobbyist or delegate;



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(e) Publishing or presenting lectures.

(6) The Board shall require all or any percentage of physical therapists who are administering physical therapy without prior referral to provide documentation in a format approved by the Board that the Physical therapist has met or is meeting the requirements of sections (1), (2) and (3) of this rule.

(7) The requirements of this rule shall not apply to licensed physical therapists who are administering physical therapy to individuals described in ORS 688.132(1)(b) where no prior referral is required.

(8) The Board shall include on the yearly license a notation that a physical therapist has met the requirements for practice without prior referral.

(9) Course provider shall furnish licensee and the Board written documentation when licensee passes the 18-hr course exam. Licensee may implement practice without referral upon receipt of documentation from course provider stating that licensee passed the course exam. Licensee must also hold a current CPR Level C, or equivalent, certificate prior to implementing practice without referral. Upon receipt of written documentation from course provider, the Board shall furnish licensee information regarding certification for practice without referral. Continuing education requirements and 10-hr refresher course requirements are based on the date licensee took the 18-hr medical screening course.

(10) Any licensee who fails to pass the 18-hour medical course examination with a score of 80 percent or higher must re-take the course and the exam. Any licensee who fails to pass the 10-hour refresher course examination with a score of 80 percent or higher must re-take the course and the exam.

(11) Violation of this rule shall subject licensee to disciplinary action set forth in OAR 848-010-0050.

(12) Any licensee who fails to complete the 10-hour medical screening refresher course or the 32 hours or 40 hours of required continuing education within the timeframes specified in section (3) of this rule, shall be required to start the practice without referral process over. The licensee is required to notify the Board if any of the above requirements are not met.

(13) The licensee's privileges to practice without referral shall cease at the end of the end of the day when either the medical screening refresher course requirement or the continuing education deadline is due, whichever comes first. The cessation of privileges shall last until the licensee attends a subsequent 18-hour medical screening course offered and the course provider has provided the Board with written documentation that the licensee passed the course examination with a score of 80 percent or higher. Subsequent continuing education deadlines and 10-hour medical screening refresher class requirements shall be calculated based on the date the licensee completes the subsequent 18-hour medical screening course.

(14) A licensee whose privileges to practice without referral have ceased under the provisions of sections (12) and (13) of this rule or pursuant to disciplinary action of the Board, or who elects voluntarily to terminate practice without referral privileges, shall return the current license to the Board along with a written request for a duplicate license and payment of a processing fee. Upon receipt, the Board shall issue licensee a license a license without the statement "Practice without Referral Certification."

Stat. Auth.: ORS 688.160

Stats. Implemented: ORS 688.134

Hist.: PT 4-1994, f. & cert. ef. 7-29-94; PT 2-1997, f. & cert. ef. 2-4-97; PT 7-1997, f. & cert. ef. 12-12-97; PTLB 2-1998, f. & cert. ef. 8-31-98; PTLB 1-1999, f. & cert. ef. 9-3-99; Administrative correction 11-3-99; PTLB 1-2003, f. & cert. ef. 2-6-03

## Public Utility Commission Chapter 860

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

**Filed with Sec. of State:** 2-12-2003

**Certified to be Effective:** 2-12-03

**Notice Publication Date:** 6-1-02, 11-1-02

**Rules Amended:** 860-032-0001, 860-032-0020

**Subject:** The proposed amendment to 860-032-0001 changes the meaning of "Exempt service" and also makes housekeeping changes. The proposed amendment to 860-032-0020 changes requirements for all telecommunications providers that intend to abandon, discontinue, or cease providing telecommunications services in Oregon.

**Rules Coordinator:** Lauri Salisbury—(503) 378-4372

860-032-0001

### Definitions for Telecommunications

For the purpose of this Division:

(1) "Affiliated interest" between telecommunications providers means:

(a) Every corporation and person owning or holding directly or indirectly 5 percent or more of the voting securities of such telecommunications provider;

(b) Every corporation and person in any chain of successive ownership of 5 percent or more of voting securities of such telecommunications provider;

(c) Every corporation 5 percent or more of whose voting securities are owned by any person or corporation owning 5 percent or more of the voting securities of such telecommunications provider or by any person or corporation in any chain of successive ownership of five percent or more of voting securities of such telecommunications provider;

(d) Every person who is an officer or director of such telecommunications provider or of any corporation in any chain of successive ownership of 5 percent or more of voting securities of such telecommunications provider;

(e) Every corporation that has two or more officers or two or more directors in common with such telecommunications provider;

(f) Every corporation and person, 5 percent or more of which is directly or indirectly owned by a telecommunications provider;

(g) Every corporation or person who or which the Commission determines as a matter of fact, after investigation and hearing, actually is exercising any substantial influence over the policies and actions of such telecommunications provider, even though such influence is not based upon stockholdings, stockholders, directors, or officers to the extent specified in this section of this rule;

(h) Every person or corporation who or which the Commission determines as a matter of fact, after investigation and hearing, actually is exercising such substantial influence over the policies and actions of such telecommunications provider in conjunction with one or more other corporations or persons with whom they are related by ownership or blood or by action in concert that together they are affiliated with such telecommunications provider within the meaning of this section even though no one of them alone is so affiliated.

(2) "Competitive provider" means a competitive telecommunications provider as defined in ORS 759.005(2)(a), who provides services authorized pursuant to ORS 759.020.

(3) "Cooperative" means a cooperative corporation or association, which provides local exchange telecommunications service within its own exchanges, which is organized under ORS Chapter 62, and which is certified under ORS 759.025(2).

(4) "Exempt service" means a telecommunications service for which all revenues from, costs of, and assets dedicated to providing the service are excepted from the Commission's regulatory authority pursuant to ORS 759.030(2) or (3).

(5) "Local exchange service" means local exchange telecommunications service as defined in ORS 759.005(2)(c). Local exchange service includes "shared service."

(6) "Operator service" means service provided by a telecommunications provider in response to a request for special billing, dialing assistance, or information regarding the use of and charges for its telecommunications services. An operator service may be manual or automatic.

(7) "Pay telephone" means a telephone instrument, generally placed in public areas, for transient use on a pay-per-call basis. "Pay telephone" instruments may be coin operated, noncoin operated, prepaid, postpaid, central office controlled, instrument controlled, provided by local exchange carriers, or provided by other persons or entities.

(8) "Price-listed service" means a product or service whose price and terms are authorized under OAR 860-032-0023, 860-032-0035, ORS 759.030, 759.050, or 759.195, and posted in a price list filed with the Commission. The costs and revenues of a price-listed product or service shall be considered part of the telecommunications utility's regulated activities.

(9) "Private telecommunications network" means a system, including the construction, maintenance, or operation of the system, for the provision of a service or any portion of a service, by a person for the exclusive use of that person and not for resale, directly or indirectly. "Private telecommunications network" includes services provided by the State of Oregon pursuant to ORS 190.240 and 283.140.

(10) "Shared service" means shared telecommunications service as defined in ORS 759.005(2)(f); and

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(a) The provision of telecommunications and information management services and equipment:

(A) To a user group comprised of one person or association served by a single telecommunications system;

(B) Located in a single building or in several buildings on contiguous property;

(C) By a commercial shared service provider or by a users' association; and

(D) Through privately owned customer premises equipment and associated data processing and information management services.

(b) Includes connection to local exchange service.

(11) "Telecommunications provider" or "provider" includes competitive providers, cooperatives, and telecommunications utilities.

(12) "Telecommunications service" or "service" means two-way switched access and transport of voice communications, and all services provided in connection with such services, but excludes:

(a) Services provided by radio common carrier;

(b) One-way transmission of television signals;

(c) Surveying;

(d) Private telecommunications networks; and

(e) Customer communications that take place on the customer's side of the network interface.

(13) "Telecommunications utility" means a person who is not a competitive provider and is designated as a telecommunications utility under OAR 860-032-0010.

(14) "Toll service" means a telecommunications service between local exchanges carried on the public switched network for which charges are made on a per-unit basis.

(15) "Unserved person" means a person:

(a) Who lacks local exchange service;

(b) Who is applying for residential service or business service with five or fewer lines; and

(c) Who, for the initiation of such service, would be required to pay line extension charges.

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

Stats. Implemented: ORS 756.040, ORS 759.005 & ORS 759.020

Hist.: PUC 27-1985(Temp), f. & cf. 12-19-85 (Order No. 85-1203); PUC 19-1986(Temp), f. & cf. 12-15-86 (Order No. 86-1253); PUC 16-1986, f. & cf. 11-17-86 (Order No. 86-1159); PUC 10-1989(Temp), f. & cert. ef. 7-10-89 (Order No. 89-847); PUC 1-1990, f. & cert. ef. 2-6-90 (Order No. 90-96); PUC 5-1993, f. & cert. ef. 2-19-93 (Order No. 93-184); PUC 1-1994, f. & cert. ef. 1-5-94 (Order No. 94-040); PUC 10-1998, f. & cert. ef. 4-28-98; PUC 4-2000, f. & cert. ef. 2-9-00; PUC 15-2001, f. & cert. ef. 6-21-01; PUC 26-2001, f. & cert. ef. 11-5-01; PUC 1-2003, f. & cert. ef. 2-12-03

## 860-032-0020

### Abandonment of Service

(1) For the purpose of this rule:

(a) "Abandon" means to discontinue or cease providing.

(b) "Commission" means the Public Utility Commission of Oregon.

(c) "Exiting provider" means a telecommunications provider, which intends to abandon a telecommunications service.

(d) "Grandfather" means to discontinue or cease offering a service to new customers and to continue offering the service to existing customers.

(e) "Oregon Emergency Management" means the Technology and Operations Section, Oregon Emergency Management, Department of State Police, in Salem, Oregon.

(f) "Receiving provider" means a telecommunications provider, which receives or acquires customers for a service being abandoned by an exiting provider. A receiving provider may be a telecommunications utility, a telecommunications cooperative, or a competitive provider.

(g) "Receiving telecommunications utility" means a telecommunications utility, which is a receiving provider.

(h) "Receiving competitive provider" means a competitive provider, which is a receiving provider.

(i) "Regulated service" means a telecommunications service provided by a telecommunications utility which is not an exempt service as defined in OAR 860-032-0001.

(j) "Starting date" means the day a telecommunications utility may lawfully disconnect service to an exiting provider or the date a telecommunications utility knows that an exiting provider ceases providing service, whichever comes first.

(k) "Sunset date" means the day a telecommunications provider will abandon a grandfathered service being provided to existing customers.

(l) "Through service" has the same meaning as in OARs 860-022-0003 and 860-034-0015.

(2) Except as specified in section (3) of this rule, this rule applies:

(a) When a telecommunications utility or competitive provider abandons any intrastate telecommunications service; and

(b) When a telecommunications cooperative abandons any through service.

(3) This rule does not apply:

(a) When a telecommunications utility or cooperative transfers control of its operations, for any or all of its service area in Oregon, to another telecommunications utility or cooperative, under ORS 759.375 to 759.390 or 759.500 to 759.570;

(b) When a telecommunications provider replaces a telecommunications service with a substantially similar service; and

(c) When a telecommunications provider disconnects service to an individual customer at the customer's request or for cause, including non-payment.

(4) This rule does not relieve telecommunications providers of any requirements imposed by the Federal Communications Commission (FCC), including FCC anti-slamming rules and 47 Code of Federal Regulations, Section 63.71.

(5) Notifications required by this rule shall include the following at a minimum:

(a) Name of the exiting provider;

(b) Address and telephone number where the public, customers, Commission staff, and affected telecommunications providers may contact the exiting provider for information regarding the abandonment;

(c) Description of telecommunications services to be abandoned;

(d) Identification of geographic areas where the services will be abandoned;

(e) Date the service(s) will be abandoned;

(f) If applicable, a statement whether customers of the service(s) to be abandoned will be converted to different service(s) offered by the exiting provider, and if so, what customers must do to be converted to the different service(s);

(g) If applicable, a statement that all customers will be automatically transferred to a specified receiving provider unless they disconnect or obtain service from another provider. The exiting provider must identify the receiving provider to which customers will be transferred;

(h) If the exiting provider intends to transfer customers to a specified receiving competitive provider and the receiving competitive provider will not accept all customers, a statement that customers may or will lose their service unless they obtain services from a provider of their choice. The exiting provider must provide reasonable means for each customer to determine whether he or she will be accepted by the receiving competitive provider;

(i) If applicable, a statement that service will be abandoned and that customers must obtain the service(s) to be abandoned from another provider;

(j) An explanation of how customers may receive a refund of payments or deposits for service they will not receive because of the abandonment; and

(k) An electronic document containing the notice in a format suitable for posting on the Commission website. The Commission will post such notification within two business days of receipt from the exiting carrier.

(6) In addition to other notifications required by this rule, the following notifications are also required at the same time the exiting provider files notice with the Commission. Notifications here required shall include the information required by section (5) of this rule plus the information specified in subsections (6)(a) or (6)(b) of this rule.

(a) An exiting provider that intends to abandon any service which allows access to the emergency 9-1-1 reporting system shall:

(A) Mail notification to Oregon Emergency Management, which notification shall include the number of customers affected by the proposed abandonment of service;

(B) Provide access to its customer records in the Enhanced 9-1-1 database(s), so that other telecommunications providers can update those customer records; and

(C) Send a letter to the appropriate Enhanced 9-1-1 database provider(s), with copies to the incumbent local exchange carrier(s), the Commission and Oregon Emergency Management, authorizing the Enhanced 9-1-1 database provider(s) to allow access by other telecommunications providers to any remaining Enhanced 9-1-1 database records belonging to the exiting provider, after the exiting provider has abandoned the service.

(b) An exiting provider that intends to abandon service so that it will no longer use a central office code or a thousands block of numbers (i.e., an NXX or an NXX-X) shall notify the North American Numbering Plan Administrator and the national administrator of the Local Exchange Routing Guide.

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(7) A telecommunications utility that intends to abandon any regulated service, whether throughout its service territory or in limited geographic areas, for which there are current customers, shall:

(a) Petition the Commission for authority to abandon the service. The petition shall be filed at least 90 days before the telecommunications utility intends to abandon the service. If the Commission does not deny the petition or set it for hearing within 90 days after receiving the petition, it shall be deemed approved;

(b) Mail a notification to each affected customer and to each telecommunication provider affected by the proposed abandonment at the same time it files the petition with the Commission. The notification shall include the information required by section (5) of this rule. In addition, the notification shall include a statement that upon request from affected customers or providers the Commission may, but is not required to, deny the petition or set it for hearing;

(c) File with the Commission a copy of the notification at the same time it mails the notification and files the petition. In addition, the telecommunications utility shall inform the Commission of the number of customers and the number of other providers affected by the proposed abandonment;

(d) Demonstrate that the abandonment will not deprive the public of necessary telecommunications services. The telecommunications utility shall reinstate service at the Commission's request to prevent the public from being deprived of necessary services; and

(e) Obtain Commission approval before transferring customers to other telecommunications providers. If the telecommunications utility seeks such approval, it shall include in the petition to abandon service a request for approval to automatically transfer customers.

(8) A telecommunications utility may request to abandon a regulated service for which there are no current customers by filing a tariff change which deletes the regulated service along with a cover letter or advice letter which clearly and explicitly discloses which regulated service the telecommunications utility proposes to abandon.

(9) A telecommunications utility that intends to abandon any exempt service, whether throughout its service territory or in limited geographic areas, for which there are current customers, shall comply with the following:

(a) At least 90 days before abandoning the service the telecommunications utility shall mail to each affected customer and to each telecommunication provider affected by the proposed abandonment, a notification of its intent to abandon the service. The notification shall include information required by section (5) of this rule;

(b) At the time the telecommunication utility mails notification to affected customers, it shall file a copy of the notification with the Commission. In addition, the telecommunications utility shall inform the Commission of the number of customers and the number of other providers affected by the proposed abandonment; and

(c) The telecommunications utility may, after complying with subsections (9)(a) and (9)(b) of this rule and subject to section (12) of this rule, transfer customers of its exempt service to another telecommunications provider, including an affiliated provider, without requiring affirmative approval from affected customers.

(10) A telecommunications cooperative that intends to abandon any through service, whether throughout its service territory or in limited geographic areas, shall:

(a) Petition the Commission for authority to abandon the service. The petition shall be filed at least 90 days before the telecommunications cooperative intends to abandon the service. If the Commission does not deny the petition or set it for hearing within 90 days after receiving the petition, it shall be deemed approved;

(b) Mail a notification to each affected customer and to each telecommunication provider affected by the proposed abandonment at the same time it files the petition with the Commission. The notification shall include the information required by section (5) of this rule. In addition, the notification shall include a statement that upon request from affected customers or providers the Commission may, but is not required to, deny the petition or set it for hearing;

(c) File with the Commission a copy of the notification at the same time it mails the notification and files the petition. In addition, the telecommunications cooperative shall inform the Commission of the number of customers and the number of other providers affected by the proposed abandonment;

(d) Demonstrate that the abandonment will not deprive customers of necessary telecommunications services. The telecommunications cooperative

shall reinstate service at the Commission's request to prevent customers from being deprived of necessary services; and

(e) Obtain Commission approval before transferring customers to other telecommunications providers. If the telecommunications cooperative seeks such approval, it shall include in the petition to abandon service a request for approval to automatically transfer customers.

(11) A competitive provider that intends to abandon any or all services, whether throughout its service territory or in limited geographic areas, for which there are current customers, shall comply with the following:

(a) At least 90 days before abandoning service the competitive provider shall mail to each affected customer, and to each telecommunications provider affected by the proposed abandonment, a notification of its intent to abandon the service(s). The notification shall include information required by section (5) of this rule;

(b) At the time it mails notification to affected customers, the competitive provider shall file a copy of the notification with the Commission. In addition, the competitive provider shall inform the Commission of the number of customers and the number of other providers affected by the proposed abandonment; and

(c) The competitive provider may, after complying with subsections (11)(a) and (11)(b) of this rule and subject to sections (12) and (13) of this rule, transfer customers to another telecommunications provider, including an affiliated company, without requiring affirmative approval from affected customers.

(12) Notwithstanding OAR 860-021-0009 or 860-034-0030, an exiting provider may transfer customers of an abandoned service to a receiving telecommunications utility without the customers applying to the receiving telecommunications utility for service only under all the conditions listed below. The exiting provider may be an affiliate of the receiving telecommunications utility:

(a) The receiving telecommunications utility must enter into a written agreement with the exiting provider to accept all the exiting provider's customers with service locations within the receiving telecommunications utility's local exchange service area;

(b) The exiting provider must provide at least a 90 day notice to its customers that it intends to abandon service, as provided in section (11) of this rule;

(c) The notice must comply with section (5), including subsection (5)(g), of this rule to ensure that:

(A) Customers are notified that they may apply to another telecommunications provider for the service which is being abandoned; and

(B) Customers are notified that if they do not act to obtain service from another telecommunications provider, then the exiting provider will automatically transfer them to the receiving telecommunications utility for the service which is being abandoned.

(d) Customers may be automatically transferred to a receiving telecommunications utility only if their service location is within that utility's local exchange service area;

(e) The receiving telecommunications utility shall accept all customers of the exiting provider who are automatically transferred and shall provide to those customers the service being abandoned; and

(f) After the transferred customers become customers of the receiving telecommunications utility, they shall be treated equally as similarly situated customers.

(13) When an exiting provider fails to provide to its customers adequate notice that it intends to abandon service, as provided in section (11) of this rule, and when the exiting provider is either reselling finished, regulated, intraexchange services of a telecommunications utility, or the exiting provider is selling combinations of unbundled network elements equivalent to a finished, regulated, intraexchange service furnished by the telecommunications utility, the following conditions apply:

(a) Notwithstanding OAR 860-021-0009 or 860-034-0030, the underlying telecommunications utility may, at its option, continue providing service to the exiting provider's customers, for not more than 45 calendar days from the starting date, without those customers first applying for service from the telecommunications utility. For purposes of this section (13) of this rule, those customers shall be defined as potential applicants for service from the telecommunications utility; and

(b) If the telecommunications utility chooses to continue service to the potential applicants, the following apply:

(A) The telecommunications utility shall apply the same procedures to all potential applicants;

(B) The telecommunications utility shall accept and process applications pursuant to administrative rules in chapter 860, division 021 or chapter 860, division 034;

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(C) If an application is accepted, then the telecommunications utility may charge the applicant, who is now a customer of the telecommunications utility, for service provided as of the starting date;

(D) If an application is rejected, then the telecommunications utility shall disconnect the applicant's service; and

(E) If a potential applicant does not apply for service within 45 days from the starting date, then telecommunications utility shall disconnect service immediately. For good and sufficient reason, the Commission may grant the telecommunications utility an extension of this time period.

(14) If an exiting provider abandons service, with or without adequate notice to its customers, a telecommunications utility or a competitive provider may not have resources or facilities in place sufficient to accept and serve all customers whose service is being abandoned. Upon application from those customers for service, the telecommunications utility shall provide service to them as soon as possible. However, under the circumstances described in this section (14) of this rule, the Commission's intent is that a telecommunications utility or competitive provider not be penalized for failing to meet the applicable standards for held orders set forth in OARs 860-023-0055, 860-032-0012, or 860-034-0390. Therefore, in cases where an exiting provider abandons service, the telecommunications provider that intends to provide service may petition the Commission for relief from requirements of applicable Commission rules.

(15) The following provisions apply when a telecommunications utility grandfathers a regulated service or a telecommunications cooperative grandfathers a through service:

(a) Grandfathering a service without a sunset date is not considered abandonment of service.

(b) If a telecommunications utility intends to grandfather a regulated service, without a sunset date, whether throughout its service territory or in limited geographic areas, it shall file a tariff which designates the service as grandfathered. Normal tariff filing and review requirements applicable to the telecommunications utility and the grandfathered service apply.

(c) When a telecommunications utility intends to grandfather any regulated or exempt service, with a sunset date, whether throughout its service territory or in limited geographic areas, that grandfathering shall be considered abandonment of service subject to this rule.

(d) If a telecommunications cooperative intends to grandfather a through service, without a sunset date, whether throughout its service territory or in limited geographic areas, it shall petition the Commission for authority to grandfather the through service. If the Commission does not deny the petition or set it for hearing within 60 days after receiving the petition, it shall be deemed approved.

(e) When a telecommunications cooperative intends to grandfather a through service, with a sunset date, whether throughout its service territory or in limited geographic areas, then that grandfathering shall be considered abandonment of service subject to this rule.

(16) For good and sufficient reason, the Commission may grant a petition to waive any time period or requirement in this rule.

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

Stats. Implemented: ORS 756.040, ORS 759.020, ORS 759.035 & ORS 759.050

Hist. PUC 27-1985(Temp), f. & ef. 12-19-85 (Order No. 85-1203); PUC 16-1986, f. & ef. 11-17-86 (Order No. 86-1159); PUC 10-1998, f. & cert. ef. 4-28-98; PUC 4-2000, f. & cert. ef. 2-9-00; PUC 1-2003, f. & cert. ef. 2-12-03

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

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

**Filed with Sec. of State:** 2-14-2003

**Certified to be Effective:** 2-14-03

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

**Rules Adopted:** 166-115-0010

**Subject:** Adopts a General Records Retention Schedule for Community Corrections Records.

**Rules Coordinator:** Julie Yamaka—(503) 373-0701, ext. 240

**166-115-0010**

**Community Corrections Records**

(1) **Offender Case Files:** Series documents the supervision, management, and tracking of offenders in the community corrections program. Records may include face sheets, court orders, Board of Parole and Post-Prison Supervision orders, commutations, death certificates, expungement, pre-sentence investigations, parole officer notes, police reports, sanction hearing documentation, and community risk assessments. (Department of Corrections (DOC) Information Systems Division maintains state-wide

record copy of information on the Corrections Information System. As stated in OAR 291-070-0080(1) DOC requires certain documents to be transferred to DOC Central Records, as they are created, for maintenance as state-wide record copy.) (Minimum Retention: (a) Retain felony offender case files 2 years after case closed (b) Retain all other case files 1 years after case closed).

(2) **Community Service Work Records:** Series documents community service performed in lieu of or in addition to criminal sentencing. Records may include judges orders for bench parole, other court orders, and requirements for fulfilling community service order. Information includes offender's name, date of sentence, hours of community service, and dates and times of community service. (Minimum Retention: 6 months after case closed).

(3) **Alcohol Diversion Evaluator Records:** Series documents the evaluation of clients for referral to a program that will provide appropriate information or rehabilitation services. Records may include evaluation results, a written narrative summary of the interview, a copy of the client's driving record, documentation of the client's Blood Alcohol Content (BAC) at the time of the DUI (Driving Under the Influence of Intoxicants) arrest, a copy of the Diagnostic and Referral Report, and copies of reports on the client filed with the Office of Alcohol and Drug Abuse Programs. Information may include client's name, diagnosis, and status in diversion programs. (Minimum Retention: 7 years following date of completion or discontinuance of treatment services).

(4) **Case Assignment and Report Log:** Series is used to assign and track new cases, reports, and transfers. It is used as a de-facto index to parole/probation case files. Records include listings of new probations, paroles, temporary transfer requests, special reports, early terminations, revocations, and the name of the assigned officer. (Minimum Retention: 3 years).

(5) **Community Corrections:** Advisory Commission Minutes Series records the deliberations of monthly meetings of the local corrections advisory committee whose members are designated by the board of county commissioners as per ORS 423.560. Records consists of minutes documenting agendas, roll call, motions, and resolutions. Discussion topics may include financial aid application, county community correction plan design, and observations on the operation of the county community corrections program. Includes an annual report with appropriate recommendations for improvement modification to be sent to the county commissioners or community corrections manager of the county. (Minimum Retention: Permanent).

Stat. Auth.: ORS 192 & ORS 357

Stats. Implemented: ORS 192.005 - ORS 192.170 & ORS 357.805 - ORS 357.895

Hist.: OSA 1-2003, f. & cert. ef. 2-14-03

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**Rules Amended:** 166-475-0010, 166-475-0015, 166-475-0020, 166-475-0025, 166-475-0030, 166-475-0035, 166-475-0040, 166-475-0045, 166-475-0050, 166-475-0055, 166-475-0060, 166-475-0065, 166-475-0070, 166-475-0075, 166-475-0080, 166-475-0085, 166-475-0090, 166-475-0095, 166-475-0100, 166-475-0105, 166-475-0110

**Subject:** Updates and revises the General Records retention Schedule for Oregon University System Records.

**Rules Coordinator:** Julie Yamaka—(503) 373-0701, ext 240

**166-475-0010**

**Administrative Records**

(1) **Administrative Reports:** This series documents the annual activity of the institution and its subdivisions. This disposition includes reports prepared for OUS by the president of the institution. Final annual reports may be printed and bound or they may be less formal unpublished documents prepared for limited distribution. Report sections may include but are not limited to administrative activities; goals and objectives achieved; fiscal status; project work performed; personnel activity and accomplishments; facility changes; and related sections. This series may include but is not limited to periodic statistical reports; summarized statistical reports; copies of reports from other units; other working papers; final annual reports; and related documentation and correspondence. (**Retention:** (a) Permanent for final annual reports and periodic and summary statistical

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reports not reflected in the final annual report (b) Until superseded or obsolete for all other records, destroy).

(2) **Administrative Rules Records:** This series documents reviews of and changes to the institution's Administrative Rules, including routine three-year reviews as required by Oregon statute and the annual preparation and authorization of the institution's administrative fees. Records may include but are not limited to notices of rule making with hearing notices which are published in the Oregon Bulletin; documentation of rule change hearings which may include notes, transcriptions, summaries, and tapes; reports to initiators of changes regarding outcome; final rules; Reports of Action to the State Administrative Rule Section including Certificates and Orders for Filing Permanent Administrative Rules with the Secretary of State; Notices of Proposed Adoption including statements on statutory authority, need/principle, documents relied upon, and statement of fiscal impact; lists of proposed fee schedules; reviewers' comments; administrative review reports; meeting notes from the Secretary of State Legislative Council about OAR review meetings; check-off lists; text of old rule with strike outs and changes; indices to OAR revisions; Dept. of Justice memos; and related correspondence. The Oregon Secretary of State holds statewide record copy. **(Retention: 10 years after repeal of the rule, destroy).**

(3) **Advisory Board Records:** This series documents the activities of boards and councils that function in an advisory capacity. Boards and councils may have as their charge highly specific or broad areas of concern and include members from outside the institution. This series may include but is not limited to meeting minutes; agendas; reports; notes; working papers; audio recordings; transcriptions; and related documentation and correspondence. **(Retention: (a) Permanent for minutes, agendas, reports, and correspondence (b) 3 years for all other records, destroy).**

(4) **Agency Relations Records:** This series documents the institutional interactions with local, state, national, and international government agencies, educational institutions, businesses and groups to gain their assistance with the development and coordination of institution research and instructional programs. This series may include but is not limited to reports; copies of publications; minutes; background information; and related documentation and correspondence. **(Retention: 6 years, destroy).**

(5) **Association and Organization Advisory Records:** This series documents the relationship and participation of institution units in professional and educational associations and other organizations. The unit's role may be one of membership on the advisory or administrative board, participation in a task force or subcommittee, or one of membership in consortia. This series may include but is not limited to: promotional information; rules and regulations; reports; proposals and planning records; workshop and conference records; surveys and questionnaires; minutes; and related documentation and correspondence. This series does not include individual faculty or staff membership information. **(Retention: 3 years, destroy).**

(6) **Attorney General Opinions:** This series documents responses of the State Attorney General's Office to legal questions posed by the institution's legal advisor and administrative officers which may have an impact on the institution's operations and policy. This series may include but is not limited to opinions and related documentation and correspondence. The State of Oregon Department of Justice (DOJ) holds statewide record copy. **(Retention: 10 years, destroy).**

(7) **Audit Records:** This series documents the unit's response to internal OUS and independent management, operations, and fiscal audits. This series may include but is not limited to audit reports; written responses showing how recommended changes will be implemented; and related documentation and correspondence. **(Retention: 20 years, destroy).**

(8) **Awards Records:** This series documents the process of selecting institutional faculty, staff, students and alumni to receive awards, fellowships, and scholarships based on merit or achievement. The series may include but is not limited to applications; nomination letters; eligibility terms and selection criteria; recommendations; transcripts; letters of award notification or denial; letters accepting or declining awards; summary lists of winners; biographies; demonstration of need documentation; newspaper clippings and press releases; award history and information on funding sources; and related documentation and correspondence. **(Retention: (a) Permanent for eligibility terms and selection criteria, award history and information on funding sources, award notifications, summary lists of winners, biographies of winners, and press releases (b) 1 year for all other records, destroy).**

(9) **Committee Records:** This series documents the activities of standing and ad hoc committees and councils made up of members from a variety of units. The committees are charged with formulating and recommending institutional policies and procedures, establishing standards and requirements, performing an advisory function, or reviewing petitions,

appeals, and deviations from policy. Types of committees include administrative committees (those appointed by an administrator) and faculty senate committees (those created by the faculty senate's executive committee). They may function as steering committees, activities committees, standards committees, planning committees, academic committees, awards committees, councils, etc. Committees may be chaired by the director of a specific unit or rotate to different chairs on a regular basis. This series may include but is not limited to agendas; meeting minutes; reports; notes; working papers; and related documentation and correspondence. **(Retention: (a) Permanent for agendas, minutes, reports, and correspondence (b) 10 years for all other records of Faculty Senate Committees, destroy (c) 2 years for all other records of other committees, destroy).**

(10) **Cooperative Program Records:** This series documents the institution's participation in cooperative and shared educational or research programs. Such programs may share research facilities and resources or instructional programs such as programs permitting student matriculation at member institutions. This series may include but is not limited to information on requirements and application procedures; applications and eligibility certificates; committee minutes; meeting agendas; working papers; memos of interpretation and understanding; fiscal records; and related documentation and correspondence. **(Retention: (a) Permanent for information on requirements and application procedures, committee minutes, meeting agendas, and memos of interpretation and understanding (b) 6 years after expiration for all other records, destroy).**

(11) **Correspondence, Administrative:** Series documents communications received or sent which contain significant information about an institution's programs. Records include letters sent and received, memoranda, notes, enclosures, and attachments. **(Retention: 5 years, destroy).**

(12) **Correspondence, Executive:** This series documents significant events and the development of administrative structure, policies, and procedures of this office. It may also record the historical development of the office. Records may include letters sent and received; notes; directives; acknowledgments; and memoranda. Correspondence may be intra-office, within OUS, and with non-OUS agencies, organizations, and individuals. **(Retention: Permanent).**

(13) **Correspondence, Ephemeral:** Series documents communications received or sent which do not contain significant information about an institution's programs (Correspondence, Administrative), fiscal status (Correspondence, Fiscal), or routine agency operations (Correspondence, General). Records include, but are not limited to, advertising circulars, drafts and worksheets, desk notes, memoranda, and other records of a preliminary or informational nature. **(Retention: Until read, destroy).**

(14) **Correspondence, General:** Series documents communications received or sent which do not contain significant information about an institution's programs. Records include letters sent and received; memoranda; notes; transmittals; acknowledgments; community affair notices; charity fund drive records; routine requests for information or publications; enclosures and attachments. **(Retention: 1 year, destroy).**

(15) **Crisis or Disaster Records:** This series documents the events and damages to institutional property due to storms, riots, fires, droughts, floods, and other events affecting citizens and facilities within the jurisdiction of the institution. This series may include but is not limited to diaries; logs; reports; photographs; notes which indicate or document what happened, when, and where; and related documentation and correspondence. **(Retention: Permanent).**

(16) **Daily Broadcast Logs:** Series documents daily broadcast activities of the institutional radio station or television channel. Records include log sheets showing time signed on and off; any delays in broadcasting; engineer's name; announcer's name; and technical difficulties. **(Retention: 2 years, destroy).**

(17) **Daily Logs:** This series documents the day-to-day activities of the office. This series may include but is not limited to staff member's daily schedules; daily work logs; appointment information; and desk calendars. **(Retention: 1 year, destroy).**

(18) **Data Input Forms:** This series contains several types of paper forms that are used to create the same record in electronic form. This series may include service requests, such as work orders and mailing orders; surveys; instructor evaluations; tests; and other forms. This series does not include accounting system input documents and listings. **(Retention: Until input and verified, destroy).**

(19) **Election Records:** This series documents elections held by various faculty and staff organizations. This series may include but is not limited to ballots; tabulations; and related documentation. **(Retention: 4 months, destroy).**

## ADMINISTRATIVE RULES

(20) **Emergency Board Request Records:** Records document requests made to the Legislative Emergency Board for additional funds or authority to spend funds between legislative sessions. Records may include but are not limited to requests, schedules and agendas, exhibits, organizational charts, testimony summaries, fiscal analysis, legislative progress reports, revenue projections, reclassification plans, presentation drafts, performance measures, and correspondence. The Emergency Board maintains the official copy of this information. **(Retention: 5 years, destroy).**

(21) **Faculty Senate Records:** This series documents the proceedings and actions of an institution's faculty senate. Discussions and actions of the faculty senate deal with such areas as curriculum, program development, promotion and tenure, and legislative relations. This series may include but is not limited to meeting notes/minutes; studies; recommendations; resolutions and enactments; reports; agendas; working papers; and related documentation and correspondence. **(Retention: Permanent).**

(22) **Gifts Records:** This series documents potential or realized private, corporate, or public agency funding to the institution, including endowments and trusts. This series may include but is not limited to award guidelines; letters and agreements of gifts; copies of bequest instruments and wills from individuals or estates; financial statements and reports, including records of fund disbursements; and related documentation and correspondence. **(Retention: (a) Permanent for letters and agreements of gift, copies of bequest instruments and wills from individuals or estates, and related documentation and correspondence (b) 5 years for all other records, destroy).**

(23) **Grievance Records:** This series documents grievances brought forward by faculty and staff against the institution and which are resolved without litigation. (Records of grievances that are litigated become part of the legal case file.) Grievances may pertain to personnel policies and procedures; articles contained in the collective bargaining agreement (classified staff only); departmental issues; affirmative action and equal opportunity issues; and promotion and tenure (faculty) issues. Records may include but are not limited to notices of grievance; informal discussion notes; grievance responses; formal hearing notes (including audio tapes); final summary statements; appeals documentation; and related documentation and correspondence. **(Retention: 3 years after resolution, destroy).**

(24) **Institutional Accreditation Records:** This series documents the accreditation process for the institution by the Northwest Association of Schools and Colleges (NASC). The series provides a record of materials compiled for inclusion in a packet report sent to NASC and provided to the on-site evaluators. This series may include but is not limited to self-evaluation reports; final reports sent to accreditation organization; statistical data; working papers; NASC evaluation report; and related documentation and correspondence. **(Retention: Permanent).**

(25) **Institutional Addresses and Statements Records:** This series documents speeches and statements written and delivered by institutional faculty and staff in connection with institutional business. This series may include but is not limited to final copies; audio or video recordings of the speech presentation; drafts; source materials; and working papers. **(Retention: (a) 5 years for drafts, source material, and working papers, destroy (b) Permanent for all other records)**

(26) **Institutional Cooperation and Relations Records:** This series documents the coordination and interaction between units for the cooperative administration of programs within the institution. This series is used for monitoring, planning, and coordinating research, instructional, or administrative programs of common concern to two or more institutional units. This series may include but is not limited to copies of budget reports; activity reports; proposals; planning documents; agreements and memoranda of understanding; publicity and newspaper clippings; policy statements; working papers; and related documentation and correspondence. **(Retention: (a) Permanent for proposals, planning documents, activity reports, policy statements, and publicity (b) 6 years after expiration for all other records, destroy).**

(27) **Institutional Planning Records:** This series documents the college or unit's role in the development of short-term or long-term plans for the institution. This series may include but is not limited to instructions from the president; provosts; and/or vice provosts explaining the nature and purpose of the requested strategic planning effort; internal planning committee materials; statements of objectives and goals as developed by college or unit chairs and administrators; proposals; strategic planning reports; surveys; activity reports; informational materials; working papers; and related documentation and correspondence. **(Retention: (a) Permanent for final planning reports, proposals, goal and objective statements, and instructions and explanations of process (b) 20 years for internal planning**

committee materials, surveys, activity reports, working papers, informational materials, and correspondence, destroy).

(28) **Institutional Survey and Reporting Records (HEGIS and IPEDS):** This series documents compliance with U.S. Department of Education reporting requirements by verifying figures on financial, student, institutional, and faculty salary data as reported to OUS by individual OUS institutions and reporting those findings to the U.S. Department of Education. The series may also be used to provide information to the administrators and legislators, and to create other statistical reports. Records may include HEGIS (Higher Education General Information Survey) and IPEDS (Integrated Post-Secondary Education Data System) completed forms for Salary, Tenure, and Fringe-Benefit of Full Time Instructional Faculty, Financial Statistics of Institutions of Higher Education (IPEDS-F-1), Finance FY (G50-14P-F), Salaries of Full Time Instructional Faculty (G50-14P-SA), IPEDS Total Institutional Activity (G50-14P-EA), Institutional Characteristics Form (G50-14P-IC), Enrollment in Occupationally Specific Programs (G50-14P-IF), Completions for the Year reports (program ICR), AAUP (MEA-22), Degrees and Other Formal Awards Conferred (NC form 2300-2.1A), Fall Enrollment in Institutions of Higher Education (NC form 2300-2.3A), OCCD Degrees Granted in Post-Secondary Institutions in Oregon reports, Degrees Awarded by Oregon's Degree Granting Colleges and Universities reports, AAUP summary reports, and related working papers and correspondence. **(Retention: (a) Permanent, final reports including the HEGIS/IPEDS survey forms (b) 10 years, all other records, destroy).**

(29) **Lectures and Lecture Series Records:** This series documents the development and history of special lectures and continuing lectureships devoted to a variety of topics and disciplines sponsored by the institution. This series may include but is not limited to lecture committee notes; memoranda and planning materials; information on funding; financial support and honoraria records; patron information; programs and announcements; information on catering arrangements; news releases; recordings and transcripts; photographs; and related documentation and correspondence. **(Retention: (a) Permanent for lecture committee notes, memoranda and planning materials, programs and announcements, news releases, transcripts, and photographs (b) 10 years for all other records, destroy).**

(30) **Legal Case Records:** Series documents legal actions brought against the institution. Series contains case files pertaining to Affirmative Action conflicts; salary disputes; differences in interpretation of contract language; risk management controversies; and tenure relinquishment disagreements. **(Retention: (a) Permanent for records of cases resulting in major policy modification, pleadings, final decisions, copies of records of the courts of cases considered historical, and summary statements (b) 6 years after final decision for all other records, destroy).**

(31) **Legislative Relations Records:** The series may be used to review and plan institutional positions on impacting legislative actions. This series may include but is not limited to: OUS Bill Review and Tracking forms; bill tracking reports; notes; copies of pending or approved legislation; working papers; and related documentation and correspondence. **(Retention: 2 years, destroy).**

(32) **Lobbyist Records:** This series documents the activities of OUS employees who engage in lobbying the state government. Records may include: Lobbyist Registration Statement forms; Lobbyist Termination forms; Lobbyist Expenditure Report forms; the Oregon Government Standards & Practices Commission's Guide to Lobbying in Oregon; lobbyist listings and salary information and related documentation. The OUS Chancellor's Office maintains the system-wide record copy. **(Retention: 5 years after last activity, destroy).**

(33) **Notary Public Records:** Records documenting notarial transactions completed by a notary public employed by OUS. OUS may retain log books by agreement with the notary public after their separation from OUS employment. *OUS institutions retaining notary public log books without notary agreements should consult their attorney and/or the Secretary of State, Corporation Division for retention instruction.* **(Retention: 7 years after date of commission expiration, destroy).**

(34) **OUS and OSBHE Relations Records:** This series documents the coordination and interaction between institutional administrative units and OUS and the OSBHE which have ultimate authority over both academic and fiscal programs. This series may include but is not limited to minutes; agendas; budget reports; dockets; notes; activity reports; proposals; fee booklets; newsletters; memos; and related documentation and correspondence. **(Retention: (a) Permanent for minutes and agendas; (b) 1 year for notes, memos, and correspondence, destroy (c) Until superseded or obsolete for all other records, destroy).**

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(35) **Policies and Procedures Records:** This series provides a record of internal development and documents guidelines for consistency and continuity in the operation of the unit. This series may include but is not limited to: mission and policy statements; planning documents outlining responsibilities and goals; organizational charts; publications preparation guidelines; emergency procedures; job descriptions; guides for office procedures which often include completed samples of all forms; handbooks; desk manuals; and related documentation and correspondence. **(Retention: (a) Retain 1 copy of policy and/or procedure permanently (b) Retain all other records 1 year after policy and/or procedure adopted, destroy).**

(36) **Professional Accreditation Records:** This series documents the accreditation process for the colleges, units, and related programs. The series provides a record of materials compiled for inclusion in a report packet sent to the appropriate professional accreditation board for the specific program or service and usually includes statements on mission, finance, educational programs and departments/divisions make up. Most accreditation organizations produce an evaluation report based on the packet and on-site inspection which is used to determine accreditation for the units and their programs. This series may include but is not limited to self-evaluation reports; final reports sent to accreditation organization; statistical data; working papers; accreditation organization evaluation report; and related documentation and correspondence. **(Retention: (a) Permanent for self-evaluation reports, final accreditation reports, and accreditation organization evaluation reports (b) 2 accreditation cycles for statistical reports, working papers, correspondence, and all remaining records, destroy).**

(37) **Professional Membership Records:** This series documents institutional-paid individual memberships and activities in professional organizations. These records may include but are not limited to applications for membership; certification of membership; documentation of activities; and related correspondence. **(Retention: 6 years, destroy).**

(38) **Radio and Television License Records:** This series provides a record of licensing of OUS campus radio stations and television channels (including distance education) with the Federal Communications Commission. Records may include FCC applications; licenses and contracts; and related correspondence. Federal regulations state that TV and radio licenses will ordinarily be renewed for 8 years unless the public interest, convenience and necessity will be served by an initial license or a renewal for a lesser term. **(Retention: 10 years after expiration of license, destroy).**

(39) **Signature Authorizations:** This series documents the certification of the institution's employees who are authorized to sign fiscal and contractual documents. These documents serve as an aid for management control over expenditures. This series may include but is not limited to authorization date; name; sample signature; position data; remarks; and conditions. **(Retention: 6 years after authorization expires, destroy).**

(40) **Special Activity Records:** This series documents the activities of an office which are performed in addition to its regular or main functions. Examples may include the completion of surveys and questionnaires, compilation of special studies for professional or academic associations, and special mailings. This series may include but is not limited to: arrangements documentation; working papers; questionnaires; survey forms; study designs; reports; and related documentation and correspondence. **(Retention: (a) Permanent for final reports and study designs (b) 3 years for all other records, destroy).**

(41) **Special Event Records:** This series documents the efforts of a college or unit to provide informative sessions, short-courses, workshops, training programs, excursions, and celebratory events for members of the institution and the communities it serves. This series may include but is not limited to: materials on planning and arrangements; reports; promotional and publicity materials; press releases and news clippings; photographs; presentation materials and handouts; schedules of speakers and activities; registration and attendance lists; participant evaluations; and related documentation and correspondence. **(Retention: (a) Permanent for planning materials, reports, promotional and publicity materials, press releases, photographs, and schedules of speakers and activities (b) 2 years for all other records, destroy).**

(42) **Staff Meeting Records:** This series documents the meetings of the faculty and/or staff of a college, department, or office which sets policy and procedures for the unit. Participants at meetings may be composed exclusively of a mixture of faculty, staff, administrators, and managers; specialized and task oriented sub-committees composed of unit personnel are also documented as part of this record series. These meetings may concern routine matters of procedure and topics such as program development, planning, administrative and personnel management, and assessments of future needs. This series may include but is not limited to meeting

notes/minutes; reports; working papers; agendas; and related documentation and correspondence. **(Retention: (a) Permanent for meeting notes/minutes, agendas, and reports (b) 4 years for all other records, destroy).**

(43) **Vehicle Use Authorization and Request Records:** This series documents permission for employees to use their private automobiles for official use and authorization of non-employees and students to use state-owned cars. Records may include but are not limited to private vehicle safety certification forms; private vehicle certificate lists; driver authorizations for students and non-employees; and related documentation and correspondence. **(Retention: 1 year after superseded or obsolete, destroy).**

(44) **Visiting Scholar Program Records:** This series documents a program which allows one or more visiting scholars to assume residence on campus for an academic year or a shorter duration. This series may include but is not limited to advertisements; applicant data; arrangements and schedules; publicity and news clippings; presentation transcripts or published works; scholars activities documentation including audio recordings; and related documentation and correspondence. **(Retention: (a) Permanent for applicant data, publicity, presentation transcripts, and scholars activities documentation (b) 4 years for all other records, destroy).**

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

Stat. Auth.: ORS 192 & ORS 357

Stats. Implemented: ORS 192.005-ORS 192.170 & ORS 357.805-ORS 357.805

Hist.: OSA 3-1999, f. & cert. ef. 10-11-99; OSA 2-2003, f. & cert. ef. 2-14-03

### 166-475-0015

#### Budget Records

(1) **Annual Budget Records:** This series documents the annual institutional budget provided to OUS for inclusion in its Annual Adopted Operating Budget book. This series includes: Operating Budget Expense by Categories and Functions Report; Estimated Gifts, Grants, Contracts and Clearing Account Summary Report; Student Fee Income and Application of Funds Report; Statewide Public Service Source and Application of Funds; other reports specified in yearly instructions from the Chancellor's Office; institutional budget preparation instructions; and related documentation and correspondence. **(Retention: (a) Permanent for Annual Operating Budget document (b) 10 years all other records, destroy).**

(2) **Budget Activity Reports:** This series provides a record of departmental fiscal activity presented in summary form which may be used for budget planning. These records may be used to analyze budget cuts or restructuring of programs. Records may include: working papers; memoranda; final summary reports and spread sheets; and related documentation and correspondence. **(Retention: (a) 10 years for year end reports, destroy (b) 1 year for all other records, destroy).**

(3) **Budget Maintenance Records:** This series documents the changes made in the initial unit budget as distributed by the institution's budget Office at the beginning of the new fiscal year. This series may include but is not limited to: Budget Change Request Forms; budget change suspense records; budget change registers; authorization for budget change forms; copies of revised unit initial budgets; fund transfer notices; spread sheets; expenditure and obligation reports; allotment reports; and related documentation and correspondence. **(Retention: 4 years, destroy).**

(4) **Budget Planning, Projection, and Preparation Records:** This series is used to develop the initial institutional budget, plan budget requests for and document annual budget allocations to individual units, and record changes in operating budgets of the various financial accounts. Records may include but are not limited to: budget requests; budget status reports; budget change requests, registers and logs; budget detail reports; working papers including spread sheets, expenditure projections, salary and budget worksheets; allotment, capital outlay and equipment need reports; unit budget preparation instructions; and related documentation and correspondence. **(Retention: 10 years, destroy).**

(5) **Cooperative Federal Program Budget Preparation, Projection and Allocation Records:** This series is used to develop, estimate, propose, and plan preliminary budget requests for cooperative federal/state programs and reflects the process by which the annual budget allotment is to be distributed to the department and its programs. This series may include but is not limited to: budget expenditure statements; General Ledger Statements of Accounts; salary work sheets; budget exhibits; project detail sheets; budget requests; OUS-Institutional Use Code budget forms (CO-119); budget change sheets; Federal Agency Annual Reports (Computerized Research Information System (CRIS) Form Ad-419); Federal Agency Status of Fund Reports; Governor's Suggestion Reports; Journal Vouchers; Position Inventory Control System (PICS) Reports to monitor FTE budgets; spread sheets; expenditure projection work papers; preliminary section budget proposals; budget development schedules; allotment reports; decision packages; spending plans; compensation plan proposals; contin-

# ADMINISTRATIVE RULES

gency/deviation plans; various federal publications; reports; forms; and related documentation and correspondence. **(Retention: 10 years, destroy).**

**(6) Self-Sustaining Program Budget Projection and Allocation Records:** This series is used as a tool for projecting annual budgets for units which operate on self-sustaining funds and to determine fees and fee-charging policies. This series may include but is not limited to: charts of accounts; reports of receipts and disbursements; fee schedules; financial statements; photocopies of vouchers; purchase orders; spread sheets; expenditure projection work papers; budget development schedules; decision packages; spending plans; compensation plan proposals; contingency/deviation plans; current expenditure reports; average expenditure reports; and related documentation and correspondence. **(Retention: 10 years, destroy).**

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

Stat. Auth.: ORS 192 & ORS 357

Stats. Implemented: ORS 192.005-ORS 192.170 & ORS 357.805-ORS 357.895

Hist.: OSA 3-1999, f. & cert. ef. 10-11-99; OSA 2-2003, f. & cert. ef. 2-14-03

## 166-475-0020

### Contracts Records

**(1) Author's and Artist's Contracts and Agreements Records:** This series provides documentation of the duly executed and binding contractual agreements between the institution and authors and artists concerning subjects such as royalties, pricing agreements, and copyright. Information in individual contracts or agreements may include but is not limited to terms and conditions; provisions; amendments; exhibits and addenda; and authorizing signatures. **(Retention: (a) Permanent for authors' contracts and agreements with university presses and artists agreements (b) 6 years after expiration for all other authors' contracts and agreements, destroy).**

**(2) Contracts and Agreements Records:** Series documents the negotiation, execution, completion, and termination of legal agreements between an agency and other parties. Series does not include contracts or agreements made for personal services or leases. Records include a copy of the official contract or agreement, amendments, exhibits, and addenda. **Retention:** (a) Contracts or Agreements documenting building construction, alterations, or repair, 10 years after substantial completion as defined by ORS 12.135(3), destroy (b) Other Contracts and Agreements, 6 years after expiration, destroy). *Caution: Agencies who enter into contracts with the federal government must ensure that their contracts and agreements meet federal requirements specified in the Code of Federal Regulations.*

**(3) Defense Base Act (DBA) Records:** This series documents insurance coverage for institutional employees in foreign countries who are not covered by the State Accident Insurance Fund (SAIF). These records include one year contracts with a mandated insurance carrier. This series may include but is not limited to: liability claims against the institution that are both open and completed; legal files with affidavits; accident reports; estimates for repairs; police reports; suit status reports; disbursement records; settlements; and related correspondence. **(Retention: 10 years after all claims are settled, destroy).**

**(4) Hold Harmless, Liability Waiver, and Release Records:** This series documents the release of the institution or administrative unit from liability related to various activities involving students, faculty, or staff. Activities may include events such as sponsored field trips and physical education classes. Records include but are not limited to hold harmless, waiver, and release forms, related documentation, and correspondence. Information includes a statement from the participant that he/she assumes personal responsibility and holds the institution or administrative unit blameless for any accident or injury that may occur while participating, information about college insurance, description of the activity, and signatures of the participant. **(Retention: 6 years after the end of the event or activity for which the waiver was signed, destroy).**

**(5) Insurance Fund Claims:** Series documents requests for payment of insurance claims from the Oregon Department of Administrative Services Risk Management Division. Records may include: Auto/Liability/Property Claim Reports; estimates of repairs; accident reports; police reports; and correspondence. (Department of Administrative Services Risk Management Division maintains statewide record copy). **(Retention: 5 years after claim paid or denied, destroy).**

**(6) Insurance Policy Records:** This series documents insurance policies written to cover all state property, automobiles, liability, and special events. Records may include but are not limited to copies of insurance policies, riders, and endorsements; records of payment; and related documentation and correspondence. **(Retention: (a) 10 years after policy expiration for liability, motor vehicle, special event and employee group insurance policies, destroy (b) 5 years after policy expiration for state motor vehicle**

insurance, non-employee medical, and bonds policies, destroy (c) 2 years after policy expiration for fire, theft, or extended coverage policies, destroy (d) 1 year after final claim payment for any policy with an outstanding claim against it when the retention period expires, destroy).

**(7) Intramural Sports Waivers:** This series documents the legally and medically informed status of students, faculty, and staff participating in intramural sports activities. This form affirms that participants have been informed that they are not covered by the institution for injury or other medical situations and have been advised to seek private insurance. **(Retention: 3 years after the conclusion of the intramural sports season, destroy).**

**(8) Leases:** Series documents agreements made by an agency for the transfer of the right to possession and use (but not sale) of goods or property for a specified term. Series includes copies of lease agreements and amendments or addenda. Leases are typically for office space, equipment, real estate, or facilities. **(Retention: 4 years after expiration, destroy).**

**(9) Personal/Professional Services Contracts Records:** This series provides a record of Personal/Professional Services Contracts between the institution and independent contractors for professional, specialized, educational, research, creative, or custodial services. The contracts may be for any length of time, for a one-time performance of services, or for services provided on a continuing basis. Contracts are not personal services contracts if they are primarily for a tangible product, even if professional services are needed to design or install the product; if the services are for trade-related activities; or if the services are of the type that can be performed by any competent worker in the field. This series may include but is not limited to Personal/Professional Services Contracts (OSBHE form CO-190) with terms and provisions; addenda and exhibits; selection and justification statements; input forms (Executive Department form number 1405m); authorized signature sheets; contractor selection statements; certificates of compliance with tax laws; statements as to availability of local service; statements as to whether minority services available; contract change orders; bids and agreements; performance bonds; instructions to bidders; advertisements for bids; working papers; expense claim records; and related documentation and correspondence. **(Retention: 6 years after expiration of contract, destroy).**

**(10) Real Property Records:** This series documents the real property acquired and sold by the institution. This series does not include leases. This series may include but is not limited to: purchase agreements; title abstracts; easement details; public hearing notices and minutes; county recorder's plat descriptions; memoranda of understanding; earnest money receipts; sales agreements; property deeds; working papers; and related documentation and correspondence. **(Retention: 6 years after property is sold, destroy).**

**(11) Student Housing Contracts Appeals Records:** This series provides a record of the disposition of appeals made by residents who have been assessed the standard penalties for failing to follow the terms of their housing/food service contracts. These records consist of: students' appeals stating their reasons for seeking modification of contract terms; decisions from the director of housing, including instructions for further appeal if students have additional relevant information and desire to proceed; and related documentation and correspondence. **(Retention: 2 years after resolution, destroy).**

**(12) Student Housing Contracts Records:** This series provides a record of occupancy in all institution-administered housing — residence halls, family housing, and cooperative housing. This series may include but is not limited to residence hall/cooperative house/student family housing applications and contracts; proof of admission records; and related documentation and correspondence. **(Retention: 6 years after expiration of contract, destroy).**

**(13) Trademarks Licensing Records:** This series documents the legal authority for non-system agencies to use the logos and other symbols constituting the registered trademarks of the institution, such as "Benny the Beaver," "Donald Duck" and the institutional seals/logos. The records consist of folders for each vendor or individual seeking legal use of institutional trademarks for any reason. This series may include but is not limited to: names and addresses of approved licensees; their annual gross dollar sales of Institutionally trademarked items; invoices showing royalties paid to the institution for use of the trademarks; licensing agreements; samples of the requesting licensees' art work; and related documentation and correspondence. **(Retention: 6 years after expiration of licensing agreement, destroy).**

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

Stat. Auth.: ORS 192 & ORS 357

Stats. Implemented: ORS 192.005-ORS 192.170 & ORS 357.805-ORS 357.895

Hist.: OSA 3-1999, f. & cert. ef. 10-11-99; OSA 2-2003, f. & cert. ef. 2-14-03



# ADMINISTRATIVE RULES

166-475-0025

## Curriculum and Instruction Records

(1) **Academic Program Administrative Records:** This series documents the daily and routine administration of academic programs of the department or college. This series may include but is not limited to: registration reports; add-drop analyses and reports; course enrollment summaries by class; graduation summaries; majors by class level; international activities; cooperative ventures; summer term classes and enrollment reports; placement information; convenience copies of reports prepared by admissions, registrar's, budgets and planning, and other offices; memos; working papers; and related documentation and correspondence. **(Retention: 2 years, destroy).**

(2) **Book Order Records:** This series provides a record of books ordered for courses taught in the department. This series may include but is not limited to the institution textbook request forms which includes authors, titles, publications, course numbers, and expected enrollment; other forms; and related documentation and correspondence. **(Retention: 1 year, destroy).**

(3) **Catalog/Bulletin Records:** This series provides a record of institutional policies and procedures, program requirements, and course offerings and may also be used for constructing new courses or reconstructing old courses. Information in the individual catalogs and bulletins includes academic policies and procedures, program names and descriptions, course names and descriptions, alphanumeric course designations, credits offered per course, and related program and course information. This series may include but is not limited to: published copies of catalogs and bulletins including the general, graduate, and summer session catalog/bulletin; mock-ups of catalogs and bulletins; preparation and working papers; and related documentation and correspondence. **(Retention: (a) Permanent for 1 copy of published catalogs (b) 1 year for all other records, destroy).**

(4) **Class Scheduling Records:** This series documents the formulation of class schedules by academic departments for inclusion in the published schedule of classes. This series may include but is not limited to: the final edition of the schedule of classes booklet; requests from departments for class offerings; deviation from schedule forms; copies of course schedule maintenance forms; requests for class changes; working papers; and related documentation and correspondence. **(Retention: (a) Permanent for 1 copy of the schedule of classes booklets (b) 1 year for all other records, destroy).**

(5) **Continuing Higher Education and Summer Session Course Records:** This series documents course offerings and individual course contents as offered by Continuing Higher Education and Summer Session. These records include: syllabi; course descriptions; course outlines; course request proposals; enrollment reports; course summaries; request for undergraduate and graduate course and instructor approval forms; nominations to the undergraduate faculty; course announcements; handout materials; budget requests; budget status forms; vouchers; final and summary reports; and related documentation and correspondence. **(Retention: (a) Permanent for final and summary reports (b) 4 years for all other records, destroy).**

(6) **Course Records:** This series provides a record of departmental course offerings and individual course contents. This series may include but is not limited to: syllabi; course descriptions; course outlines; course summaries; course requests and proposals; curriculum approval lists; lists of classes by term; bibliographies; reading lists; course announcements; handout materials; and related documentation and correspondence. **(Retention: 3 years or until superseded or obsolete, destroy).**

(7) **Course Schedule Maintenance Forms:** This series documents requests for changes to be made to the institutional catalog and schedule of classes. The forms include course numbers; course titles; locations; grading modes; course descriptions; designators; fees; and credit hours. **(Retention: 2 years, destroy).**

(8) **Media Equipment and Productions Records:** This series documents the purchase, receipt, and subsequent scheduling and distribution of media productions and/or equipment. This series may include but is not limited to: film, video tape, and equipment requests; letters of permission to use copyrighted materials; distribution schedules; and related documentation and correspondence. **(Retention: (a) 6 years after expiration for letters of permission, destroy (b) 4 years for all other records, destroy).**

(9) **New Degree Program and Course Proposal Records:** This series documents the development of new departmental and interdepartmental degree programs, courses and related curricula that are currently under consideration for adoption. The series may also document requests to drop courses from the curriculum and/or to change the names of courses, the number of credits, or the prerequisite courses. This series may include but is not limited to curriculum committee meeting minutes; curriculum

proposals; and related documentation and correspondence. **(Retention: (a) Permanent for committee meeting minutes and curriculum proposals (b) 5 years for all other records, destroy).**

(10) **Non-University Student Program Administration Records:** This series documents the administrative activities of special instructional and support programs directed to serve elementary through high school and non-institution students belonging to special, minority, or disadvantaged groups. Examples of programs to which this series applies are Science and Mathematics Investigative Learning Experiences (SMILE), Upward Bound, High School Equivalency, and other special non-institution student programs. This series may include but is not limited to policy and program planning and development documentation; evaluations of courses, support services, and instructors; program course outlines; tuition payment records; reports; statistical reports; working papers; and related documentation and correspondence. **(Retention: (a) Permanent for policy, program planning, and development documentation and reports (b) 10 years for all other records, destroy).**

(11) **Program Development and Review Records:** This series provides a record of planning and discussions relating to the implementation of new undergraduate and advanced degree programs and any major reorganizations or changes to established programs. This series may include but is not limited to: final reports; working papers; letters of support; review agendas; faculty status reports; reviews of individual degree programs by campus and off-campus sources; and related documentation and correspondence. **(Retention: (a) Permanent for final reports and reviews of individual degree programs by on and off-campus sources (b) 10 years for all other records, destroy).**

(12) **Room Scheduling Records:** This series documents room assignments for classes offered during regular terms or during the summer session. This series may include but is not limited to room assignment lists and related documentation. **(Retention: 1 year, destroy).**

(13) **Special Academic Programs Records:** This series documents the administrative activities of special academic programs serving and aiding institution students. Programs documented by this series range from special requirement and certification programs to programs aimed at assisting and encouraging target groups of institution students. Included are the international student program; National Student Exchange (NSE) program; English language programs; honors programs; minority scholars programs; minority student recruitment programs; disabled student programs; non-traditional student programs; educational opportunities programs; older than average student programs; Native American science programs; study abroad programs; and other special academic programs. This series may include but is not limited to policy and program planning and development documentation; explanatory materials on the program; notes; evaluations of courses, support services, and instructors; program course outlines; tuition payment records; program participation and aid selection records; activity accounting records; working papers; reports; and related documentation and correspondence. **(Retention: (a) Permanent for policy and program planning and development documentation and reports (b) 10 years for all other records, destroy).**

(14) **Student Handbooks:** This series documents the requirements, policies, and offerings of specific instructional units for use by current or potential students. This series contains information or policies on: fields of study; faculty; academic requirements; the evaluation process; and the research proposal process. **(Retention: Permanent for 1 copy of each edition)**

Stat. Auth.: ORS 192 & ORS 357

Stats. Implemented: ORS 192.005-ORS 192.170 & ORS 357.805-ORS 357.895

Hist.: OSA 3-1999, f. & cert. ef. 10-11-99; OSA 2-2003, f. & cert. ef. 2-14-03

166-475-0030

## Equipment and Supplies Records

(1) **Bid and Competitive Selection Records:** This series documents the procurement process for equipment and service valued in excess of \$5,000. This series may include but is not limited to: acquisition specifications; acquisition justification studies and explanations; State Information Systems Resource Request forms; requests for proposal (RFP) forms; affidavit of publication for RFP forms; requests for invitations to bid (RFIs); requests for quotes (RFQs); vendors proposals and bids; bid tabulation sheets and records for all bids received; departmental requisition forms; competitive quotes; and related documentation and correspondence. **(Retention: (a) 10 years after substantial completion: for agency accepted improvement bids, destroy (b) 6 years after bid awarded all other accepted bids, destroy (c) 2 years for records of rejected or bids non-awarded bids or proposals, destroy).**

## ADMINISTRATIVE RULES

(2) **Equipment Inventory Records:** This series documents the acquisition, location, transfer, and disposition of state-owned property and equipment. This series may include but is not limited to: Equipment Inventory Lists; OUS Physical Inventory Information cards (CO-300 Form); OUS Equipment Inventory Forms (CO-350 Form); lost/stolen property reports; Damage or Loss of State Property Claim; equipment transfer forms and memos; and related documentation and correspondence. The series may also include biennial equipment list; returned departmental equipment inventory lists with annotations concerning resolution of problems associated with the accountability, physical condition, and physical location of specified pieces of equipment; and accountability and responsibility statements. **(Retention: (a) Biennial inventory records: 4 years, destroy (b) All other records: 4 years after disposal of equipment from unit, destroy).**

(3) **Equipment Loan Agreements Records:** This series documents the institution's lending of equipment to borrowers conducting research, educational programs, and or other activities consistent with institution goals and missions. This series may include but is not limited to signed equipment loan agreements which outline the conditions under which the loan is made and the responsibility assumed by the borrower; and related documentation and correspondence. **(Retention: 6 years after expiration of agreement, destroy).**

(4) **Equipment Maintenance Records:** Series documents the operation, maintenance, service and repair of institutional equipment. Records may include: purchase orders; lease agreements; warranties; instructions and operating manuals; vendor statements; service contracts; charge call bills; fax activity reports; service logs; invoices for equipment repair; purchase request forms; and memoranda. **(Retention: 1 year after disposition of equipment, destroy).**

(5) **Equipment Rental and Loan Records:** This series is used to monitor the rental/loan and return of university property such as recreational equipment and lockers and is also used to determine usage trends as an aid to purchase and replacement decisions. Records may include rental agreements; loan forms; usage logs; and related correspondence. **(Retention: 2 years after return of property)**

(6) **Federal Property Records:** This series provides documentation for and monitoring of "agency-owned" (usually federal) properties loaned to the institution or agency-owned property purchased with (usually federal) non-institutional state funds for research contract use at the institution. Such property is carried on the state equipment inventory records for insurance and management purposes. This series may include but is not limited to Annual Equipment Inventory Lists; federal physical equipment inventory reports; copies of federal form DD 1419; institutional acquisition, transfer, and disposition forms; memoranda of understanding or agreements; and related documentation and correspondence. **(Retention: (a) 6 years after expiration: memoranda of understanding and agreements, destroy (b) 3 years after final disposition of equipment or property: all other records, destroy).**

(7) **Food and Alcohol Inventory Records:** This series is used to provide the department with a record of the dollar value of food, alcohol, and other consumable stock at the end of each month for planning, ordering, and fiscal accounting purposes. This series may include but is not limited to in-house computer generated food inventory reports; alcohol inventory reports; summary reports; and other related documentation and correspondence. **(Retention: 4 years, destroy).**

(8) **Food Ordering and Delivery Records:** This series is used to provide the office with verification of vendor deliveries, transfers of food and supplies from the housing office warehouse, updated pricing information, and other vendor information. This series may include but is not limited to photocopies of direct delivery vendor invoices; and requisition forms. **(Retention: 4 years, destroy).**

(9) **Issue Tickets Records:** This series documents the distribution of consumable supplies such as gasoline, oil, rock, gravel, and other supplies issued for authorized use. This series may include but is not limited to issue tickets; receipts; sign-out sheets or logs; journal vouchers; purchase authorizations; and other related documentation and correspondence. **(Retention: 4 years, destroy).**

(10) **Miscellaneous Closing of Books Reports:** This series documents fiscal year ending reports sent to the OUS Controller annually. This series includes but is not limited to reconciliation statements; reports on non-expendable property received; museum collections; vendors invoices; storeroom physical inventories; and related documentation and correspondence. **(Retention: 6 years, destroy).**

(11) **Personal Property Loan Agreements Records:** This series documents the institution's acceptance of responsibility for and conditions under which it borrows equipment from other entities. The series also doc-

uments conditions under which the institution will operate equipment borrowed from others. The series may include but is not limited to personal property loan agreement forms; letters of understanding; equipment conditions forms; and related documentation and correspondence. **(Retention: 6 years after expiration of agreement, destroy).**

(12) **Property Disposition Requests Records:** This series documents custodial units' requests to change the status of state-owned property. A status change may consist of declaring an item surplus, salvage or scrap, lost or stolen, transferred, traded in, etc. This series includes State Property Disposition Requests (PDR forms) and related documentation and correspondence. **(Retention: 4 years, destroy).**

(13) **Requisitions Records:** This series documents the purchase of supplies and services by the institution. This series may include but is not limited to purchase requests; State Purchase Request Forms; field purchase orders; inter-departmental requisitions for equipment, supplies, and services; and related documentation and correspondence. **(Retention: 4 years, destroy).**

(14) **Research and Teaching Drug Inventory Records:** This series documents the daily inventory of drugs and controlled substances held by units for clinical, instructional, and research uses. These records include daily shift inventory logs listing descriptions, quantities, and initials of pharmacists conducting the inventories. Complies with 21 CFR 1304.04(a). **(Retention: 2 years, destroy).**

(15) **Sale Inventory Records:** This series is used to document saleable items in colleges or unit's inventories. This series may include but is not limited to stock printouts; inventory reports; card files of stock; and related documentation and correspondence. **(Retention: 4 years, destroy).**

(16) **Shipping Lists and Packing Slips:** This series documents the receipt of equipment, supplies, other items and services from vendors. The series includes packing slips; shipping and container lists; and bills of lading. **(Retention: 1 year, destroy).**

(17) **Supplies Inventory Records:** This series documents the quantity and value of all supply items with a value of \$4999.99 or less. Supply Inventories are required by the institution on an annual basis and mandated by OUS every five years. This series may include but is not limited to a listing of institution-wide supplies inventories consolidated from each unit's submissions to the property administration office; departmental supplies inventory forms (OUS Form CO 340A); supply lists and ledgers; OUS Estimated Supplies Reports; and related reports, documentation, and correspondence. **(Retention: 4 years after superseded or obsolete, destroy).**

(18) **Surplus Property Records:** This series documents changes in state owned property; requests to declare items surplus, salvage, or scrap; removal and sale or disposal of excess equipment and other surplus items including proceeds from sales. Records may include but may not be limited to surplus property declaration and pick-up requests; pick-up request worksheets; State Property Disposition Requests (PDR forms); quarterly and other computer generated reports of sales to other departments, agencies, or private parties; journal vouchers; descriptive information; property sale flyers; surplus property sales inventory lists; bills of sale; cash receipts; vehicle odometer statements; and related documentation and correspondence. **(Retention: 4 years, destroy).**

(19) **Vehicle Records:** This series documents departmental administration of vehicles such as cars, vans, trucks, trailers, boats, tractors, and farm vehicles for accounting and insurance purposes. It may also document the service history, accumulated mileage, and disposition of each vehicle of institutionally owned vehicles, including routine preventative maintenance, mechanical repairs, and accident damage repairs. This series may include but is not limited to registrations; vehicle warranties; maintenance agreements; service contracts; vehicle inventories containing information regarding description, dollar value, and date of purchase; maintenance and repair logs; maintenance requests and work orders; gas slips; repair notices and authorizations and related documentation and correspondence. **(Retention: 2 years after disposal of vehicle, destroy).**

(20) **Vehicle Title Records:** This series documents institution ownership of vehicles such as cars, vans, trucks, trailers, boats, tractors, and farm vehicles. This series includes title application materials and titles. **(Retention: (a) Until title received for title application materials, destroy (b) Retain title for the duration of ownership, destroy).**

(21) **Vendor History Reports:** This series is used for quick reference of vendor data, selection, and updating pertaining to departmental and college operations. This series may include but is not limited to: reports containing vendor numbers, payee names, invoice numbers, amounts, warrant/voucher numbers, and message comments; copies of purchase orders; requisitions; packing slips; promotional and advertising materials; product specification sheets; and related documentation and correspondence.

# ADMINISTRATIVE RULES

**(Retention:** (a) Until superseded or obsolete for advertising materials, destroy (b) 2 years after superseded or obsolete for all other records, destroy).

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

Stat. Auth.: ORS 192 & ORS 357

Stats. Implemented: ORS 192.005-ORS 192.170 & ORS 357.805-ORS 357.895

Hist.: OSA 3-1999, f. & cert. ef. 10-11-99; OSA 2-2003, f. & cert. ef. 2-14-03

## 166-475-0035

### Facilities and Property Records

(1) **Building Space Inventory and Valuation Records:** This series documents the buildings owned and leased by the various institutions within the Oregon University System both on and off campuses. Building Space Inventory reports are used to project institutional space needs; to identify deferred maintenance; and to provide cost recovery support documentation for major research universities receiving federal money, grants, or private gifts. The inventories are kept at the individual institutions with periodic updates being provided to the Board's Offices of Facilities Services. Records include but are not limited to computer generated reports with details by building (SP440-01), type of space (SP450-01), principal use (SP455-01), department (SP460-01), and area. Records may also include various summary reports such as Institution Summary by Building (SP445-01). All computerized reports are updated at least annually. OUS Facilities Services holds system-wide record copy of Space Inventory reports. Building Valuation Reports are used for State Insurance Fund (formerly State Restoration Fund) purposes and include building name, building number, location, capitalized value, and insured value. The report is prepared annually by the Controller's Division and distributed to the institutions. All updates, additions, and deletions are prepared at the institution level and reported to the Controller's Division. **(Retention:** (a) Permanent for summary space inventory reports and building valuation reports (b) 10 years for all other records, destroy).

(2) **Buildings/Grounds Repair, Maintenance, Remodeling, and Construction Records:** This series documents the condition, upkeep, and routine maintenance of the institution's buildings and grounds. It also documents remodeling and construction projects with a total expenditure of less than \$100,000 over six years. This series may include but is not limited to floor plans; specifications; layouts; sketches; maintenance agreements; work logs; sign-in sheets; and related documentation and correspondence. **(Retention:** (a) Permanent for floor plans, layouts, sketches, and specifications (b) 6 years for all other records, destroy).

(3) **Capital Construction Project Records:** This series is used to provide a record of the planning, administration, and implementation of current and potential capital construction projects on campus (projects with a total expenditure of at least \$100,000 over six years); to project needs for projects; and as a reference to projects once they have been completed. The series also provides a record of the funding of current capital construction projects on campus and to prepare budgets and allocations for capital construction projects. This series may include but is not limited to project descriptions and requirements; plans; plan reviews; project schedules; contract change orders; bid documentation; contracts and agreements with architects, artists, engineers, consultants, vendors, and contractors; materials and soils reports; progress reports; insurance reports; payment schedules; summary reports; memos; final acceptance statements; architectural blueprints; sketches; aerial photographs; preliminary planning drawings; as built drawings; drawings reflecting changes to the original plans; soil testing maps; any other type of graphic representation produced relating to buildings, systems, and land. The series also includes project descriptions; budget projection and allocation records; budget authorization forms; budget change orders; final acceptance statements; and related documentation and correspondence. **(Retention:** Permanent).

(4) **Chemical Application Records:** This series documents the application of chemicals such as pesticides, herbicides, and fertilizers to institutional property. Information usually includes date used; weather conditions; application area; chemical applied; mix ratio; and coverage rate. **(Retention:** 30 years, destroy).

(5) **Classroom and Laboratory Utilization Reports:** This series provides information about the utilization of classroom and laboratory space. This series includes preliminary and final reports which contain class number, time of the class, and the number of students in the class. **(Retention:** (a) 5 years for final utilization reports, destroy (b) 2 years for preliminary utilization reports, destroy).

(6) **Faculty and Staff Reports:** This series documents the number of full time equivalent (FTE) positions in instruction, research, administration, public service, fellowships, and classified staff. This series consists of forms from departments showing FTE positions (including social security

numbers) and office space required. The summaries include department total FTE for each of the principal activity categories listed above. **(Retention:** (a) Permanent for summaries (b) 5 years for all other records, destroy).

(7) **Land Inventory Records:** This series documents real property owned and leased by the various institutions within the Oregon University System and lists each parcel that has been acquired through ownership or under some form of lease agreement. Records include but are not limited to Land Inventory Reports, the OUS Land Inventory manual, records pertaining to permanent land and deed filings with the state, and related documentation and correspondence. Information in the Land Inventory Reports includes from who the land was acquired, date of acquisition, use of the land, source of revenue used to acquire, acreage, capitalized value, and where the transaction is recorded in the Board minutes. OUS Facilities Services holds system-wide record copy and annual reports are provided to the institutions. **(Retention:** (a) Permanent for the OUS Land Inventory Manual, records relating to deeds, correspondence, and every fifth year of Land Inventory Reports (b) Until superseded or obsolete for all other Land Inventory Reports, destroy).

(8) **Property Tax Exemption Claim Records:** This series is used to document claims for exemptions from institutions paying property taxes in Oregon and other states due to the educational use of the property. Exemptions are typically made on an annual basis. Records may include applications for exemption and related documentation and correspondence. **(Retention:** 6 years, destroy).

(9) **Room Change Requests Forms:** This series documents room assignments and room remodeling done by facilities services units. Information on the change request forms may include but is not limited to the building and room; the reason for the change; who requested the change; who approved the change; date the change was requested; source of funds; special approvals needed and date approved. **(Retention:** 5 years, destroy).

(10) **Utilities Systems Operating and Maintenance Records:** This series documents the operations and maintenance of institutional utilities. This series may include but is not limited to equipment operations logs; mechanical readings charts; equipment maintenance histories; and related documentation and correspondence. **(Retention:** (a) 4 years after equipment is no longer in service for equipment maintenance histories, destroy (b) 10 years for all other records, destroy).

Stat. Auth.: ORS 192 & ORS 357

Stats. Implemented: ORS 192.005-ORS 192.170 & ORS 357.805-ORS 357.895

Hist.: OSA 3-1999, f. & cert. ef. 10-11-99; OSA 2-2003, f. & cert. ef. 2-14-03

## 166-475-0040

### Fiscal — Accounts Records

(1) **Annual Fiscal Reports:** This series documents annual fiscal year-end status of accounts and is used to provide the office with summary information relating to its programs which may be used for planning or review. Records include Period 14 reconciliation reports; annual operating statements; schedules of rates; and related correspondence. **(Retention:** 10 years, destroy).

(2) **Building and Equipment Reserve Schedules:** Auxiliary enterprises and service departments are required to have a reserve account for equipment and buildings for purposes of buying, replacing, or repairing. Series is used as an individual account summary and to show what the balance should be, as well as the amount of current year entries needed to bring the account up to that balance. The series also serves as backup to the general ledger entries. Information may include building or equipment value, required reserve, actual balance, deficiency, and amount to transfer in the current fiscal year. **(Retention:** 6 years, destroy).

(3) **Certificates of Participation:** Records document the administration of Certificates of Participation (COP's) primarily sold to finance institutional equipment, software, hardware, and consultants' time. The series may also be used to split COP debt service amongst the institutions and make entries charging them for COP related debt service. Records may include but are not limited to Certificates of Participation, COP budget development and cash draw down records, and related executive and administrative correspondence. **(Retention:** (a) Permanent, executive correspondence (b) 4 years after COP maturity, all other records, destroy).

(4) **Chart Element Reports:** This series documents every fiscal FOAPAL element used by the institution which include Index, Fund, Organization, Account, Program, Activity and Location Codes. Records consist of reports generated on a particular FOAPAL element which include the element; a brief descriptive title; and effective, termination, and next change dates. **(Retention:** Until superseded or obsolete, destroy).

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(5) **Chart Element Justification Records:** This series documents fiscal chart of accounts elements and an office's request to establish a new index or FOAPAL element, change an existing element, or terminate an existing one. Records consist of request forms which include a description of the request, the proposed FOAPAL and index elements, effective date, and signatures of requesters and authorizing officials. **(Retention: Permanent).**

(6) **Closing of the Books Records:** Series documents the resolution and reconciliation of accounts monitored by the institution, the OUS Budget and Fiscal Policies Office, or Controller's Office at the end of the fiscal year. Records include reconciliation statements provided by each institution to OUS Budgets and Fiscal Policies or the OUS Controller's Office concerning discrepant accounts for which they are responsible and related documentation and correspondence. **(Retention: 6 years, destroy).**

(7) **Correspondence, Fiscal:** Series documents communication between the agency and other government agencies, vendors, and the public pertaining to the agency's fiscal policy, obligations and revenue. Records include correspondence sent and received by the agency's administrative and/or business office staff. **(Retention: 4 years, destroy).**

(8) **Development and Endowment Management Fee Records:** This series documents the revenue earned quarterly on gift accounts and fees charged by the institution's development office. Information includes dates; gift account amounts and identification numbers; earnings; department or account responsible for payment; and fee amount. **(Retention: 6 years, destroy).**

(9) **General Ledger Statements:** This series provides a complete monthly record of the final posting of all university financial transactions, listed by account number. It is used to prepare periodic financial statements. Records contain: the program name; account number; posting date; debit and credit amounts; new balance; and related information. This is a closed series that was discontinued when the institution adopted the Banner Financial Information System (FIS). **(Retention: (a) 15 years for List 13, destroy (b) 5 years for Lists 1-12, destroy).**

(10) **Miscellaneous Accounting Reports:** This series documents the production of various accounting reports made by individual offices or departments on a daily, monthly, quarterly, or annual basis. These reports provide summary information relating to the department and its programs, and may be used for planning or review. Reports include operating statements, year-end projections, reconciliations, expenditures by facilities, accumulated hours and dollars by employee, summaries of assets and liabilities, sales, cost accounting, and income. This series does not include the year-end Closing of the Books Reports. Records may include but are not limited to working papers; drafts; final reports; and related documentation and correspondence. **(Retention: (a) 5 years for annual reports, destroy (b) 1 year for daily, monthly, and quarterly reports and working papers, destroy).**

(11) **Operating and General Ledger Reconciliation Records:** This series documents monthly reconciliations with the operating ledger or general ledger. Records consist of working papers and monthly reconciliation reports. **(Retention: 6 years, destroy).**

Stat. Auth.: ORS 192 & ORS 357

Stats. Implemented: ORS 192.005-ORS 192.170 & ORS 357.805-ORS 357.895

Hist.: OSA 3-1999, f. & cert. ef. 10-11-99; OSA 2-2003, f. & cert. ef. 2-14-03

### 166-475-0045

#### Fiscal — Cash Records

(1) **Bank Advice Statement Records:** This series documents discrepancies (over or short) on bank deposits made by institutional cashiers. It is also a record of discount charges and rental charges by the bank for bank card use. Records consist of bank initiated advisories received by Business Affairs for adjustments to accounts because of bank or office clerical errors. **(Retention: 4 years, destroy).**

(2) **Cash Batches Records:** This series documents all transactions of the day made by tellers in the cashier section of Business Affairs. Records include daily cash register tapes; Batch Control Cards listing daily summary totals from all cashier transactions; invoices; and cash receipts. **(Retention: 6 years, destroy).**

(3) **Cash/Deposit Match Records:** This series documents the equality or inequality of cash receipts versus bank deposits on a daily basis. Records consist of weekly computer printouts that list the account numbers managed by the office with daily entries for cash receipts in each account and corresponding bank deposits in each account. The computer program flags those accounts where daily cash receipts do not equal bank deposits for that date and labels them "Out of Balance." **(Retention: 4 years, destroy).**

(4) **Cash Records:** This series provides a record of cash received or disbursed by an office. It also documents all money received and deposited to departmental accounts through the cashier's daily bank deposits. Records may include but are not limited to departmental deposit vouchers; cash receipt slips; validation receipts; cash register tapes; bank deposit slips; check stubs; petty cash balance sheets; check registers; Cash by Account Number reports; and monthly cash register reports **(Retention: 5 years, destroy).**

(5) **Cashier's Daily Summary Records:** This series documents and summarizes tellers' daily activity. Information includes amounts processed for payments; amount of checks; activity to and from the vault; beginning and ending daily cash; deposits made by other units; volume of bank cards processed; and cash over/short amounts. **(Retention: 4 years, destroy).**

(6) **Credit Voucher Requisition Records:** This series documents funds released to students by the cashier division of Business Affairs as authorized by other units. Records include recipient signed receipts acknowledging receipt of funds from the Cashier; check stubs; and other documents. **(Retention: 5 years, destroy).**

(7) **Log Out Records:** This series registers checks processed by the office and given to another party. The record is generated for cashier's window reference purposes. Records include photocopies of checks logged out to other departments; returned to sender; handed back to student; and co-payee GSL/SLS checks in which the total check was used to pay charges or change given to student. **(Retention: 4 years, destroy).**

(8) **Monthly Cash Reports:** This series provides a monthly listing of cash receipt transactions entered in batches that were accepted, including transactions placed in the suspense file; a monthly listing by account number of cash receipt transactions processed since the previous report; and cash receipts transactions with receivable account numbers that were not processed against the Accounts Receivable System. These records include transactions processed during the previous month listed in register-ring number sequence by cash date; transactions processed since the previous report including those placed in the suspense file, listed in alphabetical name sequence by cash date within account number; and cash receipt transactions with action codes below 500 in alphabetical sequence by cash date within account number. This is a closed series that was discontinued when the institution adopted the Banner Financial Information System (FIS). **(Retention: 5 years, destroy).**

(9) **Safekeeping Records:** This series documents funds placed with Business Offices for safekeeping in trust and their disbursement to students or departments. Funds may be placed by associations, corporations, or parents on behalf of specified students or departments. Records may include disbursement instructions; copies of checks; and receipts. **(Retention: 4 years, destroy).**

(10) **Ticket Sales and Event Cash Reconciliation Records:** This series documents the printing, selling, distribution, and accounting of tickets for university-sponsored athletic, performing arts, and other events where tickets are sold for admission. A portion of athletic event receipts is shared with visiting teams. Records may include ticket stock orders; ticket type reports; ticket purchase manifest forms; box office balance sheets; ticket printing and control records; season ticket sales lists; receipts and orders for mail, phone, or in-person purchase of tickets; ticket sales summary sheets and reports; free ticket sign-up sheets; lists and reports of free tickets distributed to patrons, contributors, and others; deposit receipts; and related documentation and correspondence. Records pertaining to athletic events are kept in compliance with NCAA and state requirements. **(Retention: 5 years, destroy).**

(11) **Weekly Cash Receipts Summaries:** This series documents cashiers' weekly transactions. Records consist of a weekly summary of all transactions sorted either by account number or alphabetically by the name of the person for whom the transactions were accomplished. Information includes individuals' names; social security numbers; transaction dates; account numbers affected; and debit/credit amounts. This is a closed series that was discontinued when the institution adopted the Banner Financial Information System (FIS). **(Retention: 6 years, destroy).**

Stat. Auth.: ORS 192 & ORS 357

Stats. Implemented: ORS 192.005-ORS 192.170 & ORS 357.805-ORS 357.895

Hist.: OSA 3-1999, f. & cert. ef. 10-11-99; OSA 2-2003, f. & cert. ef. 2-14-03

### 166-475-0050

#### Fiscal — Payables/Receivables Records

(1) **Accounts Aging Records:** This series provides a cumulative listing by accounts receivable number of all receivables on the Accounts Receivable master file in the Banner Student Information System. For each receivable, the amounts that are not yet due, currently due, and overdue are indicated. All amounts are principal amounts; interests, service charges, and

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late charges are not included. Records consist of account listings sorted alphabetically by customer showing balances. Listings are generated at the end of the fiscal year and at other times upon request. **(Retention: (a) 10 years for year-end listing, destroy (b) 4 years for other listings, destroy).**

(2) **Accounts Payable Records:** This series documents a department's expenditures and purchases. The series may also be used to research, evaluate, and monitor prior transactions and/or track the budget. Records may include but are not limited to departmental purchase orders; contract release orders; balance sheets; bills; invoices; invoice vouchers; journal voucher/entry forms; price quotes; State of Oregon "B" Purchase Orders; departmental requisitions; justifications of purchases; payment authorizations; reports of receipt of goods or services; and related documentation and correspondence. **(Retention: 6 years, destroy).**

(3) **Accounts Receivable Records:** This series is used by departments and offices to provide a record of billings and collections for the office and units/programs which report to the office. It is also used to provide a record of customers owing monies and to reconcile the account. Records may include but are not limited to Account Edit sheets; classified advertisement forms; VISA/Mastercard payment forms; invoices; journal vouchers; receipts; and related documentation and correspondence. **(Retention: 6 years after collected or deemed uncollectable, destroy).**

(4) **Accounts Receivable Subsidiary Records:** This series provides a history of charges and payments recorded for each customer on the Banner Student Information System. Records consist of customer lists sorted by account number with charges and payments recorded for each customer in chronological sequence. **(Retention: 6 years, destroy).**

(5) **Accounts Receivable Write-off Records:** This series documents debts of Accounts Receivables written off with the approval of the Secretary of State. Records include accounts receivable invoices; write-off worksheets; and the Oregon Secretary of State's approval and Assignment of Uncollectible Debt letters. **(Retention: 6 years after write-off, destroy).**

(6) **Canceled Checks:** This series documents redeemed checks written on university accounts. Information on each check may include check number, date, amount, endorsement, account number, validation data, and related documentation. **(Retention: 6 years, destroy).**

(7) **Charge Airfare Records:** This series documents airfares purchased as part of institutional business. Records include forms used to authorize the issuance of airline tickets and the charging of fares to a university account. **(Retention: 6 years, destroy).**

(8) **Check Stubs:** Series documents the issuance of checks for payment in exchange for goods and services including payroll. Records include check stubs. **(Retention: 6 years, destroy).**

(9) **Collection Records:** This series documents the office's efforts to collect unpaid accounts. Records include collection letters; notices; letters of transmittal; and bankruptcy records. **(Retention: 6 years after account is paid in full, destroy).**

(10) **Credit Card Administration Records:** Series documents administration of credit cards issued to institutional staff and units. Records may include applications; master monthly billing statements; individual card holders' statements; billing summaries; printouts including vendor analysis by code; number of charges and stores; use summaries; related correspondence. **(Retention: (a) 6 years after card expiration for applications, destroy (b) 6 years for all other records, destroy).**

(11) **Moving Expenses Records:** This series documents new employees' moving and travel expenses paid by the institution. Records may include but are not limited to requests for approval-travel and moving reimbursement of new employee forms; purchase orders; travel reimbursement requests; vendor invoices; and receipts. **(Retention: 6 years, destroy).**

(12) **Refund/Disbursements Request Records:** This series documents requests and disbursements made for overpayment and refunds. Records include accounting data for refunds from parking violation fines paid and successfully appealed; tuition and fee refunds when courses are dropped; refunds for event tickets, loan overpayments, change-of-residence, and canceled courses; a log of refunds and requests to the state treasurer for checks to be issued. **(Retention: 6 years, destroy).**

(13) **Registration Fee Records:** This series documents the payment of registration fees, which are considered travel expenses. Records may include but are not limited to completed registration forms; journal vouchers; invoices; purchase orders; and wire transfer forms. **(Retention: 6 years, destroy).**

(14) **Returned Checks Records:** This series documents attempts to collect monies for non-negotiable (usually non-sufficient funds) checks received for payment to university accounts. Records consist of master lists of checks returned to the University and contain names; addresses; tele-

phone numbers; banks upon which checks were drawn; reasons for return; and notations of any prior activity. **(Retention: 6 years, destroy).**

(15) **Revolving Charge Agreements Records:** This series documents a student's agreement with the provisions of the accounts receivable revolving account and his/her intent to attend the institution. Records include agreement forms signed by each student. **(Retention: 3 years after last enrollment, destroy).**

(16) **Travel Records:** This series may be used: to document requests for and approval of travel by employees of the institution or the agency; to monitor travel expenditures; for planning purposes; to document changes in dates of travel, changes in the name of the traveler, changes in itinerary, or changes in funding sources within an out-of-state travel authorization; and to document approval for vehicle rental. Records may include but are not limited to out-of-state travel authorization forms, travel itineraries, travel advance forms, travel reimbursement requests (employee and non-employee), receipts, approval memos, vehicle mileage reporting records, memos in place of itemized receipt, affidavits of lost receipt memos, authorizing signatures, and related documentation and correspondence. **(Retention: 6 years, destroy).**

Stat. Auth.: ORS 192 & ORS 357

Stats. Implemented: ORS 192.005-ORS 192.170 & ORS 357.805-ORS 357.895

Hist.: OSA 3-1999, f. & cert. ef. 10-11-99; OSA 2-2003, f. & cert. ef. 2-14-03

## 166-475-0055

### Financial Aid Records

(1) **Athletic Scholarship and Grant-In-Aid Award Records:** This series is used to provide athletic departments with information pertaining to player eligibility and receipt of financial aid in the form of scholarships including grant-in-aid scholarships, to monitor accounts, and to assist in complying with NCAA, NAIA and conference rules and regulations. These records include squad lists which furnish summary information; conference eligibility reports; team roster update sheets; scholarship count sheets showing who is on the schedule to receive aid; applications; nominee lists; eligibility questionnaires; eligibility reports which determine years of eligibility unused; credit voucher request sheets notes; and related documentation and correspondence. **(Retention: (a) 10 years for NCAA records, destroy (b) 5 years for all other records, destroy).**

(2) **Borrowers Loan Records:** This series documents and is a monitoring tool for all Perkins and National Direct Student Loans. This series consists of files for each borrower. This series may include but is not limited to repayment schedules; statements of rights and responsibilities; records of actions taken; and related documentation and correspondence. **(Retention: 3 years after loan repayment or assignment to U.S. Department of Education, destroy).**

(3) **Borrowers Loan Records (Canceled):** This series documents Perkins and National Direct Student Loans that have been canceled because of bankruptcy, death or disability, bad debts, write-offs, and assignments. This series consists of files for each borrower. This series may include but is not limited to: repayment schedules; statements of rights and responsibilities; records of actions taken; doctors statements and other medical evidence; and related documentation and correspondence. **(Retention: 3 years after debt cancellation or assignment to U.S. Department of Education, destroy).**

(4) **Credit Bureau Reports:** This series documents holders of student loans that have been reported to credit bureaus. This series contains reports which list each borrower's name; the amount past due; and related documentation. **(Retention: 2 years after collected or deemed uncollectable, destroy).**

(5) **Federal Title IV, Program Records, Institutional Records:** Records document eligibility to participate and school's administration of Federal Title IV and programs. Records include Institutional Program Participation Agreement; Recertification; Education program eligibility; Accreditation reviews; and reports; State agency reports; Audits and program reviews; Other records, as specified in regulation, that pertain to factors of financial responsibility and standards of administrative capability; and Consortia Agreements between and amongst schools. **(Retention: (a) Agreements: 6 years after expiration, destroy (b) Records pertaining to borrower eligibility: 3 years after the end of the award year in which the student borrower last attended the institution, destroy (c) Fiscal Operations Report, Application to Participate and supporting documentation: 3 years after the end of the award year in which the FISAP is submitted, destroy (d) Records involved in any loan, claim, or expenditure questioned by a Title IV, HEA program audit or review, investigation, or other review: Until the resolution of that questioned loan, claim, or expenditure, or the end of the retention period applicable to the record, whichever is longer, destroy).**

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(6) **FFELP and Direct Loan Records:** Records relate to Federal Family Education Loan Program (FFELP and Direct Loan Programs including but not limited to Eligibility (student and/or parent); Application; Disbursement records; Promissory notes; and Student Status Confirmation Reports (SSCR). **(Retention:** (a) Records relating to a student or parent borrower's eligibility: 3 years after the end of the award year in which the student borrower last attended the institution, destroy (b) Other records relating to the participation in FFEL or Direct Loan Program: 3 years after the end of the award year in which the records are submitted, destroy (c) Records involved in any loan, claim, or expenditure questioned by a Title IV, HEA program audit or review, investigation, or other review: Until the resolution of that questioned loan, claim, or expenditure; or the end of the retention period applicable to the record, whichever is longer, destroy).

(7) **Financial Aid Annual Reports:** Records document cumulative loan activity of each fiscal year through a required year-end report made to the U. S. Department of Education. Records may include but are not limited to schedules and instructions; working papers; exhibits audit reports; findings; rebuttals; and related documentation and correspondence. **(Retention:** (a) Audit reports, exhibits, findings, rebuttals: 20 years, destroy (b) Other records: Until completion of audit, destroy).

(8) **Financial Aid Transcripts Hold Records:** This series is used to monitor students who have been delinquent in or in default of financial aid payments. Records include lists indicating: students' names and addresses; academic majors and standings; and account status. This is a closed series. **(Retention:** 5 years, destroy).

(9) **Fiscal Records and Reports:** Records document Federal Title IV Aid transactions, including receipt, management and disbursement of funds. Records of all Title IV program transactions; Bank statements for all accounts continuing Title IV payments, cash disbursements, refunds, and repayments; General ledger (must be separate from school's other financial transactions) and related ledgers that identify each Title IV program transaction; Federal work-study payroll records; Annual Federal Fiscal Operations and Applications for Funds Report (FISAP). Records support data appearing on required reports: Federal Pell Grant Statements of Account; ED Payment Management system cash requests and quarterly or monthly reports; Title IV program reconciliation reports; Audit reports and school responses; State Grant and Scholarship award rosters and reports: Accrediting and licensing agency reports. **(Retention:** 3 years after the end of the award year unless otherwise specified, destroy. FISAP exception: 3 years after the end of the award year in which the FISAP was submitted, destroy).

(10) **Graduate Student Tuition Remission Records:** This series documents the remission of tuition for courses taken by eligible graduate students, such as research and/or teaching assistants. This series may include but is not limited to authorizations; reconciled lists; account summaries; and related documentation. **(Retention:** 8 years, destroy).

(11) **Loan Activity Records:** This series documents payments, adjustments, draw advances, address and status changes, cancellations, deferments, and postponements on borrower's accounts. **(Retention:** 3 years after loan is paid, destroy).

(12) **Minority Scholars Program (MSP) Records:** This series documents the application, selection, and progress of students belonging to various minority groups who apply for the OUS Minority Scholar Scholarship. This series may contain but is not limited to MSP applications; candidate selection information; academic and personal information about applicants; notifications of award; notifications of denial of award; applicants letters of decline; notification of transfer to another institution; and related documentation and correspondence. This is a closed series. **(Retention:** 5 years after award notification, destroy).

(13) **Month-to-Date Transaction Reports:** This series documents student loan activity on a monthly basis by transaction type. This series consists of computer output microfiche which lists students alphabetically by transaction type. This is a closed series. **(Retention:** 2 years, destroy).

(14) **Pell Grant Reports:** This series consists of copies of summary reports submitted to the Pell Grant Scholarship program on a routine basis. Reports are submitted on OMB 1840-0540 and summarize money awarded, received and disbursed, the balance remaining, and dates. **(Retention:** 5 years after audit, destroy).

(15) **Perkins Loan Program Records:** Records relate to Perkins Student Loan, National Direct Student Loan, and Nursing Loan; and show each borrower's payment history (showing date and amount of each repayment) and amount of each repayment credited to principal, interest, collection costs, and penalty or late charges. Documentation of each contact with borrower or endorser in collection of overdue loan, including date, nature, result of the contact, and copies of all correspondence, collection agency

reports, and litigation records. **(Retention:** (a) Records relating to the administration of the loan: 3 years after the end of the award year for which aid was awarded and disbursed, destroy (b) Fiscal Operations Report, Application to Participate and supporting documentation: 3 years after the end of the award year in which the FISAP is submitted, destroy (c) Records involved in any loan, claim, or expenditure questioned by a Title IV, HEA program audit or review, investigation, or other review: Until the resolution of that questioned loan, claim, or expenditure; or the end of the retention period applicable to the record, whichever is longer, destroy).

(16) **Student Loan Cash Input Transaction Lists:** This series documents the repayment of student loans on a daily basis and is used to apply the loan payments to the individual student accounts. This series includes daily listings of loan payments received. **(Retention:** 4 years, destroy).

(17) **Student Financial Aid Records:** Records document student eligibility common to all Federal Title IV Aid Programs. May include, but not limited to: Student Aid Report (SAR) or Institutional Student Information Report (ISIR) used to determine eligibility; documentation of need and eligibility for Title IV funds; Cost of attendance information; documents used to verify applicant data; required student certification statements and supporting documentation; documentation of all professional judgments decisions; financial aid history information for transfer students; documentation of student's satisfactory academic progress; documentation of amount, date, and basis of all refund and repayment calculations for a student (last dates of attendance, grade rosters); and documentation of outside resources. **(Retention:** (a) Records relating to a student or parent borrower's eligibility: 3 years after the end of the award year in which the student borrower last attended the institution, destroy (b) Other records relating to the participation in FFEL or Direct Loan Program: 3 years after the end of the award year in which the records are submitted, destroy (c) Fiscal Operations Report, Application to Participate and supporting documentation: three years after the end of the award year in which the FISAP is submitted, destroy (d) Records involved in any loan, claim, or expenditure questioned by a Title IV, HEA program audit or review, investigation, or other review: Until the resolution of that questioned loan, claim, or expenditure or the end of the retention period applicable to the record, whichever is longer, destroy).

(18) **Student Loan Check Request Lists:** This series documents loan disbursements made to students. This series consists of quarterly lists of loan checks issued from either the Controllers Division or the institution Business Manager's Revolving Fund. This is a closed series. **(Retention:** 4 years, destroy).

(19) **Student Loan Payment Coupons:** This series documents payments made by holders of student loans. This series consists of payment coupons which accompany each quarterly or monthly payment made to the student loan office. **(Retention:** 4 years, destroy).

(20) **Student Promissory Notes:** This series consists of the promissory notes for student loans negotiated for the current academic year. The notes become part of the borrowers loan records at the end of the academic year. **(Retention:** 3 years after repayment, destroy).

(21) **Work Study Program Administrative Records:** Series documents the administration of the Federal Work Study program at the institution. Records include job descriptions; award letters; pay rate change notices and related correspondence. **(Retention:** 3 years, destroy).

Stat. Auth.: ORS 192 & ORS 357

Stats. Implemented: ORS 192.005-ORS 192.170 & ORS 357.805-ORS 357.895

Hist.: OSA 3-1999, f. & cert. ef. 10-11-99; OSA 2-2003, f. & cert. ef. 2-14-03

## 166-475-0060

### Grants and Research Records

(1) **Commercial Companies Records:** This series documents cooperative relationships with commercial companies in sharing research materials and data. This series may include but is not limited to cash receipt acknowledgments; requests for sample products; acceptances of products; and related correspondence. **(Retention:** 5 years, destroy).

(2) **Grant Direct Payment Records:** This series documents requests and justification for transfers of direct payment funds from federal grantors. This series may include but is not limited to federal cash position reports; spreadsheets of various federal sources and cash needs; requests for cash; credit advice from the U. S. Treasury; and related documentation and correspondence. **(Retention:** 5 years, destroy).

(3) **Grant Indirect Cost/Returned Overhead Records:** This series provides a record of the analysis of grant indirect costs in order to prepare returned overhead figures for institutional departments and is used to submit notification for the budget to be adjusted. The returned overhead report is prepared twice during the year. Estimates are prepared and reviewed by departments and used in budget preparation. A final report is used for budg-

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et adjustment. This series may include but is not limited to spreadsheets; work sheets; and related documentation and correspondence. **(Retention: 5 years, destroy).**

(4) **Grant Projects Research Records:** This series documents the research activity associated with grant-funded projects. This series may include but is not limited to research data; working papers; research/activity reports; summary reports; and related documentation and correspondence. **(Retention: (a) Permanent for final research report (b) 5 years after final financial report is submitted and account is closed, unless otherwise specified as longer by terms of contract for all other records, destroy).**

(5) **Grant Proposal Funded Records:** This series documents grant proposals developed and prepared by the institutional units that were funded. This series may include but is not limited to supporting statistics; demographic data; draft proposals; suggested revisions; final proposals; and related documentation and correspondence. **(Retention: Permanent).**

(6) **Grant Proposal Unfunded Records:** This series documents grant proposals developed by institutional units which have not been funded. This series may include but is not limited to supporting statistics; demographic data; draft proposals; suggested revisions; final proposals; and related documentation and correspondence. **(Retention: 18 months after submission, destroy).**

(7) **Grants and Contracts Accounting Records:** This series provides a record of the establishment and administration of individually sponsored grant and contract restricted funds accounts, documents compliance with fiscal reporting requirements, and includes billing information for accounts receivable from sponsoring agencies and from departments for gift account fees. Grants may be federal, state, corporate, or private. This series may include but is not limited to project summaries; grant authorizations; contract documents; project budget change and adjustment forms; invoices; receipts; cashier's receipts; equipment purchase orders; prior approval request forms; account request forms; vendor telephone contact logs; subcontracts; grants and contracts monthly budget summary statements; institution billings balance sheets; SF272 reports for grants and contracts that are operating on direct payments; final financial reports; property reports; patent/invention reports; contractor's release report; assignment of refunds and rebates documents; equipment disposition reports; and related documentation and correspondence. **(Retention: 5 years after annual or final financial report is submitted unless otherwise specified as longer by the terms of the contract, destroy).**

(8) **Human Subjects Records:** This series documents the review of research proposals that involve any type of use of human subjects. Reviews may be made by the entire review board, selected members, or the board's chair. Records may include applications for approval by the review board; Protection of Human Subjects forms (OMB-0531-0009); Protection of Human Subject — Assurance/Certification/Declaration forms (OMB-0925-0637); descriptions of protocol; signed consent forms; sample questionnaires or surveys; copies of grant proposals; review summaries; and related memoranda and correspondence. **(Retention: 3 years after completion of the project, destroy).**

(9) **Institutional Animal Care and Use Records:** This series documents the care and proposed use of animals by the university for research purposes. Records include institutional animal care and use forms; research proposal check-off forms; and related correspondence. **(Retention: 3 years after start of research project, destroy).**

(10) **Institutionally Funded Research Records:** This series documents the activities of the institutional councils and boards, which review proposals and make recommendations for awards to faculty (especially new faculty) for research that is not otherwise supported by organized or directed programs but is designed to lead to other funding sources. Examples of projects funded are pilot research, emergency funding, emerging research opportunities, new research field or new research field for investigator, developing research laboratories, and centrally shared research resources. This series may include but is not limited to applicant case files; agendas; minutes; reports; notes; working papers; funding summaries; award letters; applications for research support; personal data; final research reports; and related documentation and correspondence. **(Retention: (a) Permanent for minutes and final research reports (b) 5 years for funding summaries and funded applications, destroy; one year for all other records, destroy).**

(11) **Laboratory Notebooks:** This series documents the routine research activities of non-grant funded research projects. This series may include but is not limited to notebooks; binders; or any other type of journal format. **(Retention: 6 years after completion of project, destroy).**

(12) **Laboratory Reports:** This series documents the results of laboratory testing performed for clients. The reports may include but are not limited to case numbers; client names; details of tests and procedures per-

formed; test results; evaluations; and related data. **(Retention: 6 years, destroy).**

(13) **Other Payroll Expenses (OPE) Reports:** This series is used to substantiate payroll overhead costs. Information in this series may include but is not limited to employee names; social security numbers; institutions; classifications of positions; units of employment; pay periods; gross pay amounts; various withholdings; overhead amounts; and the accounts used to pay employees. **(Retention: 6 years, destroy).**

(14) **Personnel Activity Report Forms (PAR):** This series provides a record of Classified and Academic employees' efforts involving indirect activities such as instruction and departmental research, and direct activities toward externally funded projects. The series is maintained in compliance with regulations of the Federal Office of Management and Budget (OMB) as set forth in OMB Circular A21 and in agreement with the U.S. Department of Health and Human Services. The PAR system is used to produce an equitable distribution and/or substantiation report of charges for employees' activities and to distinguish the employees' direct activities from their indirect activities. Information on the individual forms includes institution name; employee name; social security number; monthly salary rate; department code; account name and number; transaction codes; pay amounts for each account number; PAR codes; comments; authorizing signatures; and dates of authorization. **(Retention: 6 years, destroy).**

(15) **Scientific Misconduct Records:** This series is used to provide a record of accusations of misconduct brought forward by or against faculty or students and relating to research projects. These records include accusation statements; inquiry committee findings; and related correspondence. **(Retention: (a) 6 years after the expiration of the grant: all records not in litigation, destroy (b) 1 year after end of litigation: all records in litigation, destroy).**

(16) **Technology Transfer Records:** This series documents the transfer of technology from this institution to outside agencies as the result of research projects and grants carried out at the institution. This series may include but is not limited to: original patents; patent applications; international licensing agreements; agreements giving permission for institutional researchers to use other patented inventions in their research; and related documentation and correspondence. The series may also include invention disclosure forms that list the names of the inventors; descriptions and titles of inventions; sources of funding to create the inventions; details of the provenance of the inventions and their documentation; to whom the inventions have been disclosed; suggested manufacturers; reports issued concerning the inventions; and signatures of inventors and technically qualified witnesses. **(Retention: (a) Permanent for original patents, formal invention assignment forms, license agreements, patent legal transactions, and invention disclosure forms (b) 6 years for all other records, destroy).**

Stat. Auth.: ORS 192 & ORS 357

Stats. Implemented: ORS 192.005-ORS 192.170 & ORS 357.805-ORS 357.895

Hist.: OSA 3-1999, f. & cert. ef. 10-11-99; OSA 2-2003, f. & cert. ef. 2-14-03

### 166-475-0065

#### Health Services Records

(1) **Client Records:** This series documents provision of health-related services to clients on an outpatient basis by offices other than the student health center. Examples of types of services are speech therapy; hearing testing, and cholesterol screening. This series may include but is not limited to tests; goals and objectives; diagnostic reports; questionnaires; and related data. **(Retention: 7 years after last service or until client reaches age 21, whichever is longer, destroy).**

(2) **Communicable Disease Records:** This series fulfills the public health requirement of reporting the discovery of communicable disease. This series may include but is not limited to laboratory test results; name and address of student; date; and person making referral. Information is transferred to the county health department, but the log is maintained by the laboratory. **(Retention: 5 years, destroy).**

(3) **Health History Forms:** This series documents a student's medical history. The series contains student medical history forms for students who have never visited an institutional student health center and therefore do not have a medical record on file. These forms are a prerequisite for enrollment at most institutions. **(Retention: 7 years after last service, destroy).**

(4) **Immunization Reporting Records:** This series is used to comply with Oregon State Health Division reporting requirements for immunizations given to patients. Records may include immunization log sheets; annual reports; ITARS (Immunization Tracking and Recall System) documentation and related correspondence. **(Retention: (a) 25 years from last date of service for ITARS records, destroy (b) 10 years for immunization**

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log sheets and annual reports, destroy (c) 7 years after last service or until 21st birthday, whichever is longer, destroy).

(5) **Laboratory Inspection Records:** This series documents in-house inspection of laboratory equipment on a quarterly basis. This series may include but is not limited to a checklist of all equipment; calibrations; and conditions. **(Retention: (a) For the life of the equipment for calibrations, destroy (b) 3 years for all other records, destroy).**

(6) **Laboratory Test Requests:** This series documents physician orders for laboratory tests for students receiving services at the student health center. This series may include but is not limited to name of student; date; test(s) ordered; and physician's signature. **(Retention: 2 years, destroy).**

(7) **Licensure Records:** This series documents the professional and regulatory issuance of credentials to individuals and facilities providing services within the student health center. This series may include but is not limited to license applications; College of American Pathologists comparative test results for laboratory licensing; Oregon Pharmacy Board Retail Drug Outlet/Controlled Substance Registration (license) and inspection reports; individual employee professional licenses; and related correspondence. **(Retention: Until superseded or obsolete, destroy).**

(8) **Medical Records:** This series documents the medical services history provided for students treated by the student health center. This series may include but is not limited to appointment request slips; summary sheets; bacteriology test results; treatment record forms; diagnosis sheets; health history/screening sheets; initial evaluation/assessment sheets; referral sheets; health center billing statements; personal health history sheets; dental examination sheets and X-rays; laboratory test results; physical therapy notes; X-ray release forms; X-ray requisitions with narrative of radiologist; notes; memoranda; and related correspondence. **(Retention: 7 years after last service or until client reaches age 21, whichever is longer, destroy).**

(9) **Non-Student Medical Records:** This series documents medical services provided to non-students by the institution's student health center, such as allergy shot, vaccines, and blood pressure checks. Records include medical history forms; notations of services provided and dates; payment information; and related correspondence. **(Retention: 7 years after last service or until client reaches age 21, whichever is longer, destroy).**

(10) **Patient Logs:** This series is used to log in patients who visit the student health center (both in-patients and out-patients). It may also be used to create annual census reports and 3-year census comparisons. Log information may include the date and time that the patient came in; the physician assigned; diagnosis; admission/discharge date; length of stay; and remarks. **(Retention: 3 years, destroy).**

(11) **Patient Satisfaction Surveys:** This series documents patient comments on services provided by the student health center and is used to plan for a change in services. The surveys may include but are not limited to rating of services; type of services rendered; statistics about the student; and possibly names and addresses. **(Retention: 3 years, destroy).**

(12) **Pharmacy Prescription Dispensation Records:** This series is used to provide an individual, daily summary, and annual summary record of initial drug dispensation and refills administered by the department as required by the Oregon State Pharmacy Board. This series may include but is not limited to prescription slips; in-house computer-generated Rx registers; controlled substance reports; and data base purge reports. **(Retention: 3 years, destroy).**

(13) **Practitioner Schedules:** This series documents the practitioners' work schedules which are used to clarify assigned responsibilities. This series includes dates and times of assignments; practitioner names; and responsibilities. **(Retention: 2 years, destroy).**

(14) **Radiographic Quality Assurance Records:** This series documents the setting of measurable standards and procedures for radiographic safety and professional quality by professionals on staff. This series may include but is not limited to reports by the radiographic staff; quality assurance committee notes; and staff reviews. **(Retention: 3 years, destroy).**

(15) **Student Health Insurance Records:** This series documents students' insurance coverage activity under institution insurance policies. This series may include but is not limited to benefit explanations; payment summaries; photocopies of checks; invoices; policy change sheets; ledgers; individual student correspondence relating to their coverage; and related correspondence with the insurance company. **(Retention: 2 years after expiration of policy, destroy).**

(16) **Surgical Instrument Sterilization Records:** This series documents the sterilization of surgical instruments used by the student health center. This series may include but is not limited to autoclave recording

charts and log sheets indicating date; load number; items sterilized; and temperature/time settings. **(Retention: 1 year, destroy).**

(17) **X-Rays:** This series consists of student X-rays taken by student health center staff. X-rays are stored alphabetically in envelopes identified by year, name, and view. This series may also include but is not limited to a log of X-rays going out and coming in for professional reference and related documentation. **(Retention: 7 years after date of last service, destroy).**

Stat. Auth.: ORS 192 & ORS 357

Stats. Implemented: ORS 192.005-ORS 192.170 & ORS 357.805-ORS 357.895

Hist.: OSA 3-1999, f. & cert. ef. 10-11-99; OSA 2-2003, f. & cert. ef. 2-14-03

## 166-475-0070

### Information Management Records

(1) **Computer System Maintenance Records:** This series documents the maintenance of the institution's computer systems and is used to insure compliance with any warranties or service contracts, schedule regular maintenance and diagnose system or component problems, and document system backups. Records may include computer equipment inventories; hardware performance reports; component maintenance records (invoices, warranties, maintenance logs, correspondence, maintenance reports, and related records); system backup reports; and backup tape inventories. **(Retention: (a) For life of system or component for records related to system or component repair or service, destroy (b) Until superseded or obsolete for records related to regular or vital records backups, destroy).**

(2) **Computer System Program Documentation Records:** This series documents the addition, modification, or removal of software from an agency computer system. Records usually fall into six categories -- records that document operating systems; records that document the in-house creation and modification of application programs; records that document the structure and form of datasets; records that document the use of commercial software packages; records that document the structure of the system; and records that document system-to-system communication. Records may include system overviews; operations logs; job listings; operator instruction manuals; system development logs; system specifications and changes including narrative and flow chart descriptions; conversion notes; dataset logs; dataset inventories; dataset record layouts; hard copies of tables; data dictionaries; data directories; programming logs; program specifications and changes; record layouts; user views; control program table documentation; program listings; and commercial software manuals. **(Retention: For the life of the system, destroy).**

(3) **Computer System Security Records:** This series documents the security of an institution, department, or office computer system. Records may include but are not limited to employee access requests, passwords, access authorizations, system access logs, encryption keys, and related documentation. This series also includes "Banner User Account Renewal Forms" which are used to track Banner user accounts to ensure appropriate access to various databases. **(Retention: (a) 3 years for system access logs, destroy (b) 3 years after superseded or obsolete for all other records, destroy).**

(4) **Forms Development Records:** This series documents the development of new or revised forms within the institution and is used to provide a history of previous forms. Records may include sample forms; drafts; revisions; form logs/listing; proposals; authorizations; and illustrations. **(Retention: Until superseded or obsolete, destroy).**

(5) **Information System Planning and Development Records:** This series documents the planning and development of university information systems. Although these records typically document computerized information systems, they may also document manual filing systems and microfilm systems. The records are used to insure that planned systems will help an agency fulfill its missions, are cost-effective, conform to adopted information standards, and integrate with existing agency information systems. Records may vary according to the level of documentation required for each system, but may include: information technology plans; feasibility studies; cost-benefit analyses; studies and surveys; system specifications and revisions; component proposals; technical literature; vendor literature and proposals; and correspondence. **(Retention: (a) For life of system for implemented systems, destroy (b) 3 years for unimplemented systems, destroy).**

(6) **Microfilm Quality Control Records:** This series documents that microfilm produced by or for system institutions conforms to the specifications required by Oregon Administrative Rules 166-025-0005 to 166-025-0030. Records may include: microfilmed records lists; microfilm reel indexes; service bureau transmittals; film inspection reports; methylene blue certifications; Security Copy Depository transmittals; camera/processor/duplicator inspection reports; equipment and operator logs; and corre-



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spondence. **(Retention:** For the same retention period as related microfilm, destroy).

(7) **Software Management Records:** This series documents the use of software in agency information systems. The series is used to insure that agency software packages are compatible, that license and copyright provisions are in compliance, and that upgrades are obtained in a timely manner. Records include software purchase records; software inventories; software licenses; site licenses; and correspondence. **(Retention:** Until software is disposed of or upgraded, destroy).

(8) **Telecommunication System Management Records:** This series documents the creation, modification, and disposition of university telecommunications systems. Records include: equipment records; Federal Communications Commission records; repair order forms; system planning records; telecommunications maintenance contracts and service orders; and related correspondence. **(Retention:** For life of system, destroy).

Stat. Auth.: ORS 192 & ORS 357  
Stats. Implemented: ORS 192.005-ORS 192.170 & ORS 357.805-ORS 357.895  
Hist.: OSA 3-1999, f. & cert. ef. 10-11-99; OSA 2-2003, f. & cert. ef. 2-14-03

### 166-475-0075

#### Institutional Services Records

(1) **Authorization Code Ordering and Assignment Forms:** This series documents the assignment of long distance authorization codes to institution employees. This series consists of authorization code ordering and assignment forms which list an activity code; user/function name; account number; FRL code; and authorization code number for each employee assigned a code. **(Retention:** 2 years after superseded or revoked, destroy).

(2) **Automatic Call Distribution Vector Records:** This series documents the technical programming for each automatic call distribution (ACD) account on campus. This programming, known as vector instructions, electronically routes phone calls coming in to a given phone number account, known as a split, to available phones or message systems. This series also contains the names of staff members and extension numbers that are appropriate to each account. This series may include but is not limited to vector instructions sheets; announcement scripts; lists of supervisor extensions of each split; lists of ACD member extensions of each split; and related documentation and correspondence. **(Retention:** 2 years, destroy).

(3) **Bicycle Licenses/Permits Records:** This series documents the registration of bicycles on campus. This series includes registration cards completed by institution students, faculty, and staff for use of bicycles on campus. Information on the cards includes owner/user names; social security numbers; addresses; telephone numbers; bicycle frame serial numbers; bicycle models; and permit numbers. **(Retention:** 2 years, destroy).

(4) **Calling Card Records:** This series documents the assignment to and use of calling cards issued to institution employees. This series may include but is not limited to credit card order forms; account change documentation; and related documentation and correspondence. **(Retention:** 2 years after superseded or revoked, destroy).

(5) **Child and Youth Program Participant Records:** This series documents the participation of children and youth in programs sponsored by the institution, including 4H programs. The series may include but is not limited to applications; enrollment records; progress reports and assessments; immunization records; parental consent forms; activity records; lists of attendees; and related correspondence. **(Retention:** 3 years, destroy).

(6) **Child Care Facility Client Records:** This series provides a record of enrollment, admission, attendance, and activities of children at child care facilities operated by OUS institutions and documents compliance with applicable state agency requirements. Records may include but are not limited to applications for admission; emergency notification forms; attendance records including sign-in sheets; authorizations to administer medications; records documenting permission to obtain emergency medical treatment; records documenting permission to participate in field trips or other activities; immunization records; learning and motor skills assessments; and release forms. The series may also include a record of suspected or reported child abuse and accident reporting including narratives, notes, record of contact with state Child and Family Services representatives and law enforcement officials; records verifying staff training in child abuse recognition; and accident reporting forms. **(Retention:** 2 years after participant leaves program, destroy).

(7) **Child Care Facility Food/Nutrition Service Program Records:** Records document the administration of child care food programs which provide meals to children at institution child care facilities operated by OUS institutions. Typically, application is made annually to the U.S. Department of Agriculture for assistance in running food service programs. Records may include but are not limited to meal production records, menus,

and attendance forms; applicants income statements; enrollment rosters; operational reports; nutrition program reviews; food supply inventories; sanitation inspection reports; and related documentation and correspondence. **(Retention:** 4 years, destroy).

(8) **Child Care Facility License Records:** Records document the licensing of school child care facilities by the Oregon Child Care Division or other licensing agencies. Records may include but are not limited to sanitation inspections, fire safety reports, fire and other emergency drill records, staff development and training records, staff criminal history checks, staff qualification forms, time sheets, staff first aid cards, staff driving records, staff orientation records, official license, Child Care Division inspection reports and certification and related correspondence. **(Retention:** (a) Time sheets 4 years, destroy (b) Staff first aid cards, licenses, certifications, and inspections, 2 years after superseded, expiration, or obsolete, destroy (c) All other records, 2 years, destroy).

(9) **Department of Motor Vehicles (DMV) Lists:** This series is used to trace ticketed vehicles to owners who have not satisfied parking citations. This series contains computer reports from the Oregon Department of Motor Vehicles. Information in the reports may include but is not limited to car license plate number; name of registered owner; address of owner; and related data elements. **(Retention:** Until superseded or obsolete, destroy).

(10) **Events Administration Records:** This series documents facilities, services and other accommodations provided by the institution for events on campus. Records may include facilities reservation agreements; room reservation lists; customer and room occupancy lists; catering services orders; purchase and supply records; financial and billing records; customer evaluations; summary reports; and related correspondence. **(Retention:** (a) 6 years after expiration for agreements, destroy (b) 2 years for all other records, destroy).

(11) **Facsimile (Fax) Records:** This series documents the sending and receiving of fax messages for institution business purposes. This series may include but is not limited to logs of messages sent and received and fax cover sheets. **(Retention:** (a) 1 month for fax cover sheets, destroy (b) 1 year for logs, destroy).

(12) **Identification Cards Records:** This series documents the issuance of identification cards to university students, staff and faculty. Records may include: signature cards; monthly detail reports; and related correspondence. **(Retention:** (a) Until not valid for signature cards, destroy (b) 5 years all other records, destroy).

(13) **Key Issuance Records:** This series documents key assignments and deposits (if applicable) for institutional faculty, staff, students, and others using the institution's facilities. The series may include but is not limited to key pinning sequence records; key issue approval forms; return forms; key inventories; hall directors' sign out forms; deposit books; bank statements; refund forms; key logs; and related documentation and correspondence. **(Retention:** 1 year after key is checked in, destroy).

(14) **Menus:** This series is used to provide a record of approved menus to be cycled on a monthly basis in each food service location. It is also used for cost planning and ordering of food and supplies. Information on the individual menus may include but is not limited to the foods to be served and the dates, times and locations of service. **(Retention:** 3 years, destroy).

(15) **Oregon Liquor Control Commission Records:** This series is used to provide a record of annual and temporary event licensing by the Oregon Liquor Control Commission for dispensing and serving alcoholic beverages. The series may also be used to document the training certification of employees. This series may include but is not limited to applications for licensing; applications for server permits; purchase orders for training costs; and related documentation and correspondence. **(Retention:** 4 years after termination of license and server permit, destroy).

(16) **Parking Citations Records:** This series documents the regulation of on-campus parking. This series may include but is not limited to citations; appeal petitions; and related documentation and correspondence. **(Retention:** 2 years after resolution, destroy).

(17) **Parking Permits Records:** This series documents the issuance of permits for on-campus parking. This series may include but is not limited to annual permit cards; temporary permits; parking permit reports; and related documentation and correspondence. **(Retention:** 2 years, destroy).

(18) **Postal and Shipping Records:** This series provides a record of items that are mailed by the department via UPS, U.S. Postal Service, Federal Express, or another carrier. Records may be used for billing and/or tracing. These records include printing and mailing shipping forms; parcel mailing order forms; postage forms; and related correspondence. **(Retention:** 3 years, destroy).

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(19) **Quality Control Inspection Records:** This series is used to monitor the quality of services provided by a unit. This series may include but is not limited to narrative reports; inspection forms; and related documentation and correspondence. **(Retention: 2 years, destroy).**

(20) **Telephone Complaints/Fraud Records:** This series documents the investigation of complaints of telephone misuse, primarily regarding student telephones and long distance bills that are reportedly not legitimate charges. This series may include but is not limited to memos; notes; copies of long distance bills; and related documentation and correspondence. **(Retention: 5 years after resolution, destroy).**

(21) **Utility Locate Requests:** This series documents the notification of persons anticipating digging on campus property who need to know the locations of underground utility lines. Request information may include but is not limited to the date and location of the work; miscellaneous instructions; contact person; and related documentation and correspondence. **(Retention: 2 years, destroy).**

(22) **Work Orders Records:** This series documents requests and authorizations for needed services and/or repairs to institutional property and equipment. It may also be used as a cost reference for future jobs. This series may include but is not limited to: copy center work orders; printing orders; photographic work orders; display preparation orders; microfilming orders; telephone service/installation requests and change orders; maintenance and repair authorizations; library materials preparation authorizations; and related documentation and correspondence. **(Retention: 4 years, destroy).**

Stat. Auth.: ORS 192 & ORS 357

Stats. Implemented: ORS 192.005-ORS 192.170 & ORS 357.805-ORS 357.895

Hist.: OSA 3-1999, f. & cert. ef. 10-11-99; OSA 2-2003, f. & cert. ef. 2-14-03

## 166-475-0080

### Intercollegiate Athletics Records

(1) **Annual Fund Drive Records:** This series documents the plans, arrangements, and results of annual athletic fund drives. This series may include but is not limited to brochures; prize lists; pledge cards; mailing arrangements; reports; fiscal summaries; and related documentation and correspondence. **(Retention: 10 years, destroy).**

(2) **Athletic Eligibility Records:** This series is used to provide a record of verification by intercollegiate athletics of student athletes' academic progress to the NCAA or NAIA. These records include computer generated academic progress reports. **(Retention: 10 years, destroy).**

(3) **Catastrophic Injury Records:** This series documents on-going insurance activity on cases that qualified for catastrophic status by having claims of over \$50,000 for NCAA schools and \$25,000 for NAIA schools in the first two years of the claim. This series may include but is not limited to accident reports; annual insurance questionnaires; notes; claim forms; and related documentation and correspondence. **(Retention: 75 years, destroy).**

(4) **Claims Payment Records:** This series documents the verification and payment of secondary coverage insurance claims of injured student athletes. This series may include but is not limited to lists of requests for claims payment; transmittal letters (CO 163-Rev 10/91) to the Controller's Division for reimbursement of the institution; Proof of Loss (CO-164-2/92) forms; intercollegiate athletic reports from OUS Human Resources; ledgers of providers, payment amounts, and reference numbers; and related documentation and correspondence. **(Retention: 5 years after claim is settled, destroy).**

(5) **Competition Record Forms:** This series provides a summary record of individual games and competitions and is used to comply with NCAA and NAIA reporting requirements for both revenue and non-revenue producing sports. Information on the individual forms includes sport name; opponent name; date; event location; final score; player names and positions; time played per athlete; and the signature of the head coach or athletic director. **(Retention: 10 years, destroy).**

(6) **Donor Recognition Records:** This series documents athletic fund donors of various levels and the recognition given. This series may include but is not limited to lists of donors by gift level; award lists; and related documentation and correspondence. **(Retention: 5 years after discontinuation of donations, destroy).**

(7) **Game Arrangement Records:** This series is used to provide a reference record of arrangements made for and the schedules of past games. This series may include but is not limited to team practice schedules; team position assignments/depth charts; itineraries; bus lists; notes; and related documentation and correspondence. **(Retention: 5 years, destroy).**

(8) **Game Officials' Evaluation Forms:** This series is used to provide a record of the head coach's evaluation of judging officials' performance at individual football games. The series is also used to comply with

NCAA, NAIA and conference rules and regulations. Information on the individual forms includes team names; site; game date; judging officials' names; evaluative scores; comments; and coach's signature. **(Retention: 1 year, destroy).**

(9) **Game Statistics:** This series documents the practice, playing, and attendance statistics about each game and the season for each sport by playing year. This series may include but is not limited to player academic statistics; attendance figures; player training charts; season and game player statistics; recruitment records; special teams statistics; rankings; awards information; NAIA and NCAA game statistics; media releases; all-conference nominations; spring and fall camp depth charts; numerical rosters; media guides; narrative reports on games and scrimmages; final team statistics for each game; NAIA and NCAA official scoring summaries; play-by-play written reports; and related documentation and correspondence. **(Retention: Permanent).**

(10) **Gift-In-Kind Donors Records:** This series documents donors who are available to provide services to athletic events as donations and the use of donated funds. Information in this series may include names of donors, names of businesses, type of donations, and level of giving; past gift records; and related documentation and correspondence. The series may also include contribution notices; invoices; purchase orders; and receipts. **(Retention: (a) 5 years after discontinuation of donations for donor records, destroy (b) 5 years for fiscal documentation, destroy).**

(11) **Individual Athletes Records:** This series documents the athletic history of each athlete who has competed at the institution. Frequently, this series is a continuation of the recruitment file and includes recruitment records if an athlete signs a letter of intent. Records may include and may not be limited to academic major information including performance reports, admissions verification reports, academic transcripts, and financial aid information; recruitment information documents; media articles; photographs; release of information forms; personal data questionnaires; records of awards; and related documentation and correspondence. **(Retention: (a) 5 years after separation from the institution for student records containing confidential information, destroy (b) Permanent for all other records)**

(12) **Insurance Records:** This series documents medical treatment services rendered off campus for practice or playing related injuries or illnesses which are eligible for partial payment by intercollegiate athletic insurance. This series may include but is not limited to copies of policies; accident reports; annual insurance questionnaires; notes; claim forms; negotiations correspondence; payment of insurance records; and related documentation and correspondence. **(Retention: 10 years, destroy).**

(13) **Play Books:** This series documents the strategies, practice time and game plays for each game and the season. This series may include but is not limited to practice plans; game plans; and game results **(Retention: 5 years, destroy).**

(14) **Positive Drug Test Records:** This series is used to provide the athletic director with a record of the positive results of drug testing done on student athletes. These records include lab reports; interpretations; and related documentation and correspondence. **(Retention: 5 years or end of eligibility, whichever is later, destroy).**

(15) **Practice Schedule Records:** This series is used to monitor practice time for athletic teams and assist in complying with NCAA, NAIA and conference rules and regulations. This series contains team rosters indicating time spent in practices; meetings; training and conditioning; and competition. **(Retention: 5 years, destroy).**

(16) **Recruiting Records:** This series documents the recruitment of athletes into the institution's intercollegiate athletics program. The series also provides a record of the recruitment process for prospective players created by the institution to comply with NCAA, NAIA and conference rules and regulations. This series may include but is not limited to the institution's football questionnaire forms with personal, scholastic, football, general, and transcript release information; information request cover sheets; grade transcripts; Information for Certification of NCAA Freshman Athletics Eligibility Compliance (with By-Law 5-1-j forms, number 40-c); letters of intent; copies of admissions forms and materials; performance reports; telephone and conversation notes; mailing lists; and related documentation and correspondence. **(Retention: 5 years or end of eligibility whichever is longer, destroy).**

(17) **Scheduling Records:** This series documents competition schedules set up with other institutions by coaches and the athletic director. This series may include but is not limited to correspondence; phone notes; contracts; final schedules; and related documentation and correspondence. **(Retention: 6 years after expiration of contract, destroy).**

(18) **Sports Merchandising Records:** This series documents the sale of institutional and NCAA or NAIA-licensed merchandise at sporting

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events. Records may include sales reports; merchandise comment sheets; and related correspondence. **(Retention: 4 years, destroy).**

(19) **Student Athletes Academic Advising Records:** This series documents academic advising of prospective and current student athletes, provides records of academic progress while students are involved in athletic programs at the institution, and complies with NCAA, NAIA and conference reporting requirements. These records include letters of intent; renewals of letters of intent; transcripts; grade reports; petitions; academic evaluations; advanced standing reports; advisors' report sheets showing progress towards academic degree; program planning sheets; NCAA Progress Reports; students' requests for release from athletic programs; disciplinary memoranda; and related correspondence. **(Retention: 5 years after degree completed or last enrollment, destroy).**

(20) **Student Athletes Dining Rosters:** This series documents the meals consumed by student athletes as part of the training table. This series may include but is not limited to rosters with the names of athletes partaking of meals and absent from meals; menus; and related documentation and correspondence. **(Retention: 2 years, destroy).**

(21) **Student Athletes Medical Records:** This series documents the medical history of each athlete before and during his/her attendance at the institution. This series may include but is not limited to annual health appraisals; authorization to release information forms; treatment consent forms; assumption of risk forms; accident reports; X-rays and X-ray reports; prescription records; off campus treatment source records; insurance questionnaires; psychological counseling records; and related documentation and correspondence. **(Retention: 7 years after student is last enrolled, destroy).**

Stat. Auth.: ORS 192 & ORS 357

Stats. Implemented: ORS 192.005-ORS 192.170 & ORS 357.805-ORS 357.895

Hist.: OSA 3-1999, f. & cert. ef. 10-11-99; OSA 2-2003, f. & cert. ef. 2-14-03

### 166-475-0085

#### Libraries, Archives, Museums and Other Collections Records

(1) **Appraisal Records:** This series documents monetary value appraisals of institutional artifacts, objects, and collections that have been completed by private parties. This series may include but is not limited to appraisals and valuations reports; reference materials used by appraisers; and related documentation and correspondence. **(Retention: Permanent).**

(2) **Collection and Artifact Acquisition and Exchange Records:** This series documents the acquisition, accessioning, use, preservation, storage, transfer and disposition of artifacts and collections at an institution's museum, archives or library special collection, herbarium, or other repository which is used for research purposes. This series may include but is not limited to a log that lists the date of acquisition, acquisition/accession numbers assigned, brief descriptions of artifacts or collections, and donor names; gift receipt forms or other acquisition records that list detailed descriptions of artifacts, donors' name(s), addresses, telephone numbers, acquisition numbers, and values (if known); cataloging worksheets listing acquisition numbers, identification and provenance of artifacts or collections, description of artifacts, and donor/owner names and addresses; deed of gift listing transfer of legal ownership or custody of artifacts or collections, their descriptions and conditions, declarations as lawful owners of the property, and signatures and dates of transfer; object file cards showing each acquired item arranged by nomenclature; subject file cards showing each acquired item and its arrangement; numerical file cards showing each acquired item arranged in acquisition number sequence; wildlife collecting permits which are the legal documentation for having wildlife carcasses; guns and weapons registration forms which provide the legal authority for the collection unit to possess firearms; condition/conservation records, photographs of objects, and related documentation and correspondence. The series may also include donor correspondence; descriptions of property; inventory lists; incoming loan agreements; background data about the collections and/or persons associated with the collections; receipt of collections documentation; donor agreement forms or instruments of donation; purchasing data; publicity records; foundation equity history reports; declaration of charitable gifts forms; copyright and citation information. **(Retention: Permanent).**

(3) **Circulation Records:** This series documents the borrowing of circulating library materials by qualified patrons. This series may include but is not limited to the name and identification of the borrower; the titles of materials borrowed; the due date; overdue and fine payment notations; and related documentation and correspondence. **(Retention: Until the transaction is completed, destroy).**

(4) **Collection or Artifact Loan Records:** This series documents artifact and material loans contracted between units of the institution or between the institution and either other institutions or individuals. These

records include signed and legally binding agreements for incoming and outgoing loans between the collection administrators; receipts for loans and return of materials to the legal holder; and related forms, documentation and correspondence. **(Retention: 10 years after the termination of the loan, destroy).**

(5) **Collections Control Records:** This series documents the maintenance of materials which typically involve accessioning, cataloguing, preserving, and/or referencing. This series may include but is not limited to: accession sheets; archives transmittal lists; accession reports; computer cataloging records; catalogs of holdings; reference guides and finding aids; request for permission to publish or reproduce images forms; (collection inquiries; budget and purchasing data;) and related documentation and correspondence. **(Retention: (a) Reference guides and finding aids, Until superseded or obsolete, destroy (b) All other records, Permanent).**

(6) **Courtesy Borrowers Records:** Series documents guest borrowers of library materials. Records include applications forms and a database which include a guest borrower's name, address, telephone number, company or institution name, and patron status. **(Retention: (a) 3 years for application forms, destroy (b) 6 months after last activity for individual borrower's database record, destroy).**

(7) **Deaccession Records:** This series documents recommendations concerning deaccessioning of specific holdings and action upon those recommendations. This series may include but is not limited to transfer forms to transfer ownership/custody of materials held within institutional collections to other institutions; deaccessioning documentation which lists the artifacts by acquisition numbers and descriptions, names of persons making deaccession recommendations and dates, reasons for deaccessioning, documentation that legal searches of donor records have been done to establish that the institution is not precluded from deaccessioning and to establish whether the donors are still living, appraised values (including whether these are estimates or have been appraised), signatures of approval for deaccessioning and dates, and dispositions of materials and dates; deaccessioning and weeding listings; reports of deaccessioning; and related documentation and correspondence. **(Retention: Permanent).**

(8) **Exhibit Records:** This series documents the display and use of artifacts and materials held by the collection units or displays created by the units. This series may include but is not limited to research materials concerning the cultural environmental setting surrounding the artifacts; bibliographies; lists of artifacts or items considered for inclusion; drafts of exhibit descriptions or scripts; publicity or advertisements for exhibits; artifact labels; photographs of exhibits; exhibit renderings and layout diagrams; exhibit scheduling and transport information; contracts and agreements; evaluation forms; condition forms; exhibit assembly and presentation instructions; and related documentation and correspondence. **(Retention: (a) Permanent for exhibit descriptions or scripts, exhibit renderings and layout diagrams, photographs of exhibits, lists of artifacts or items considered for inclusion, and publicity or advertisements for the exhibits (b) 10 years for all other records, destroy).**

(9) **Friends Records:** This series documents the efforts of special interest support groups to establish relationships with community agencies, individuals, businesses, and groups to gain their assistance with the development and coordination of institutional programs. This series may include but is not limited to establishing documents; bylaws; reports; brochures; newsletters or publications; meeting agendas; minutes; and related documentation and correspondence. **(Retention: Permanent).**

(10) **Inter-Library Loan (ILL) Records:** This series documents requests made of the institution for materials from outside sources and also institution requests for materials from other institutions. This series may include but is not limited to materials request forms; invoices for services provided; and related documentation. **(Retention: 3 years, destroy).**

(11) **Patron and Visitor Records:** This series documents the public tours or individual visits to the collection or research facility. The series may include but is not limited to weekly visitor statistics; sign-in sheets; patron logs; and guest books. **(Retention: 5 years, destroy).**

(12) **Records Management Records:** This series documents the retention and disposition of records created by the institution's offices and the production of an institutional records retention and disposition schedule approved and authorized by the State Archivist. This series may include but is not limited to records destruction authorizations; records inventory worksheets; special records disposition schedules; records transmittal lists; guides to microfilmed records; and related documentation and correspondence. **(Retention: (a) Permanent for records destruction authorizations, records transmittal lists, and guides to microfilmed records (b) 5 years for all other records, destroy).**

## ADMINISTRATIVE RULES

(13) **Reference Request Records:** This series documents scholarly requests for information about or access to items within the institution's collections. This series may include but is not limited to collection service request forms that show requestors' names, addresses, and telephone numbers; the nature/explanation of the requests; use/purpose of the requests; dates of receipt and completion of requests; staff member handling the requests; amount of time spent on handling the requests; disposition of the requests; and related documentation and correspondence. **(Retention: 5 years, destroy).**

(14) **Serials Records:** This series documents the receipt and payment history for serials purchased by the libraries. This series may include but is not limited to periodical check-in cards; shelf list cards; payment cards; serials data input work form sheets; data base reports; item records; and related documentation. **(Retention: (a) Until input and verified for shelf list cards, destroy (b) Until superseded by permanent cataloging record for check-in cards, destroy (c) 5 years for all other records, destroy).**

Stat. Auth.: ORS 192 & ORS 357

Stats. Implemented: ORS 192.005-ORS 192.170 & ORS 357.805-ORS 357.895

Hist.: OSA 3-1999, f. & cert. ef. 10-11-99; OSA 2-2003, f. & cert. ef. 2-14-03

166-475-0090

### Payroll Records

(1) **Assumed Wages Reports:** Series is used for computation and payment of workers' compensation insurance premiums. Records document students' services performed in exchange for room and board, and volunteer and prerequisite assumed wages not paid by payroll. Information in the reports may include names, dates, social security numbers, requisition numbers, accounts to be charged, and total assumed pay for the month. OUS Controller's Division holds the system-wide record copy. **(Retention: 4 years, destroy).**

(2) **Deduction Authorization Records:** This series documents deductions from salary checks authorized by employees. These records include lists with notation of authorized deductions as well as actual deduction forms. This series may include but is not limited to: deduction information on medical, dental, life, and disability insurance; American Association of University Professors, GCIU, Fair Share, and Oregon Public Employees/Fair Share dues; U.S. Savings Bonds; United Way and foundation contributions; payments for library fines/lost books, parking permits, and institutional credit union accounts; Veterans Affairs; ACH Listings; personal use of state vehicles; and miscellaneous deductions. **(Retention: 4 years after authorization expires or is superseded, destroy).**

(3) **Employment Division Summary Reports:** This series documents the number of the institutional employees and payroll costs on a monthly basis and yearly basis. This series includes monthly reports by employee category and annual fiscal year reports which summarize the monthly data. **(Retention: (a) 10 years for annual reports, destroy (b) 3 years for monthly reports, destroy).**

(4) **Federal and State Tax Records:** Records document the collection, distribution, deposit, and transmittal of federal and state income taxes and social security tax. Records include the federal Miscellaneous Income Statement (1099), Request for Taxpayer Identification Number and Certificate (W-9), Request for Student(s) or Borrower(s) Social Security Number and Certificate (W-9S), Employers Quarterly Federal Tax Return (941, 941E), Annual Withholding Tax Return for U.S. Source Income of Foreign Persons (1042), Foreign Person(s) U.S. Source Income Subject to Withholding (1042S), Tax Deposit Coupon (8109), Withholding Allowance Certificates (W-4), Wage And Tax Statements (W-2), and related federal and state tax forms. **(Retention: 5 years, destroy).**

(5) **Forecast and Actual Pay Reports:** This series documents monthly gross and actual pay by month and account number, along with other database information. It is used to view gross pay/budget records for a previous fiscal year. Computer output microfiche is supplied by the OUS Controllers Division. This series includes employee name and social security number; major account; salary code; FTE; rank; leave status; position title and class number; starting date; appointment; terms of service; tenure; and forecast and actual pay broken down by months of the fiscal year. **(Retention: 4 years, destroy).**

(6) **Garnishment Records:** This series documents requests and court orders to withhold wages from employee earnings for garnishments, tax levies, support payments, or other reasons. This series usually includes original writs of garnishment; recapitulations of amounts withheld; and related records. The OUS Controllers Division maintains the system record copy. **(Retention: 4 years after resolution, destroy).**

(7) **Pay Authorization Records:** This series consists of pay documents which substantiate and, in part, authorize the issuance of payroll

checks for particular amounts. This series may include but is not limited to payroll/budget request forms and time cards. **(Retention: 5 years, destroy).**

(8) **Paycheck Delivery Records:** This series documents the locations assigned for delivery of salary payments to employees. This series may include but is not limited to paycheck deposit authorization forms; payroll check delivery logs; and related correspondence. **(Retention: (a) 3 years for payroll check delivery logs, destroy (b) Until superseded or 1 year after employee separation for all other records, destroy).**

(9) **Payroll Adjustment Records:** This series documents changes in employee payroll deductions, tax withholdings, and payroll records. This series may include but is not limited to pay/budget action forms; time and attendance records; pay reduction/termination notices; and related documentation and correspondence. **(Retention: 5 years, destroy).**

(10) **Payroll Check Register:** This series provides a record of payroll checks issued. This series includes lists in check number order that show the check amount, employee name, and social security number. **(Retention: 6 years, destroy).**

(11) **Payroll Data Entry Summary Reports:** This series documents all timecard and payroll adjustment data entry for each payroll period. This series includes: employee names in alphabetical order; batch and document numbers; and other data. **(Retention: Until superseded by the Payroll Register, destroy).**

(12) **Payroll Draws Records:** This series documents payroll draws. This series includes requests for emergency payroll draw forms; and copies of disbursement request forms. **(Retention: 2 years after draw has been recovered, destroy).**

(13) **Payroll Input Detail Reports:** This series provides a daily summary of timecard and payroll adjustment data entry. This series contains separate reports for timecard input and payroll adjustment input. The reports, arranged in batch sequence and document number order, may include but are not limited to social security numbers; account numbers; gross pay; and related data. **(Retention: Until input and verified, destroy).**

(14) **Payroll Register:** This series documents the pay of all institutional employees. The series includes monthly listings of all paid employees with their earnings and deductions. **(Retention: 75 years, destroy).**

(15) **Purge Lists:** This series documents institutional employees whose records have been deleted from the personnel data base. This series contains annual lists of former employees, in alphabetical order, and includes employees names; social security numbers; class codes; dates that pay started; termination dates; and related data elements. **(Retention: 3 years, destroy).**

(16) **Revolving Fund Checks:** This series documents each check issued from an institutional revolving fund for payroll draws, final pay, or special pay. This series contains copies of issued checks showing name; date issued; social security number; amount; check disposition; and other data elements. **(Retention: 6 years, destroy).**

(17) **Shift Summary Sheets:** This series documents the time worked by employees on various jobs on a daily basis. This series is used to provide a record of time worked by employees for payroll purposes; a record of customer charges incurred for billing purposes; and cost accounting information on a real-time basis. The series may also be used as a back-up source of information for wage related grievance cases brought forth by employees. Information on the individual computer generated sheets may include: employee name; descriptions of duties performed; wages paid for each duty; time worked at each duty; output connected with each duty; and totals. **(Retention: 2 years, destroy).**

(18) **Social Security Number Records:** This series documents international students' and scholars' acquisition of social security numbers. This series may include but is not limited to social security number applications; Statement of Information — Social Security Account Number forms (CO-204); photocopies of social security cards; Controllers Division reports; and related documentation and correspondence. **(Retention: 3 years, destroy).**

(19) **Student Loan Interest and Tuition Payment Statement Records:** Series is used to report loan interest and tuition paid by students so that deductions may be claimed on income taxes. Records may include 1098E and 1098T forms and related correspondence. This series may also include records that were attempted to be mailed or delivered but were returned or otherwise deemed undeliverable. **(Retention: 3 years, destroy).**

(20) **Student Social Security/Medicare Tax Review Reports:** This series is used to determine proper FICA coding for student employees. The reports may include but are not limited to student name and ID number; credit hours carried; budget classification code; FICA quarters earned; year-to-date FICA withheld; and last FICA contribution date. **(Retention: 5 years, destroy).**

## ADMINISTRATIVE RULES

(21) **Student Time and Attendance Forms, Restricted Funds:** This series documents hours worked by student employees including those on work-study who are paid from restricted fund accounts. This series is used for payroll purposes and to meet federal requirements for documenting time worked by work-study students. This series only includes departmental time and attendance forms. **(Retention:** (a) 5 years after issuance of final financial report to awarding agency by the research accounting unit for records of all students paid from U.S. Dept. of Education awards, destroy (b) 3 years after issuance of final financial report to awarding agency by Research Accounting for records of regular student workers paid from other restricted funds, destroy (c) 3 years after issuance of final financial report to awarding agency by research accounting or 5 years, whichever is longer for records of work-study students paid from other restricted funds, destroy).

(22) **Student Time Records:** This series documents hours worked by student employees including those on work-study. The series is used for payroll purposes and to meet federal requirements for documenting time worked by work-study students. This series may include but is not limited to Work-Study Time Certificates and referrals; photocopies of payroll time cards; automatic time card program printouts; and departmental time and attendance forms. **(Retention:** 4 years, destroy).

(23) **Study Abroad Foreign Nationals Payroll Records:** This series documents payments to foreign nationals employed both full-time and part-time by the institution as support staff for its study abroad programs. This series may include but is not limited to agreements concerning pay rates; accounting information for payments to persons employed as secretaries and office staff, housing and transportation specialists, and food service workers; time sheets; and related correspondence. **(Retention:** 75 years, destroy).

(24) **Tax Withholding Authorization Records:** This series documents amounts withheld by Payroll from employees' checks for taxing authorities. This series may include but is not limited to the Statement for Claiming Benefits Provided by Section 911 of the Internal Revenue Code; Withholding Allowance Certificates (W-4s); Earned Income Credit Advance Payment Certificates (W-5s); Non-resident Alien Request for Exemption from Tax Withholding (IRS Form 8233); OUS Alien Information Request Form (CO-NRA); and Request for Exemption from Oregon State Income Tax Withholding. Individual forms may include employees' names, addresses, social security numbers, and tax identification numbers. **(Retention:** 5 years after superseded or employee separates, destroy).

(25) **Transaction Registers:** This series documents all employee database data entry transactions. This series includes daily and quarterly registers for deduction, employee, and budget transactions. The registers may include but are not limited to employee name; social security number; institution; FICA code; transaction code; nature and date of last transaction; last transaction; address; major account; class status; sex; Equal Employment Opportunity category; date of birth; ethnicity code; and related data. **(Retention:** (a) 4 years for quarterly registers, destroy (b) Until superseded or obsolete for daily, daily registers, destroy).

(26) **Wage and Tax Statement Records:** This series provides a summary record of data reported on the annual wage and tax statements for institutional employees, corrections to these statements, and a record of transmittal to the federal government. Records include print-outs from the Controllers Division by year in social security number order which include names, social security numbers, tax subject earnings, other data required by law, and summary transmittal forms. Forms include IRS forms W-2, W-2C, W-3, and W-3C. This series also includes records that were attempted to be delivered but were returned or otherwise deemed undeliverable. **(Retention:** 5 years, destroy).

Stat. Auth.: ORS 192 & ORS 357

Stats. Implemented: ORS 192.005-ORS 192.170 & ORS 357.805-ORS 357.895

Hist.: OSA 3-1999, f. & cert. ef. 10-11-99; OSA 2-2003, f. & cert. ef. 2-14-03

166-475-0095

### Personnel Records

(1) **Academic and Unclassified Employees Personnel Records:** This series documents the academic employee's work history at the Institution and includes routine, non-evaluative information such as job title, rank, full-time equivalency (FTE) or appointment percentage, dates of employment, salary, employing department, education and employment background. Some of the documents comprising this series include confidential information such as social security number, birth date, and marital status. Records may include but are not limited to copies of Affirmative Action Compliance Data Forms; Applications for Admission to Graduate School; Applications and Contracts for Sabbatical Leave; Applications for

Academic Employment; Athletic Contracts/Overseas Agreements; Conditions of Employment; Memoranda of Agreement; Notices of Appointment; Overload Compensation Requests; Patent Rights Waivers; Pay/Budget Action Forms; forms documenting personnel actions, including Salary Adjustments and Summer Session Appointments; Proposals for Academic Appointment; Requests for Approval for Outside Employment; resumes or curriculum vitae; Retirement Agreements; Leave Accrual Forms; Technology Transfer Agreements; Tenure Relinquishment Forms; employee Social Security number disclosure forms; and related documentation and correspondence, such as letters of resignation and memos confirming appointments. **(Retention:** 75 years, destroy).

(2) **Academic and Unclassified Employees Personnel Records (Supervisor's Copy):** This series documents the academic employee's work history maintained in the office of the dean, director, department head, or vice provost. It includes evaluative materials and non-evaluative information such as job title, rank, full-time equivalency (FTE) or appointment percentage, dates of employment, salary, employing department, education and employment background. Some of the documents comprising this series include confidential information such as social security number, birth date, and marital status. These records may be for full-time, part-time, and/or courtesy academic employees. Records may include but are not limited to Activity Reports; copies of Affirmative Action Compliance Data Forms; Applications for Admission to Graduate School; applications, contracts, and other records for sabbatical leave; emeritus faculty status letters; Employee Emergency Medical Information Forms; Applications for Academic Employment; Athletic Contracts/Overseas Agreements; Awards; Conditions of Employment Forms; Notices of Appointment; Overload Compensation Requests; Patent Rights Waivers; Pay/Budget Action Forms; Periodic Reviews of Faculty letters and records; forms documenting personnel actions, including Salary Adjustments and Summer Session Appointments; professional development records; Proposals for Academic Appointment; recommendations; reports of conferences attended; Staff Reports of Service to the Institution; Periodic Reviews of Administrators Summaries; reprimands; Requests for Approval for Outside Employment; resumes or curriculum vitae; Retirement Agreements; Sick Leave Accrual Forms; Teaching Evaluations; Student Evaluations of Faculty Summary Reports; Technology Transfer Agreements; Tenure Relinquishment Agreements; Employment Eligibility Verifications (Form I-9); Vacation Leave Report Forms; home address/telephone disclosures; and other relevant documents and correspondence, including commendations, letters from the chair or the dean concerning the nature of the faculty member's appointment and the expectations of the faculty member, letters granting fellowship, letter of position offer, letter of resignation, memoranda of agreement, Notices of Disciplinary Action, Notices of Layoff, and unsolicited letters praising teaching or participation in a conference. **(Retention:** 5 years after employee separation, destroy).

(3) **Affirmative Action and Equal Opportunity Records:** Series documents agency, institution, college, department, or unit compliance with regulations of the U.S. Equal Employment Opportunity Commission including affirmative action. Records may include but are not limited to mission, goal, and policy statements, plans showing how compliance will be accomplished and updates, BEO-6 and Vets 100 Employment Reports, statistical, status, and audit reports, executive department printouts, Ways and Means reports, AA compliance data sheets, case histories, and related documentation and correspondence. **(Retention:** (a) Permanent for narrative reports, policy, mission and goal statements, Equal Opportunity and Affirmative Action plans, and audit reports (b) 20 years for EEO-6/Vets 100/Ways and Means reports and Executive Department printouts, destroy (c) 10 years for statistical and status reports, case histories, correspondence, and related documentation (d) 3 years for all other records, destroy).

(4) **Affirmative Action and/or Human Resources Recruitment Review Records:** Series documents review of all stages of academic hiring by the institution's affirmative action office and/or human resources office. Records may include but are not limited to position descriptions; Notifications of Academic Position Opening; Affirmative Action Compliance Data sheets; Affirmative Action compliance statements; Applicant Pool and Appointment Reports; utilization reports; payroll-budget requests or action forms; contract requests to offer appointments; certificates of eligibles or applicant lists; and related documentation and correspondence. **(Retention:** 3 years, destroy).

(5) **Appointing Authority Administrative Records:** This series describes the responsibilities of those persons given the authority to appoint personnel to positions (as required by special circumstances). Records include policy documentation and correspondence. **(Retention:** Until superseded or obsolete, destroy).

## ADMINISTRATIVE RULES

(6) **Bargaining Unit Records:** This series documents negotiations and contractual agreements between the institution and the bargaining unit; it is also used for labor relations planning. Records may include but are not limited to union contracts and amendments; tentative agreements; arbitrator's recommendations; negotiation work notes; strike contingency plans; management counter proposals; negotiation updates; newspaper clippings; press releases; research background material; employee classification print-outs; Fair Share records; minutes, sound recordings, exhibits and reports of meetings; and related documentation and correspondence. **(Retention: (a) 75 years for final contracts, amendments, and negotiation minutes, destroy (b) 6 years after contract expires for all other records, destroy).**

(7) **Benefits Policies and Procedures Records:** This series documents policy and procedure decisions and important events in the operations history of the office and includes contracts and formal documents which state or form the basis for policy or set precedents. Records may include but are not limited to records concerning the Academic 12-month Pay Option for Payroll; American Football Coaches Retirement Trust; dependent care flexible spending account program records; early retirement programs; employee orientation program; Employee Assistance Program; injured worker benefits; Continuing Benefits to Injured Workers (CBIW) records; insurance continuation coverage known as COBRA (Consolidated Omnibus Budget Reconciliation Act); medical, dental, life/disability insurance program records; open enrollment records; the institution Staff Handbook; Life Insurance; post doctorate fellow insurance program; Public Employee Retirement System (PERS); Retirees; tax deferred investment programs; Teachers Insurance Annuity Association and College Retirement Equities Fund (TIAA/CREF); Unionflex program; (US Savings Bonds); Volunteer Insurance; and related documentation and correspondence. **(Retention: 6 years after expiration of program or contract, destroy).**

(8) **Certificates of Eligibles:** This series documents the names of applicants currently eligible for hire for specific classified positions. The list is supplied by the personnel office to departments seeking to fill vacancies. Data elements on this list may include but are not limited to name; address; telephone number; and rank or exam results. Copies of Employment Applications and Skill Code Sheets may be included with this record series. **(Retention: (a) 3 years after end of search if part of recruitment, destroy (b) 1 year if not part of a search, destroy).**

(9) **Classified Employees Layoff Records:** This series documents layoff procedures followed for affected employees. Records may include but are not limited to employees names; position titles; classification numbers; hire dates; layoff dates; seniority status; and related documentation and correspondence. **(Retention: 3 years after employee separation, destroy).**

(10) **Classified Employees Non-Routine Evaluations:** This series documents the non-routine evaluation of the classified employee's work performance. Records may include commendations; recommendations; disciplinary actions; reprimands; explanations or opinions filed in response to critical material; and related correspondence. **(Retention: 3 years, destroy).**

(11) **Classified Employees Personnel Records:** This series documents the classified employee's work history at the institution and includes routine evaluative materials and non-evaluative information such as job title, full-time equivalency (FTE) or appointment percentage, dates of employment, salary, employing department, education and employment background. Some documents in this series contain confidential information such as social security number, birth date, and marital status. Records may include but are not limited to employment applications which may include skill code sheets; resumes; selected memos such as agreement or request for position change, merit increase requests and notices, request for re-employment (letter of hire), resignation letters from employees, and termination letters from employer; commendations; recommendations; reprimands; work plans; forms documenting personnel actions; (personnel) performance evaluations; pay/budget action forms; leave records; time and attendance records; (designation of beneficiary forms;) union dues information; resumes; layoff notices; awards; licenses and certificates; college credit information; employee Social Security number disclosure forms; home address/telephone disclosure authorizations and related correspondence. **(Retention: (a) 75 years for employment applications, agreements or requests for position change, merit increase requests and notices, request for re-employment, resignation letters, employer termination letters, personnel action forms, layoff notices, designation of beneficiary forms, personnel evaluations, and resumes, destroy (b) 3 years for letters of reprimand, destroy (c) 3 years after employee separation for all other records, destroy).**

(12) **Classified Employment Testing Records:** This series documents the testing process for classified positions administered by human

resources staff. Records may include but are not limited to test forms completed by qualified applicants; summary lists with scores; testing materials; and related documentation and correspondence. **(Retention: 3 years, destroy).**

(13) **Classified Rejected Applications:** This series documents employment applications that were submitted for jobs with the institution and for reasons of incompleteness or inadequate qualifying experience/training are rejected. Records may include but are not limited to institutional employment applications and state forms PD 100 and PD 229R. **(Retention: 3 years after position filled or recruitment canceled, destroy).**

(14) **Classified Unsolicited Applications:** This series documents unsolicited requests for consideration for employment possibilities in institution units. Records may include but are not limited to curriculum vitae and resumes; transcripts; letters of application; and related materials and correspondence. **(Retention: 3 months, destroy).**

(15) **Continuation of Insurance Benefits (COBRA) Records:** This series documents the institution's compliance with the Consolidated Omnibus Reconciliation Act of 1986 (COBRA). Records may include notices given to insurance administrators when employees leave the institution; information includes employee and dependent names and Social Security numbers, insurance package currently carried, dates of termination, coverage end date, and dates of notice to the contractor. **(Retention: 3 years, destroy).**

(16) **Continuing Education Instructor's Records:** This series is used to provide a record of competency of persons applying to teach continuing education courses. Records, which are filed by course with term and instructor name, may include but are not limited to resumes; curriculum vitae; personnel actions; time sheets; course proposals; request for undergraduate and graduate course and instructor approval forms; tentative course outlines; letters of nomination; letters of appointment and/or rejection; and related documentation and correspondence. **(Retention: (a) 75 years for appointment information, destroy (b) 5 years after separation from Continuing Education faculty for all other records, destroy).**

(17) **Cooperative, Fraternity, and Sorority Housing Employees Records:** This series documents applications received by the institution from individuals who were subsequently hired as head residents, hostesses, housemothers, or cooks at fraternities, sororities, and cooperatives. Each application includes date of birth; social security number; educational background; prior work experience; interests; and hobbies. **(Retention: 75 years, destroy).**

(18) **Drug Testing Records:** Records document the testing of current and prospective employees for controlled substances prohibited by policy, procedure, or statute. Records may include but are not limited to the documentation of test results, the collection process, the random sample process, and those documenting the decision to administer reasonable suspicion drug testing. **(Retention: (a) Retain negative drug test results, 1 year, destroy (b) Retain positive drug test results, 3 years, destroy).**

(19) **Employee Medical Records:** Records document an individual employee's work related medical history. These records are not personnel records and must be kept physically separate from employee personnel records—in a separate location, as required by the Americans with Disabilities Act. Records may include but are not limited to medical examination records (pre-employment, pre-assignment, periodic, or episodic), X-rays, records of significant health or disability limitations related to job assignments, documentation of work related injuries or illnesses, hearing test records, hazard exposure records, first-aid incident records, physician statements, release consent forms, and related correspondence. *These records are not personnel records and must be kept physically separate from employee personnel records—in a separate location, as required by the Americans with Disabilities Act.* SEE ALSO Medical Surveillance Records in the Safety and Security section. **(Retention: (a) Retain hazard exposure records: 30 years after employee separation (29 CFR 1910.1020), destroy (b) Retain audiometric (hearing) test records: Until employee's termination date (29 CFR 1910.95(m)) (c) Retain other employee medical records: 3 years after employee separation, destroy).**

(20) **Employees Benefits Records:** This series documents academic, professional and classified employees participation in benefits programs at the institution and contains information such as hire date, employing department, choices of medical and dental coverage, dependent coverage, coverage dates, coverage amounts and premiums. Records may include but are not limited to Applications for Life Insurance; (Authorizations for Electronic Deposit;) Bargaining Unit Benefits Board (BUBB) and Public Employees Benefits Board (PEBB) Health and Dental Enrollment Forms; Benefits Worksheets for Payroll Corrections; Cancellations of Payroll

## ADMINISTRATIVE RULES

Deduction Authorizations; (Employee Assistance Program information); Insurance Data Change Forms; Employee Status Sheets; Enrollment Status Sheets; Letters of Approval for Coverage from insurance companies; Notices of Declination of Coverage from insurance companies; Notices of Approval of Group Insurance Coverage; Oregon Public Employee Union (OPEU) Membership Applications; Authorization for Payroll Deductions forms; State Employees' Benefit Board (SEBB) and PEBB Enrollment (Cards) for Optional Spouse Life Insurance; SEBB/PEBB Health, Dental, and Dependent Care Account Enrollment Forms; SEBB/PEBB Employee Update Forms for Health, Dental, and Flexible Spending Account; SEBB/PEBB Life/Disability Insurance Applications; Tax Deferred Investment (TDI) information; Unionflex (BUBB/PEBB, OPEU) Enrollment Forms; designation of beneficiary forms; US Savings Bond Payroll Authorizations; and correspondence concerning related matters such as terms of coverage and explanations for changes in coverage. **(Retention: 75 years from original date of hire, destroy).**

(21) **Employees Training Records:** This series documents employee participation in training courses or programs for development purposes. Records may include but are not limited to staff fee requests to take classes; course agendas, descriptions, and syllabi; course outlines and materials; enrollment and attendance records; training requests and authorizations; certificates of completion; and related documentation and correspondence. **(Retention: 3 years, destroy).**

(22) **Employees Employment Verification Records:** This series documents the responses to inquiries for evidence of employment from offices within the institution, banks and credit agencies, government agents, businesses, and current and former personnel. Records may include but are not limited to copies of written requests; release of information authorization forms; telephone request forms; office control documents; statistical summaries; and related documentation and correspondence. **(Retention: 3 years, destroy).**

(23) **Employment Eligibility Verification Forms:** This series documents information used to establish the identity and to verify the employment eligibility of employees to preclude the unlawful hiring of persons not authorized to work in the United States. Records include completed I-9 forms and copies of documents that establish the identity and the employment eligibility of the employee. **(Retention: 3 years after date of hire or 1 year after separation, whichever is longer, destroy).**

(24) **Employment Policies and Procedures Records:** This series documents employment policies and procedures administered by institution personnel offices. Records may include but are not limited to information on academic year appointments; employment of disabled persons; family employment program; interviewing; job sharing; nepotism; overseas employment; student employment; temporary appointments; transfers; and related documentation and correspondence. **(Retention: Permanent).**

(25) **Executive Evaluations Administration Records:** Series documents the administration of routine performance evaluations of OUS chancellors and individual college and university presidents. Records may include appointment schedules; letters of follow-up and thank you; press releases and announcements; hotel and travel arrangements; and related correspondence. **(Retention: 3 years, destroy).**

(26) **Family and Medical Leave Case Files:** This series documents requests for leave and granted leaves by employees under provisions of the Federal Family and Medical Leave Act and the Oregon Family Medical Leave Act. Records may include but are not limited to employee leave request forms; notices to employees of leaves granted or rejected; Certification of Health Care Providers for the employee or a family member; employee backup information and leave history records; employee time records; Continuation of Health and Dental Insurance Benefits Memorandum; and related documentation and correspondence. **(Retention: 3 years after case closed, destroy).**

(27) **Graduate Assistantship Applications Records:** This series documents applications of graduate students for Graduate Teaching Assistantships and Graduate Research Assistantships in academic programs. Records include applications developed by individual units; resumes and vitae; and related documentation and correspondence. **(Retention: (a) 5 years after application or termination of employment, whichever is longer for successful applicants, destroy (b) 3 years for denied applicants, destroy).**

(28) **H-1 Visa Scholars Records:** This series documents the temporary employment of internationals by the institution and is used to monitor compliance with Immigration and Naturalization Service regulations. Records may include but are not limited to Petition for a Non-immigrant Worker (Form I-797); Labor Conditions Applications for H-1B Non-immigrant; Prevailing Wage Information Request; Application to Immigrant and

Naturalization Service (INS); documentation of requests for visa extensions; details of work assignments; and related documentation and correspondence including the letter of support. **(Retention: 6 years after expiration of visa and extensions granted, destroy).**

(29) **Health Emergency Information Records:** This series documents the health identification information of students, faculty or staff. Health information may be collected for sponsored field trips, participation in physical education classes, and other activities. Information may include but is not limited to personal identification and physician's name and contact information, and emergency contact and health insurance information. Note: These records are not the same as the Emergency Notification Forms found in the Personnel File. **(Retention: 1 year after the end of the event or activity for which this information was collected, destroy).**

(30) **Immigrant Visa Scholars Records:** This series documents the application and approval of international scholars for permanent immigrant status. Records may include but are not limited to Applications for Alien Employment Certifications issued by the Department of Labor, Employment and Training Administration; advertisements for positions; curriculum vitae; transcripts; letters of recommendation; notes on all applicants for positions demonstrating that a petitioner was the best qualified for an advertised position; forms indicating the institution's efforts to employ comparably qualified U.S. citizens (ETA750); interviewers' notes and memoranda; and related correspondence. **(Retention: 75 years, destroy).**

(31) **J-1 Visa Scholars Records:** This series documents the short-term appointment of non-immigrant international scholars as visiting faculty, specialists, researchers and trainees. Records may include but are not limited to United States Information Service Certificates of Eligibility for Exchange Visitors Forms (IAP-66); descriptions of work to be performed; methods of financial support; copies of passports; check-in forms with personal data such as addresses, telephone numbers, and information concerning dependents; related correspondence, most often concerning eligibility of spouses and children to accompany or join the scholar; log sheets noting the nature of telephone calls concerning each scholar's status; and related documentation. **(Retention: 3 years after visa expiration, destroy).**

(32) **Layoff Administration Records:** This series documents policies and procedures administered by institution personnel offices with regard to layoffs. Records may include but are not limited to position elimination information; employee assistance information; layoff lists; management service layoff policy; news publications; salary funding requests; vacancy lists; and related documentation and correspondence. **(Retention: Permanent).**

(33) **Merit Increase and Trial Service Performance Appraisal Lists:** This series documents classified employees who are expected to receive merit pay increases or successfully complete their six-month trial service period. The lists, organized by academic department or administrative office, include employee's name; class; social security number; position number; employee status and type; FTE; pay rate qualifier; current step and pay rate; new pay rate and step (merit increase only); and trial service completion date (trial service only). **(Retention: 6 months, destroy).**

(34) **National Faculty Exchange Program Records:** This series documents an exchange program which allows university faculty members to exchange teaching positions with other institutions' faculty members within the United States. Records include contracts; summaries; and related correspondence. **(Retention: (a) Permanent for summaries (b) 5 years for all other records, destroy).**

(35) **Personnel Research Data Records:** This series documents the comparative salaries, benefits, collective bargaining agreements, staffing requirements, minimum qualifications, recruitment, and training of an institution's employees. Records include but are not limited to published and unpublished data; statistical reports; and related documentation and correspondence. **(Retention: Until superseded or obsolete, destroy).**

(36) **Position Descriptions:** This series documents job descriptions for classified and faculty positions and is used for employee recruiting, Fair Labor Standards Act eligibility analysis, position review, and reclassification purposes. Information fields in the position descriptions may include position names, position numbers, qualifications, functions and responsibilities, duties, hierarchical data, job classification numbers, description of duties, and pay rates. Records may include but are not limited to Position Description forms; Reclassification Position Descriptions and documentation; Classification Listings; Positions Listings; and related documentation and correspondence. **(Retention: (a) Present and two previous descriptions for each position or descriptions covering a period of five years, whichever is greater, destroy (b) 5 years for position reclassification records, destroy).**

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(37) **Position Inventory Control System (PICS) Reports:** This series documents job classification control and distribution code tracking, and is used to set budgets for dollars, to verify control numbers, and to regulate the total authorized FTE. Information included in these various computer printouts includes position numbers, distribution codes, budget authorization numbers, and classification control data. Records may include but are not limited to PIC System Report E (by Budget Institution Position Number); PIC System Report F (by Budget Institution Fund Account); and PIC System Report G (by Appointing Authority); Personnel Position Data Base (PPDB) forms; and related documentation and correspondence. This is a closed series. **(Retention: 4 years, destroy).**

(38) **Promotion, Tenure, and Salary Increase Records:** This series documents the periodic consideration of faculty who are eligible for changes in rank, tenure status, and/or pay. Records may include but are not limited to promotion and tenure dossiers compiled and presented by the faculty member as per instructions from Academic Affairs as well as other materials which are compiled and maintained for inclusion, analysis, and summarization into the dossier folders. The dossiers may include but are not limited to candidate dossier cover form or checklist; prior service agreement; Confidential Waiver for letters of evaluation; current position description; letters of evaluation; current curriculum vitae or resume; activity summary and evaluations of teaching, curriculum development and advising from students, participants/clients, and peers; candidate acknowledgment of dossier review; student evaluations of faculty summary reports; committee signature sheets; committee findings; recommendations of administrative superiors; and related documentation and correspondence. These files should always be maintained physically separate from departmental and college personnel files, but are considered to be a part of the academic personnel record. **(Retention: 10 years, destroy).**

(39) **Recruiting Pool Records:** This series is used as a reference for prospective applicants for faculty and staff positions drawn from either previous recruitments or unsolicited applications. Records may include but are not limited to curriculum vitae or resumes; cover letters; Applications for Employment; interview materials; position announcements; evaluations of prospective employees; and related correspondence. **(Retention: 3 years, destroy).**

(40) **Residential Advisor (RA) Employees Records:** This series documents the selection process, requirements, and work history of residential advisors. RAs apply in the Winter Term for the following school year. After preliminary screening and approval applicants are required to enroll in a course designed for potential RAs taught by student housing staff. Records may include but are not limited to application forms; transcripts; recommendations; interviewers' notes; notification letters; contracts which give duties and responsibilities, enrollment hours limitations, and signatures; papers or projects completed in the required RA course; staff evaluations of applicants and term-by-term evaluations of appointees; and related documentation and correspondence. **(Retention: 5 years after employee separation, destroy).**

(41) **Retirement Incentive Program Records:** This series documents the cost of incentive programs providing benefits for university employees who choose early retirement. Records include agreements between the university and employees for lump sum, monthly, or annual payments; records of actual payments; and related correspondence. **(Retention: 6 years after final payment, destroy).**

(42) **Sabbatical Leave Records:** This series documents sabbatical leave activities of institution faculty. Records may include but are not limited to reports; applications; contracts; and related documentation and correspondence. **(Retention: Permanent).**

(43) **Search Records:** This series documents the selection process for academic, classified and student positions within the institution. Records may include but are not limited to applications; curriculum vitae or resumes; academic transcripts; samples of writing or publications; approvals of recruitment proposals; candidate lists; position announcements; position advertisements; position descriptions; Certificate of Eligibles; copies of Affirmative Action Compliance Data Forms; Requests to Fill Academic Position Forms; interview materials such as schedules, rating sheets, tallies, screening and interview notes, review committee notes and memoranda; telephone conversation notes; and related correspondence such as cover letters and reference letters. NOTE: Application materials of successful academic and classified candidates become part of the employee's personnel file. **(Retention: (a) 3 years after search completed for academic and classified search records, destroy (b) 1 year for student search records, destroy).**

(44) **Staffing Policies Records:** This series documents the adoption and implementation of personnel and staffing policies at the college and/or

unit level pertaining to topics such as faculty evaluations; faculty retention; merit increases; performance evaluations; promotion and tenure, both instructions and guidelines; sabbatical leave, both policies and reports; salary adjustments, both guidelines and statistics; and support staff information. Records may include but are not limited to notations on priority staffing decisions; position descriptions; requests for approval of new staff positions; justification statements; descriptions of teaching responsibilities for positions requested; funding information; job announcements; memoranda; and related documentation and correspondence. **(Retention: 2 years after superseded or obsolete, destroy).**

(45) **Student and Classified Employees Compensation Records:** This series documents and defines pay rates for classified and student employees. Records may include but are not limited to compensation plans; conversion tables for annual, monthly, hourly, and overtime rates; records concerning extra merit increase, merit pay system, overtime pay, shift differential, student pay, variable rate pay, and working out of class; and related documentation and correspondence. **(Retention: Until superseded or obsolete, destroy).**

(46) **Student Employees Personnel Records:** This series documents the student employee's work history from the supervisor's perspective. This series may contain records for work-study and/or regular departmental budgeted student employees. This series may include resumes; interview questionnaires and notes; work referral forms; Student Schedule Slips; Financial Aid Employment Reference Forms; Student Employment Registration Forms; Personnel Actions Forms; Pay/Budget Action Forms; Work-Study Time Certificates; Performance Evaluations; Employee Withholding Allowance Certificate (W-4) forms; Payroll Check Delivery Authorizations; Requests for Emergency Payroll Draw Forms; commendations; recommendations; reprimands or notices of disciplinary action; notices of layoff; letters of resignation; work permits; copies of visas and related immigration status information; Student Driver Authorization Forms; Employment Eligibility Forms (I-9); home address/telephone disclosure authorizations; and related correspondence and documents. The series may also include photocopies of each employee's drivers license; birth certificate; or Certificate of Student Employment Registration. **(Retention: (a) 5 years after employee separation for work-study student records, destroy (b) 3 years after date of hire or one year after separation, whatever is longer for Employment Eligibility Forms (I-9), destroy (c) 3 years after employee separation for other student employee records, destroy).**

(47) **Student Faculty/Course Evaluation Records:** This series documents students' evaluations of teaching personnel and is used to help determine faculty tenure, promotion, merit increases and/or to review instructional courses and programs. These records provide students' opinions on faculty members' familiarity with current literature of the discipline, preparation, assignments, examinations, lecture styles, willingness to engage in dialogue, and availability. Records include bubble forms (input documents); course reaction inventory printouts; statistical tabulations; summary reports; and related documentation and correspondence. **(Retention: (a) Until tabulated and verified for bubble forms, destroy (b) 5 years for all other records, destroy).**

(48) **Time, Attendance and Leave Records:** This series documents time and attendance and leave for faculty, classified and student employees. Records include monthly time entry forms which may include hours worked, leave used, employee's name, supervisor's authorization, earnings information, and time distribution information; leave request forms; overtime authorization or certification; leave summary reports; leave without pay records; Work-Study time certificates and referrals; and related documentation. **(Retention: 4 years, destroy).**

(49) **Tuition Reduction Records:** This series documents employee and/or dependents participation in courses or programs offered by OUS institutions at reduced tuition rates. Records may include but are not limited to staff fee requests to take classes, course agendas, descriptions and syllabi, course outlines and materials, enrollment and attendance records, training requests and authorizations, certificates of completion, related documentation and correspondence. **(Retention: 4 years, destroy).**

(50) **Volunteer Program Records:** This series documents the activities and administration of an Institution's department or office's volunteer program. Records may include volunteer hour statistics; volunteer program publicity records; insurance requirement information; and inactive volunteer files containing applications and conditions of volunteer service forms. **(Retention: 5 years after separation, destroy).**

(51) **Unemployment Compensation Claim Records:** This series documents claims submitted by former institution employees for unemployment compensation. Records may include but are not limited to claim



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records; notices; reports; records generated by the appeal of claim determinations; and related documentation and correspondence. **(Retention: 2 years, destroy).**

(52) **Work Time Adjustment Agreements:** This series documents agreements between the employer and the employee regarding a change in the employee's work hours. Records may include but are not limited to the official signed agreement; related documentation and correspondence. **(Retention: Until superseded or obsolete, destroy).**

Stat. Auth.: ORS 192 & ORS 357

Stats. Implemented: ORS 192.005-ORS 192.170 & ORS 357.805-ORS 357.895

Hist.: OSA 3-1999, f. & cert. ef. 10-11-99; OSA 2-2003, f. & cert. ef. 2-14-03

## 166-475-0100

### Publications, Promotions and Alumni Records

(1) **Alumni Records:** This series documents the activities of an institution or department's alumni and may also provide alumni offices with information on alumni. Records may be used to create a network of support from alumni, primarily through organized alumni groups; to track alumni; to monitor their achievements, activities, and recognitions; to create statistics; to reply to information requests; and to provide information on the accomplishments of previous students. This series may include but is not limited to memberships lists with names, addresses, employer names and addresses, and positions; minutes, by-laws and directories of clubs in many Oregon communities and several major cities throughout the United States; promotional materials concerning annual gatherings; homecoming plans and programs; data cards and files for individual alumni; degree recipient lists; outstanding alumni lists; student leader lists; class officer lists; foreign student rosters; international alumni club records; and notes, memoranda, and related correspondence concerning general alumni affairs. **(Retention: Permanent).**

(2) **Alumni Association Board Records:** This series documents the activities of the alumni association board of directors. The board is responsible for promoting the interests and ideals of the institution; stimulating and encouraging school pride in students, graduates, and former students; and developing a sense of responsibility for continued progress in educational programs for the institution. This series may include but is not limited to agendas; minutes; reports; notes; working papers; and related documentation and correspondence. **(Retention: (a) Permanent for agendas, minutes, reports, and policy/historical correspondence (b) 5 years for all other records, destroy).**

(3) **Alumni Association Services Program Records:** This series documents the implementation of programs administered by the office such as those relating to marketing products, credit cards; insurance, and football tickets. This series may include but is not limited to agreements; dues information; postal information; and related documentation and correspondence. **(Retention: 5 years, destroy).**

(4) **Alumni Mailing List Records:** This series provides a record of the whereabouts of alumni for information request and mailing purposes. This series includes mailing lists and related documentation and correspondence. **(Retention: Until superseded or obsolete, destroy).**

(5) **Biographical Records:** This series contains biographical data for institutional faculty and staff. The records are used for public information releases and reference by the institutional staff to provide responses to inquiries. This series may include but is not limited to biographical sketches developed by the office of employment, the individuals concerned, or other sources; vitae; photographs; personal history data sheets; newspaper clippings; retirement notices; funeral programs; and obituaries. **(Retention: Permanent).**

(6) **Class Gift Records:** This series provides a record of gifts given to the institution by senior classes. This series may include but is not limited to gift lists; gift histories; a record of gift placement arrangements; and related documentation and correspondence. **(Retention: Permanent).**

(7) **Films, Videotapes, and Sound Recordings:** This series provides visual and/or aural documentation of institutional activities and events including intercollegiate athletics, students, faculty, and staff with significant relevance to either the institution's or individual unit's function and mission. These productions may have been created for recruitment and orientation, fund-raising, publicity, research, or teaching. This series may include but is not limited to identified and labeled videotapes; motion picture films; phonographic recordings (16, 33, 45, and 78 RPM formats); audio tapes (all formats); compact audio discs; and transcriptions when available. NOTE: Contingencies must be made for transferring information to a more stable medium. **(Retention: Permanent).**

(8) **Fund-Raising Records:** This series documents institutional efforts to raise funds to support program functions and facilities. This series may include but is not limited to requests for fund-raising; individual bene-

factors and prospective donors files; public relations records; event planning and arrangement records; gift history reports; background on previous donations; pledges; and related documentation and correspondence. **(Retention: 6 years, destroy).**

(9) **Hometown Information Records:** This series lists and identifies newspapers published in Oregon and is used to promote the institution. It is arranged alphabetically by town name and county and refers to the appropriate newspaper and its location. This series includes Oregon town and county names that refer to the serving newspaper; brief descriptions of scholarship awards offered on this campus; and all state high schools by town, county, and phone number. **(Retention: Until superseded or obsolete, destroy).**

(10) **News Release Records:** This series documents newsworthy events of the institution. This series may include but is not limited to news releases issued by institution news and communications units arranged by topic and/or date of issue. The news releases may contain but are not limited to the source of the information; title; byline; activity location and dates; and specified time of release. **(Retention: (a) Permanent for releases pertaining to significant events and policy matters (b) 10 years for routine releases, destroy).**

(11) **Ordering Records:** This series documents continuing requests for publications produced by an office. This series may include but is not limited to standing order cards or lists indicating the name and address of the requestor; book titles; transaction date; invoice number; and related documentation and correspondence. **(Retention: Until request becomes inactive, destroy).**

(12) **Photographs:** This series provides photographic documentation of institution activities, events, students, faculty, and staff with significant relevance to either the institution's or individual unit's function and mission. It may be used for student recruitment and orientation, fund-raising, publicity, publications, research, or teaching. This series includes fully identified photographs in print, negative, and slide formats. **(Retention: Permanent).**

(13) **Publications Inventory Records:** This series is used as a reference for publications in stock in an office. This series may include but is not limited to cards and lists. The information may include but is not limited to publication title; date of publication; and retail cost. **(Retention: 4 years after superseded or obsolete, destroy).**

(14) **Publications Records:** This series includes publications produced by individual institution offices. It may be used to document the activities of the office, for educational purposes and/or for informational purposes. Types of publications may include but are not limited to catalogs; books; magazines; newsletters; handbooks; yearbooks; directories; brochures; pamphlets; media guides; guidebooks; proceedings; programs; and flyers. Series may include but is not limited to working papers; mock-ups; drafts; and final publications. **(Retention: (a) Permanent for final publications (b) 1 year for all other records, destroy).**

(15) **Sample Publications and Job Specification Records:** This series is used to provide a record of specifications used in setting up publications for printing by the institution's publications office. This series may include but is not limited to job cards indicating description, specifications, and dollar cost of production; art work including drawings, maps, and blueprints; samples of changes made to publications; completed publications; and related documentation and correspondence. **(Retention: 5 years, destroy).**

(16) **Scholarship Reports:** This series is used as a historical reference on the recipients of scholarships in colleges or departments. These records may include information regarding the names of recipients; when they received the scholarships; names of scholarships; dollar value of scholarships; years recipients entered and graduated; and related correspondence and documentation. **(Retention: Permanent).**

(17) **Unit/Institution/Organization History Records:** This series provides a record of the historical development of the institution; units within the institution; and organizations associated with the institution, such as honor societies, fraternities and sororities, and student/faculty/ staff clubs. This series may include but is not limited to newspaper clippings; photographs; published and unpublished historical sketches; publications; statistics; ephemera; and related documentation and correspondence. **(Retention: Permanent).**

Stat. Auth.: ORS 192 & ORS 357

Stats. Implemented: ORS 192.005-ORS 192.170 & ORS 357.805-ORS 357.895

Hist.: OSA 3-1999, f. & cert. ef. 10-11-99; OSA 2-2003, f. & cert. ef. 2-14-03

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166-475-0105

## Safety and Security Records

(1) **Accident and Injuries Records:** This series documents claims made by institution employees to the SAIF (State Accident Insurance Fund) Corporation for occupational injuries, accidents, or illnesses; insurance coverage and related reimbursement issues; and safety analysis and compliance inspections. This record series does not include accidents or incidents which involve hazardous substance or radiation exposure. This series may include but is not limited to report of accident forms; SAIF Worker's and Employer's Report of Occupational Injury or Disease form (463.801); Occupational Safety and Health Administration (OSHA) Form 200; OSHA Form 101; incident logs; employer payroll reports; hearing transcripts; notices of claim disposition; determination orders; opinions and orders; appeal letters; claim adjustment documentation; medical reports; cost statements; and related documentation and correspondence. **(Retention: 6 years after final disposition of claim, destroy).**

(2) **Acknowledgment of Safety Rules Records:** This series documents that a new institutional employee has been provided copies of safety rules and has discussed applicable safety rules with the supervisor. This series includes but is not limited to acknowledgment forms. **(Retention: 30 years, destroy).**

(3) **Annual Vehicle Inspection Records:** This series documents the safety of institutionally owned automobiles, vans, trucks, and other motorized vehicles. This series includes but is not limited to annual motor vehicle inspection reports and related forms; documentation; and correspondence. **(Retention: 2 years after the vehicle is disposed of, destroy).**

(4) **Asbestos Records:** This series documents a building by building survey and plan to correct asbestos material hazards. This series may include but is not limited to surveys; monitoring tests and reports; data forms; building plans; correction checklists; removal job records; and related documentation and correspondence. **(Retention: (a) 30 years after separation for records documenting persons contacting or removing asbestos, destroy (b) 40 years: all other records, destroy).**

(5) **Carcinogenic Compound Inventory Records:** This series documents inventory and stock of Class B and C carcinogenic compounds. This series contains but is not limited to project and departmental lists of chemical inventories; lists of persons involved in the research project; and related forms, documentation, and correspondence. **(Retention: (a) 30 years after separation for records documenting persons using or contacting compounds, destroy (b) 40 years for all other records, destroy).**

(6) **Carcinogenic Compounds Research Use Records:** This series documents the use of hazardous carcinogenic compounds by institutional researchers. This series may contain but is not limited to research protocols; applications for use of Class B & C chemical carcinogens; chemical carcinogen animal care requirement forms; lists of personnel involved in laboratory contact with chemical carcinogens; list of carcinogenic compounds to be used in the specific research project; and related documentation and correspondence. **(Retention: 30 years after employee or researcher separation, destroy).**

(7) **Chemical Hazardous Material Survey Forms:** This series is used to document student and employee exposure to hazardous chemicals as per federal regulation. This series includes but is not limited to Chemical Hazardous Material Survey Forms which contain dates, employee or student names, chemical name, and comments; and related documentation and information. **(Retention: 30 years after student or employee separation, destroy).**

(8) **Chemical Incident Records:** This series documents the investigation of hazardous chemical material accidents or incidents including releases. This series may include but is not limited to incident reports noting locations, names, dates, times, description of incident, personnel involved, remarks, and name of contact; and related documentation and correspondence. **(Retention: 30 years after employee separation, destroy).**

(9) **Chemical and Hazardous Waste Disposal Records:** This series documents the receipt, shipment, and disposal of chemical material or hazardous wastes on campus. This series includes but is not limited to chemical and waste inspection forms; drum packing sheets; Uniform Hazardous Waste Manifest forms (EPA 8700); Certificates of Disposal from vendors; land disposal notification forms; waste disposal records; and related documentation and correspondence. **(Retention: 30 years, destroy).**

(10) **Emergency Response Plans and Procedures:** Series documents procedures to be followed in the event of emergency. Records may include step-by-step procedures; unit and institutional disaster preparedness plans; and related correspondence. **(Retention: Until superseded or obsolete, destroy).**

(11) **Environmental Regulations Records:** This series documents institutional compliance with environmental laws and guidelines of federal, state, or local governments. These records include communications with the Regional Air Pollution Authority (RAPA) which is under the jurisdiction of the Environmental Protection Agency (EPA) of the federal government and also the state Department of Environmental Quality (DEQ). This series may include but is not limited to Title V Air Discharge Permits; Air Quality Reports; Waste Water Discharge Permit Applications; Waste Water Discharge Permits; Water Quality Reports; Waste Water Discharge Records; Notices of Violation; Notices of Non-compliance; and related documentation and correspondence. **(Retention: 10 years, destroy).**

(12) **Fire Alarm and Drill Records:** This series documents response to any alarm that is activated on campus. This series may include but is not limited to the following information, when and where the incident occurred; specific response; reset time; and rewind time, if appropriate. **(Retention: 3 years, destroy).**

(13) **Human Materials Authorizations Records:** This series documents faculty proposals to use human materials in classroom instruction. This series includes but is not limited to written proposals from classroom instructors; departmental and committee approvals or disapprovals; reports; and related documentation and correspondence. **(Retention: 10 years, destroy).**

(14) **Inspections Records:** This series documents inspections done by various agencies such as the city building department, health department, or fire department in the course of routine business and is used by the institution to correct and analyze safety problems and to document compliance with regulations. This series may include but is not limited to inspection sheets which show date of inspection, notation of violations, and suggested corrective measures; reports acknowledging compliance with regulations; authorizing signatures; and related information, documentation and correspondence. **(Retention: 10 years, destroy).**

(15) **Material Safety Data Sheets Records:** This series documents the institution's inventory of hazardous chemicals; record keeping is mandated by the Hazardous Communications Program of the Occupational Safety and Health Administration (OSHA). This series contains but is not limited to Material Safety Data Sheets which list chemical name, description, composition, intended use, flash point, transportation, hazards, safe handling, and extinguishing methods; and related documentation. **(Retention: 30 years, destroy).**

(16) **Medical Surveillance Records:** This series documents the medical history of employees working in positions with exposure to high risk hazardous conditions such as Class B and C carcinogenic compounds, asbestos, lead, or excessive noise. Medical examinations of workers are made at the beginning and termination of institution employment and periodically throughout the career course as well as immediately following an accident or potential exposure incident. This series may include but is not limited to medical examinations; laboratory test records and results; and related documentation and correspondence. **(Retention: 30 years after employee separation, destroy).**

(17) **Non-Staff Accident and Injuries Records:** This series documents the reporting and investigation of campus related accidents that result in injury to non-staff and/or their property. This record series does not include accidents or incidents which involve hazardous substance or radiation exposure. This series may include but is not limited to Report of Accident forms; complaints; investigation reports; insurance appraisals and estimates; photographs; and related documentation and correspondence. **(Retention: (a) If incident results in a claim: transfer to appropriate claim file (b) If no claim results: retain 10 years, destroy, destroy).**

(18) **Protective Wear and Device Request Records:** This series documents the authorization and acquisition of specialized safety devices and clothing for employees working in hazardous situations. This series may include but is not limited to Safety Shoe Request and Authorization Forms; Prescription Safety Glasses Request and Authorization Forms; and related forms, documentation, and correspondence. **(Retention: 4 years, destroy).**

(19) **Radiation Licensing Records:** This series is used to document the licensing of the institution by federal, state, and local agencies to receive, use, store, dispose of, and ship radioactive materials. These records include federal and state applications and certificates including State of Oregon Health Division Radiation Material License forms (P112118-333 (100g)) and amendments (p29939-333 (150)); validation certificates showing fees paid for licenses; and related correspondence. **(Retention: Permanent).**

(20) **Radiation Material Handling and Disposal Records:** This series is used to provide a record of the reception, handling, shipment and/disposal of radioactive material or radioactive hazardous wastes at the

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institution to comply with federal and state record keeping and reporting requirements. The series also provides the office with a record of past activity. Records may include waste material pick up requests and tags; Radioactive Waste Drum Inventory forms (RS 102); Uniform Hazardous Waste Manifest forms (EPA 8700-22); Radiation Waste Shipment and Disposal Manifest forms (vendor form); Radiation Material Inventory sheets; Radiation Material Shipment Receipt Record forms (RS-400); Waste Disposal Record cards; disposal site letters of arrival acknowledgment; Sewered Radioactive Material log sheets; and related correspondence. **(Retention: Permanent).**

(21) **Radiation Monitoring and Exposure Records:** This series provides a record of radiation testing and monitoring of employees, visitors, facilities, and the surrounding environment and is used to comply with federal and state reporting and licensing requirements and insurance carrier reporting requirements. This series includes dosimeter reports (vendor form); Exposure History forms; Statement of Occupational Radiation Dosage forms; Daily Routine Survey Record forms (in-house form FHRCHPP.24A); Neutron Generator Smear Test Survey forms; Floor Survey forms; Special Survey forms (RCHPP.24D); Radioactive Material Shipment Receipt Survey forms (RCHPP.5A); Procurement for Material forms (form 101); Hood Flow Survey forms; Rotation Rack Filter Survey forms; Solid Waste Discharge and Analysis Sheets; Liquid Discharge Summary Report forms; Gaseous Waste Summary Report forms; and Soil/Water/Vegetation Record Survey forms. **(Retention: 30 years after employee separation, destroy).**

(22) **Radiation Safety Committee Records:** This series documents the establishment of policy and procedure by the committee. Records include agendas; minutes; reports; notes; working papers and related correspondence. **(Retention: Permanent).**

(23) **Safety Training Records:** This series documents employee training and certification such as for equipment operation, hazardous material handling and emergency procedures, driver training, CPR and first aid training, and asbestos awareness training for removal, abatement, or transportation. This series may include but is not limited to sign off sheets indicating that employees have received training; instruction sheets; copies of hazardous material data sheets; informational materials; and related documentation and correspondence. **(Retention: 30 years after employee separation, destroy).**

(24) **Security Records:** Series documents reporting of suspicious and criminal incidents at the institution. Records may include incident reports containing names, dates, case numbers, dollar values, locations, descriptions of incident, and personnel taking report; identification cards created when reports of suspicious behavior are made to the office; warnings records; copies of reports filed by the Oregon State Police or other law enforcement agencies; notes; and related documentation. **(Retention: (a) 2 years for copies of reports filed by law enforcement agencies, destroy (b) 5 years for all other records, destroy).**

(25) **Student Incident Records:** This series documents incidents of injury to residence hall occupants, vandalism, and other infractions of housing rules. The series also documents the disposition of such incidents. This series may include but is not limited to incident report forms usually filed by resident advisors; housing director's written decisions; student appeals of decisions; and related documentation and correspondence. **(Retention: (a) If incident results in a claim: transfer to appropriate claim file (b) If no claim results: retain 10 years, destroy).**

(26) **Vehicle Accident Records:** This series documents accidents involving vehicles owned by the institution. This series may include but is not limited to vehicle accident reports; vehicle accident claims; damage or loss of state property reports and related documentation and correspondence. Information may include vehicle type and identification number; name of party using the vehicle; notation of condition before and after use; and authorizing signatures. **(Retention: 4 years, destroy).**

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Stats. Implemented: ORS 192.005-ORS 192.170 & ORS 357.805-ORS 357.895

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166-475-0110

### Student Records

(1) **Academic Standing Reports:** This series documents student academic standing, including academic deficiency and the status changes of academically deficient students. Records may include reports containing student names, grade point averages (GPAs), grade point deficiencies, and numbers of previous suspensions and probation; student petitions for re-evaluation; report of student progress toward academic readmission/removal of probation status at other institutions; academic

honors and awards; and related documentation and correspondence. **(Retention: 3 years, destroy).**

(2) **Admissions Reports:** This series provides summary information relating to student admission programs which may be used for control, planning or review. Records may include but are not limited to working papers; drafts; transitory reports; final reports; and related documentation and reports. Typical report subject categories include the number of new students, advanced placement, and Grade Point Averages summaries. **(Retention: (a) Permanent for final reports (b) 5 years for all other records, destroy).**

(3) **Certification Records:** This series documents the preparation of students earning degrees and/or certification for licenses or certificates to enter a profession and forms the basis of the initial certification for various professions. Records may include applications for admission to a program; registration for practicum hours and evidence of the completion of the practicum; transcripts; narrative evaluations on practicum; notice of completion of hours required for certification; recommendations and evaluations; and related correspondence. **(Retention: 5 years after initial certification, destroy).**

(4) **Class Lists:** This series provides instructional units with an official record of students enrolled in courses taught. The series is used to cross-check students who have enrolled against those who have registered as well as in the generation of statistical reports. Information in the series includes student names; social security numbers; term; and enrollment/registration status. **(Retention: 1 term, destroy).**

(5) **Commencement Records:** This series documents commencement program planning and implementation at the institution. Records may include but are not limited to commencement attendance forms; planning records created by commencement committees or other planning groups; and related documentation and correspondence. **(Retention: (a) Permanent for commencement programs (b) Until degrees conferred for commencement attendance forms, destroy (c) 2 years for all other records, destroy).**

(6) **Counseling, Psychological, and Psychiatric Case Records:** This series documents all clients who are provided counseling, psychological, and psychiatric services by the institution's counseling center. Clinicians provide treatment concerning personal problems, academic concerns, and career concerns. The psychiatric consultant provides psychiatric care to some student clients. Records may include extensive notes made by providers concerning the assessment, diagnosis, treatment and contacts (written, telephone, or in person) with each client; referral letters; release of information agreements; letters to agencies or others concerning the clients; and related documentation. **(Retention: 15 years after last contact, destroy).**

(7) **Diploma Mailing Verification Records:** This series documents students' requests to have diplomas and other graduation records distributed to specific addresses. Records include signed cards listing permanent addresses for diplomas to be mailed to; indicating that fees have been paid; and listing students' names, college or school within the institution, degrees granted, and dates of requests. **(Retention: 1 year, destroy).**

(8) **Enrollment Reports:** This series is used to provide the Chancellor's office with a record of enrollments which may be used for planning and research. Information contained in the reports includes student names and levels, grade point averages, demographic data, and academic majors. Records may include but are not limited to working papers; final reports; and related documentation and correspondence. **(Retention: (a) Permanent for final reports (b) 2 years for all other records, destroy).**

(9) **Examinations, Tests, Term Papers, and Homework Records:** This series documents work of student subject mastery in institution courses not returned to the student. Records may include but are not limited to examinations and answers; quizzes and answers; homework assignments; course papers; term papers; and essay assignments. This series does not include graduate student qualifying or comprehensive examinations. **(Retention: (a) 1 term after completion for uncontested grade results, destroy (b) Until resolved for contested grade results, destroy).**

(10) **Family Educational Rights and Privacy Act (FERPA) Documents:** This series documents the process of student information release requests and consent authorizations or denials in accordance with the Family Educational Rights and Privacy Act. Records may include but are not limited to requests for formal hearings; requests for release of personally identifiable information; records of disclosures made to third parties; student statements regarding hearing panel decisions; written decisions of the hearing panel; written consent of the student to disclose records; waivers for rights of access; and related documentation and correspondence. **(Retention: (a) Life of the affected record or until student terminates waiver for written consent of the student to disclose records and**

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waivers for rights of access, destroy (b) Life of the affected record for all other records, destroy).

(11) **Fraternity and Sorority Membership Records:** This series documents personal information on each organization member. Data elements on cards or lists may include high school attended; major; hometown; date pledged; graduation date; offices held; and awards received. **(Retention: 5 years after last enrollment, destroy).**

(12) **Freedom of Information Act (FOIA) Request Records:** This series documents public requests for information under the Freedom of Information Act received by the Registrar. Records include written correspondence inquiries from the public received by the office; written and dated responses issued by the office; notes and memoranda made in drafting responses to these inquiries; and initials of officials approving release of the information. **(Retention: Life of affected record, destroy).**

(13) **Grade Reports:** The series documents grades received by students for the term. This is the record copy of reports distributed to students at the end of each term. Individual forms include course numbers and titles; grades awarded; grade point average; student name; and social security number. **(Retention: 1 term, destroy).**

(14) **Grade Rosters:** The series reflects grades awarded by instructors and serves as the basis for students' official academic records. Records include student names and social security numbers; course titles and numbers; sections; grades awarded; and instructors' signatures. **(Retention: (a) 10 years for records created after implementation of the Student Information System, destroy (b) 25 years for records created before implementation of the Student Information System, destroy).**

(15) **Graduate Students Degree Completed Records:** This series documents students' admission into graduate programs at the institution and their subsequent academic progress resulting in completion of degrees. (The official institutional academic record for all graduate students is maintained by the Registrar's Office.) Records may include but are not limited to applications for admission to Graduate School; notices of admission; standardized placement and evaluation exams; transcripts; requests to audit courses; major department/degree change requests; assignment of an advisor; composition of dissertation/thesis committee and any changes thereof; proposed program sheets; transmittal sheets for records; statements of goals and objectives; certification of transferred courses; grade reports; course waiver requests; removal of incomplete grades forms; seven year time-limit appeal records; oral and written exam results — preliminary, qualifying and comprehensive; report of final oral examination and thesis credit for advanced degree; thesis title card approvals; petition for change in graduate program; petitions or letters requesting exemption from institution regulations or procedures; advising checklists; transcripts from other institutions; on-leave requests and approvals, official graduation audit; program advisors' reports showing progress towards academic degrees; advancement to candidacy forms; awards; and related documentation and correspondence. **(Retention: 20 years after degree completed, destroy).**

(16) **Graduate Students Degree Uncompleted Records:** This series documents students' admission into graduate programs at the institution and their subsequent academic progress toward but not resulting in the completion of degrees. (The official institution academic record for all graduate students is maintained by the Registrar's Office.) Records may include but are not limited to applications for admission to graduate school; recommendations/ evaluations for admission; notices of admission; standardized placement and evaluation exams; transcripts; graduate school departmental action forms; requests to audit courses; major department/degree change requests; assignment of an advisor; composition of dissertation/thesis committee and any changes thereof; proposed program sheets; transmittal sheets for records; statements of goals and objectives; abstract of thesis or dissertation; certifications of transferred courses; grade reports; course waiver requests; removal of incomplete grades forms; seven year time-limit appeal records; oral and written exam results — preliminary, qualifying and comprehensive; reports of final oral examination and thesis credit for advanced degree; thesis title card approvals; petitions for change in graduate program; petitions or letters requesting exemption from institution regulations or procedures; on-leave requests and approvals; advising checklists; transcripts from other institutions; program advisors' reports showing progress towards academic degree; advancement to candidacy forms; comprehensive exam results; awards; and related documentation and correspondence. **(Retention: (a) 25 years after last enrollment for doctoral students, destroy (b) 10 years after last enrollment for masters students, destroy).**

(17) **Graduate Students Denied Admission/No Show Records:** This series documents the application and evaluation process for students applying to enter an instructional unit's academic graduate program who

are denied admission or who were admitted but failed to enroll or withdraw. Records may include but are limited to applications for admission to graduate school forms, records of GRE and other test scores, departmental action forms; standardized examination reports, foreign student financial documentation, departmental or college supplemental application forms, departmental or college student application status reports, letters of recommendation, resumes, transcripts, and related documentation and correspondence. **(Retention: (a) 3 years after denial of admission, destroy (b) 1 year after notification of admission if applicant fails to enroll, destroy (c) 1 year for test scores of students that do not apply, destroy).**

(18) **Grievance Records:** This series documents grievances brought forward by students against the institution which do not result in litigation. Grievances may pertain to academic issues; housing; affirmative action and equal opportunity; student conduct; and other issues. Records include notices of grievance; informal discussion notes; grievance responses; formal hearing notes (including audio tapes); final summary statements; settlement agreements; appeals documentation; and related records. **(Retention: (a) 3 years after last enrollment for appealed grievances, destroy (b) 3 years after resolution for grievances not appealed, destroy).**

(19) **Independent Study Records:** This series documents departmental approval for students to enroll in independent study courses. Records may include but are not limited to permission sheets with students' names; course names; number of credits; and faculty signatures. **(Retention: 5 years, destroy).**

(20) **Instructors' Grade Records:** This series documents test scores, class work scores, and final grades for students which may be used as backup to the official academic records held by the Registrar. Records may include but are not limited to instructors' grade books; grade confirmation reports; grade confirmation and change records; and final grade rosters. **(Retention: 2 years, destroy).**

(21) **International Students Records:** This series documents institution assistance to international students who have been admitted to academic programs. These records primarily concern institution admissions, immigration issues, and other non-academic matters. Records may include but are not limited to copies of visas; scholarship information; institution admissions forms; graduate school applications; transcripts of previous college work; grade reports of prior college work; grade reports from institutional courses; international student advisors' notes; degree completion certificates; explanations for student withdrawals; recommendations and evaluations of students; and related documentation and correspondence. **(Retention: (a) 7 years after last enrollment for all student records of matriculates, destroy (b) 1 year after failure to enroll for all student records of non-matriculates, destroy).**

(22) **Internship Program Records:** This series is used to provide a record of the administration of student internship, practicum and cooperative education programs. Programs may be within the institution or off campus and for class credit and/or pay. Records may include but are not limited to applications for internships inside and external to the institution; agreements with departments; postings/notices; student resumes; transcripts; copies of contracts; proposed institution listings; notes; and related documentation and correspondence. **(Retention: 5 years, destroy).**

(23) **Law Student Records:** This series documents students' admission to law school at the institution. Records may include but are not limited to applications for admission; record of degree candidate; request for transfer of graduate credit; statement of completion of requirements for law degree; requests for permission to re-register in the law school; leave of absence requests; petition to extend time past 7-year completion requirement; awards; and related documentation and correspondence. **(Retention: (a) 75 years for completed degrees, destroy (b) 7 years after last enrollment for uncompleted degrees, destroy).**

(24) **Name Changes Records:** This series documents students or applicants name changes reported to the admissions or registrar's offices by students. Records may include but are not limited to letters requesting change in name; name change forms; lists or reports of students with changed names; and related documentation and correspondence. **(Retention: 2 years after degree completed or last enrollment, destroy).**

(25) **National Testing Records:** This series provides a record of the services rendered to clients by administering tests required of students seeking admission to various programs or seeking to substitute already acquired knowledge for formal college courses. Tests administered include Scholastic Aptitude (SAT); American College (ACT); Graduate Record Examination (GRE); Medical School Admission (MCAT); Pharmacy School Admission (PCAT); Business School Admission (GMAT); National Teacher Education (NTE); Veterinary College Admission Test (VCAT); and Test of English as a Foreign Language (TOEFL). Records may include but

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are not limited to testing rules and regulations; rosters of test takers; seating charts; supervisors' reports; and vouchers for payment of testing. This series does not include test scores. **(Retention:** 3 years after testing date, destroy).

(26) **Non-Institution Student Records:** This series documents and tracks the application, selection, and progress in special instructional programs of elementary through high school and non-institution students belonging to special, minority, or disadvantaged groups. Examples of programs to which this series applies are Science and Mathematics Investigative Learning Experiences (SMILE), Upward Bound, High School Equivalency, and other non-institution programs. Records may include but are not limited to application and admission documentation; personal and family information; medical and health documentation; selection and decision making documentation; Educational Opportunity Program (EOP) documentation; notification of admission and non-admission; recommendations and evaluative materials; copies of academic records; counseling and advising notes and documentation; housing and conduct documentation; federal student aid reports; risk release and insurance forms; immigration and citizenship documentation; financial responsibility records; reports; and related documentation and correspondence. **(Retention:** 3 years after separation from program, destroy).

(27) **Placement Records:** This series documents the written reference history of a student to be forwarded to potential employers or professional schools. Records may include but are not limited to credentials records showing where, when, and cost of letters sent; release of information form which includes a listing of the reference letters to be sent; reference letters; student teaching reports; professional program certificates; personal data sheets and resumes; College Interview Forms; and related documentation and correspondence. **(Retention:** (a) 5 years for established files, destroy (b) 2 years for incomplete file establishment requests, destroy).

(28) **Placement Survey Records:** This series documents the results of a placement survey conducted every two years of recent baccalaureate graduates. Records may include but are not limited to reports and questionnaires which provide the following information on individual alumni: career status or job title; continuing education; geographic location; source of finding employment; relationship of employment to major; salary; computer training needs; and number of years enrolled. **(Retention:** (a) Permanent for reports (b) 3 years for questionnaires, destroy).

(29) **Prospective International Student Records:** This series documents institution assistance to international students who are considering attendance at the institution. Records may include but are not limited to letters of inquiry from prospective students; official replies to inquiries; completed applications and admittance forms; local data sheets; advisory notes; and related documentation and correspondence. **(Retention:** (a) 2 years for non-admitted applicants records, destroy (b) Until admitted for admitted applicants records, which then become part of the International Student Records, destroy).

(30) **Recruiters Records:** This series provides a record of recruiter visits to the campus to conduct job interviews. Records may include but are not limited to scheduling calendars; Recruiter Schedules; affirmative action statements; recruiter information forms; lists of interviewees; feedback forms from recruiters; and related documentation and correspondence. **(Retention:** 2 years, destroy).

(31) **Residency Affidavits:** This series documents declarations filed by students regarding state residency status which is critical for determining tuition status. Records may include but are not limited to affidavits; correspondence regarding residency; and related documentation. **(Retention:** 5 years, destroy).

(32) **Services to Students with Disabilities (SSD) Records:** This series documents student participation in the Services to Students with Disabilities Program. Records may include but are not limited to health professional evaluation reports; recommendations for student applicants; high school transcripts and academic work-sheets; autobiographical essays; copies of applications for admission; copies of notices of admission; special admissions applications checklists; questionnaires; physicians' statements and letters of recommendation; counseling interview notes and referrals; and related documentation and correspondence. **(Retention:** 5 years after last contact, destroy).

(33) **Special Academic Programs Student Records:** This series documents and tracks the application, admission, selection, and progress of institution students participating in special academic programs serving, guiding, and aiding institution students. This series consists of the individual files for students participating in special institution programs which provide services ranging from counseling and tutoring to tuition waiver assistance. Programs may include but are not limited to the English

Language Institute (ELI) and American English Institute; Educational Opportunities Program (EOP); non-traditional student programs; Older Than Average Student Program and Adult Learners; National Student Exchange Program (NSE); Native American Science Program (NASP); University Exploratory Studies Student Program (UESP); Study Abroad Program; Academic Learning Services (ALS); Peer Advising; and other special academic programs. Records may include but are not limited to application documentation; personal information; medical and health documentation; admission and non-acceptance documentation; recommendations and evaluative materials; copies of academic records; counseling and advising notes and documentation; risk release and insurance forms; immigration and citizenship documentation; financial responsibility records; reports; and related documentation and correspondence. **(Retention:** (a) 7 years for accepted and enrolled participants, destroy (b) 2 years for denied admission or did not enroll after acceptance, destroy).

(34) **Student Academic Records:** This series documents the academic progress of graduate and undergraduate matriculated students at the institution. Records may include but are not limited to institution academic transcripts; high school and non-institutional college transcripts; applications; notices of admission, readmission, denial and acceptance; grade reports; records of grade changes; reservation of credit requests; petitions for exemption from institution regulations and procedures; applications for withdrawal from the institution forms; advanced standing reports; standardized examination reports; letters of recommendation; vault number index card file; and related documentation and correspondence. **(Retention:** (a) Permanent for transcripts, applications for admission, and grade change records (b) 5 years for all other records, destroy).

(35) **Student Activity Reports:** This series provides a record of graduate and undergraduate student statistics in a specific instructional unit and is used to provide summary information which may be used for planning or review. This report may include but is not limited to country of origin; degree(s) held and pursued; financial situation; gender and ethnicity; marital status; veterans status; academic standing and grade point averages; placement test scores; immigration status; and other data elements. **(Retention:** Until superseded or obsolete, destroy).

(36) **Students Admissions Records:** This series documents the application process for individuals seeking admission to the institution. Records may include but are not limited to admission applications; academic transcripts from other institutions; test scores; letters of admittance; and related documentation and correspondence. **(Retention:** Until matriculation, transfer to the Registrar's Office for inclusion in the Student Academic Records).

(37) **Student Advising Records:** This series is used to provide a record of an undergraduate and/or graduate student's academic progress within a specific department and or college program. Most of the components in this record series are reference copies of records maintained in the files of the Registrar's Office and/or the Graduate School and are maintained for the convenience of the student academic advisors. Records may include but are not limited to applications for program admission; notices of admission; grade reports; in-house grade record cards; degree program requirement lists; departmental course waiver forms; program advisors' reports showing progress towards academic degrees; advising checklist forms; advisors' notes; copies of transcripts; Program Planning Sheets; advanced standing examination reports; official graduation audits; curriculum posting sheets; recommendation letters; suspension notices; re-admission notices; comprehensive exam results; awards; and related documentation and correspondence. **(Retention:** 1 year after degree completed or last enrollment, destroy).

(38) **Student Conduct Records:** This series documents academic dishonesty and conduct violations among students. Records may include but are not limited to incidents reports; final reports; evidence; notification of allegation; Timely Notice Forms; Conduct-Pending, Conduct-Restitution, and Suspension Lists; Quarterly Security Reports; disciplinary reports; informal discussion notes; formal hearing notes; final summary statements; decision statements; appeals documentation; and related documentation and correspondence. **(Retention:** (a) 75 years for case files involving expulsion, degree revocation, or negative notation on the transcript, destroy (b) 10 years for case files involving suspension, destroy (c) 5 years for all other disciplinary case files, destroy).

(39) **Student Development Transcripts Records:** Series documents students participation in university clubs, organizations, honor societies and special academic programs such as the Study Abroad Program; volunteer service in community organizations; and honors and awards received. Records include transcripts listing activities, background materials used to validate the activities, and related correspondence. **(Retention:** (a)

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Permanent for transcripts (b) 5 years after last activity for all other records, destroy).

(40) **Student Non-Disclosure Requests Records:** This series documents the request by a student to restrict release of information normally provided as directory information as per Family Educational Rights and Privacy Act (U.S. Public Law 93-380). This series may contain but is not limited to student requests for non-disclosure of directory information and memoranda distributed to pertinent departments informing units which might have pertinent information not to disclose that information. **(Retention:** (a) 1 year for revoked requests, destroy (b) Permanent all other records).

(41) **Student Organization Administrative Records:** This series documents the history, development, and policies of campus student organizations. Records may include but are not limited to annual review forms; minutes; constitutions and bylaws; committee, subcommittee, and task-force records; Student Senate bill and resolution files; budgets; handbooks; officer and member rosters; scrapbooks; photographs; and related documentation and correspondence. **(Retention:** Permanent).

(42) **Student Recruitment Records:** This series documents efforts of the institutional units to recruit students based upon disadvantaged status, academic performance, and other criteria. Records may include but are not limited to prospects lists; interview and conversation notes; photographs; personal information forms and resumes; test scores; academic transcripts; and related documentation and correspondence. **(Retention:** 5 years, destroy).

(43) **Student Status Cards:** This series documents the status of students who are enrolled or have been enrolled and graduated from the academic program. Information on the individual cards may include but is not limited to name; date entered; department; change of school; graduation dates; degrees; previous schools attended; notation of activities and honors; and photographs of individuals. **(Retention:** 20 years, destroy).

(44) **Students (Undergraduate) Denied Admissions Records:** This series provides a record of undergraduate students who have been denied entry into degree or certificate programs or who have been admitted but have not enrolled. Records may include but are not limited to: admission applications; academic transcripts from other institutions; test scores; letters of admittance; and related documentation and correspondence. **(Retention:** (a) 2 years after denial of admission, destroy (b) 1 year after notification of admission if applicant fails to enroll, destroy).

(45) **Student Statistical Reports:** This series documents student status and enrollment at the institution. Records may include specialized listings and statistical reports pertaining to departmental and college registration, course changes, add/drops, geographical distribution of students, student age and gender data, mortality of classes, student transfers from other schools, student body grade point averages and GPAs of living groups, and veterans enrollment; reports documenting student and enrollment by term; and reports on other topics. **(Retention:** (a) Permanent for summary and annual reports (b) 3 years for all other records, destroy).

(46) **Student Tracking Records:** This series documents student enrollment in courses and changes in enrollment. The series also documents admission status changes, affiliation and registration in colleges or schools, and changes in grading basis. Records may include but are not limited to registration forms; registration change forms (add/drop forms); withdrawal forms; application for re-admission forms; change of schools (within the institution) forms; and grading basis (unsatisfactory/satisfactory) change forms. **(Retention:** 1 year, destroy).

(47) **Summer Session Registration Records:** This series documents the enrollment and registration of students in the institution's summer session program. Records may include but are not limited to lists of summer

term students; summer term official registration cards; summer term proposed schedule of classes; summer term registration statistics; summer term program; student-faculty survey of summer session; and related documentation and correspondence. **(Retention:** (a) Permanent for summer term registration statistics (b) 10 years for student-faculty surveys of summer session, destroy (c) 3 years for all other records, destroy).

(48) **Supplemental Grade Report Records:** This series documents grade changes submitted by instructors through the academic departments to the Registrar. Records may include but are not limited to supplemental grade reports (SGRs); removal of I and E forms; and related documentation and correspondence. **(Retention:** (a) 5 years for records created after implementation of the Student Information System, destroy (b) 25 years for records created before implementation of the Student Information System, destroy).

(49) **Theses and Dissertations Records:** This series documents the completion and academic acceptance of graduate theses and dissertations presented to colleges in fulfillment of requirements for graduate degrees. This series includes final and accepted copies of theses and dissertations. **(Retention:** Permanent).

(50) **Transcript Hold or Encumbering Authorization Forms:** This series documents holds on transcripts and academic reporting information placed by the institution for a number of reasons. This series consists of forms authorizing the holding of academic records and information until a specific action is taken by the subject of the academic record. **(Retention:** Until release of the hold authorization, destroy).

(51) **Transcript Request Forms:** This series provides a record of students' requests for transcripts to be sent to other institutions. Information on the individual form includes student's present name and other name(s) under which the student attended; social security number; vault number (used in locating the transcript in the Student Record series); home address; phone number; student signature; number of copies of transcript requested; fee status; whether official or unofficial transcripts are desired; date of request; and destination(s) of transcript(s). **(Retention:** (a) 6 months for requests of official transcripts, destroy (b) 1 month for requests of unofficial transcripts, destroy).

(52) **Undergraduate Degree Audit and Application for Graduation Records:** This series documents student completion of degree requirements. Records may include but are not limited to work sheets; transcripts; and transfer course evaluations. The series may also include official graduation audit forms that list students' names; colleges; majors; degrees; minors; the course loads taken by the applicants for previous three terms; the breakdown of institutional undergraduate degree requirements (as opposed to school, major, or certificate program graduation requirements) and how the applicants have fulfilled them; grade point averages; and deans' recommendations/ comments and signatures. **(Retention:** 5 years after last enrollment, destroy).

(53) **Veterans Records:** This series documents the entitlement status and enrollment of veterans in the institution. Records include but are not limited to Oregon State Veterans Affairs form 1006M that certifies Oregon resident veterans educational benefits entitlements; individual veteran student records that certify to the U.S. Department of Veterans Affairs that the student is eligible for educational benefits, is currently enrolled at the institution in a qualifying curriculum, and is maintaining standards required to receive entitlements; veterans attendance reports; and related forms, documentation and correspondence. **(Retention:** 3 years following termination of enrollment period, destroy).

Stat. Auth.: ORS 192 & ORS 357  
Stats. Implemented: ORS 192.005-ORS 192.170 & ORS 357.805-ORS 357.895  
Hist.: OSA 3-1999, f. & cert. ef. 10-11-99; OSA 2-2003, f. & cert. ef. 2-14-03

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123-155-0250	12-2-02	Adopt	1-1-03	141-035-0045	1-1-03	Amend	2-1-03
123-155-0270	12-2-02	Adopt	1-1-03	141-035-0046	1-1-03	Repeal	2-1-03
123-155-0300	12-2-02	Adopt	1-1-03	141-035-0047	1-1-03	Amend	2-1-03
123-155-0400	12-2-02	Adopt	1-1-03	141-035-0048	1-1-03	Adopt	2-1-03
125-045-0100	12-27-02	Amend	2-1-03	141-035-0050	1-1-03	Amend	2-1-03
125-045-0105	12-27-02	Amend	2-1-03	141-035-0055	1-1-03	Amend	2-1-03
125-045-0110	12-27-02	Amend	2-1-03	141-035-0060	1-1-03	Amend	2-1-03
125-045-0120	12-27-02	Amend	2-1-03	141-035-0065	1-1-03	Amend	2-1-03
125-045-0130	12-27-02	Amend	2-1-03	141-035-0070	1-1-03	Amend	2-1-03
125-045-0140	12-27-02	Amend	2-1-03	141-040-0005	1-1-03	Amend	2-1-03
125-045-0150	12-27-02	Amend	2-1-03	141-040-0010	1-1-03	Amend	2-1-03
125-045-0160	12-27-02	Amend	2-1-03	141-040-0020	1-1-03	Amend	2-1-03
125-055-0100	12-31-02	Adopt(T)	2-1-03	141-040-0030	1-1-03	Amend	2-1-03
125-055-0105	12-31-02	Adopt(T)	2-1-03	141-040-0035	1-1-03	Amend	2-1-03
125-055-0110	12-31-02	Adopt(T)	2-1-03	141-040-0040	1-1-03	Amend	2-1-03
125-055-0115	12-31-02	Adopt(T)	2-1-03	141-040-0200	1-1-03	Amend	2-1-03
125-055-0120	12-31-02	Adopt(T)	2-1-03	141-040-0210	1-1-03	Repeal	2-1-03
125-055-0125	12-31-02	Adopt(T)	2-1-03	141-040-0211	1-1-03	Amend	2-1-03
125-055-0130	12-31-02	Adopt(T)	2-1-03	141-040-0212	1-1-03	Amend	2-1-03
125-500-0000	12-27-02	Amend	2-1-03	141-040-0214	1-1-03	Amend	2-1-03

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141-045-0005	1-1-03	Amend	2-1-03	141-085-0090	1-15-03	Amend	1-1-03
141-045-0010	1-1-03	Amend	2-1-03	141-085-0095	1-15-03	Adopt	1-1-03
141-045-0015	1-1-03	Adopt	2-1-03	141-085-0096	1-15-03	Adopt	1-1-03
141-045-0020	1-1-03	Repeal	2-1-03	141-085-0101	1-15-03	Repeal	1-1-03
141-045-0021	1-1-03	Adopt	2-1-03	141-085-0110	1-15-03	Repeal	1-1-03
141-045-0024	1-1-03	Repeal	2-1-03	141-085-0115	1-15-03	Amend	1-1-03
141-045-0031	1-1-03	Amend	2-1-03	141-085-0120	1-15-03	Repeal	1-1-03
141-045-0041	1-1-03	Amend	2-1-03	141-085-0121	1-15-03	Adopt	1-1-03
141-045-0061	1-1-03	Amend	2-1-03	141-085-0125	1-15-03	Repeal	1-1-03
141-045-0100	1-1-03	Amend	2-1-03	141-085-0126	1-15-03	Adopt	1-1-03
141-045-0105	1-1-03	Amend	2-1-03	141-085-0130	1-15-03	Repeal	1-1-03
141-045-0115	1-1-03	Amend	2-1-03	141-085-0131	1-15-03	Adopt	1-1-03
141-045-0120	1-1-03	Amend	2-1-03	141-085-0135	1-15-03	Repeal	1-1-03
141-045-0121	1-1-03	Adopt	2-1-03	141-085-0136	1-15-03	Adopt	1-1-03
141-045-0122	1-1-03	Adopt	2-1-03	141-085-0140	1-15-03	Repeal	1-1-03
141-045-0123	1-1-03	Adopt	2-1-03	141-085-0141	1-15-03	Adopt	1-1-03
141-045-0124	1-1-03	Adopt	2-1-03	141-085-0145	1-15-03	Repeal	1-1-03
141-045-0125	1-1-03	Amend	2-1-03	141-085-0146	1-15-03	Adopt	1-1-03
141-045-0126	1-1-03	Adopt	2-1-03	141-085-0150	1-15-03	Repeal	1-1-03
141-045-0130	1-1-03	Amend	2-1-03	141-085-0151	1-15-03	Adopt	1-1-03
141-045-0150	1-1-03	Amend	2-1-03	141-085-0155	1-15-03	Repeal	1-1-03
141-045-0155	1-1-03	Amend	2-1-03	141-085-0156	1-15-03	Adopt	1-1-03
141-045-0160	1-1-03	Amend	2-1-03	141-085-0160	1-15-03	Repeal	1-1-03
141-045-0170	1-1-03	Amend	2-1-03	141-085-0161	1-15-03	Adopt	1-1-03
141-045-0180	1-1-03	Amend	2-1-03	141-085-0165	1-15-03	Repeal	1-1-03
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
141-085-0064	1-15-03	Adopt	1-1-03	141-085-0306	1-15-03	Repeal	1-1-03
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
141-085-0070	1-15-03	Amend	1-1-03	141-085-0320	1-15-03	Repeal	1-1-03
141-085-0075	1-15-03	Amend	1-1-03	141-085-0325	1-15-03	Repeal	1-1-03
141-085-0079	1-15-03	Adopt	1-1-03	141-085-0330	1-15-03	Repeal	1-1-03
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141-085-0345	1-15-03	Repeal	1-1-03	141-089-0205	1-15-03	Adopt	1-1-03
141-085-0350	1-15-03	Repeal	1-1-03	141-089-0210	1-15-03	Adopt	1-1-03
141-085-0355	1-15-03	Repeal	1-1-03	141-089-0215	1-15-03	Adopt	1-1-03
141-085-0360	1-15-03	Repeal	1-1-03	141-089-0220	1-15-03	Adopt	1-1-03
141-085-0365	1-15-03	Repeal	1-1-03	141-089-0225	1-15-03	Adopt	1-1-03
141-085-0400	1-15-03	Amend	1-1-03	141-089-0230	1-15-03	Adopt	1-1-03
141-085-0406	1-15-03	Amend	1-1-03	141-089-0235	1-15-03	Adopt	1-1-03
141-085-0410	1-15-03	Amend	1-1-03	141-089-0240	1-15-03	Adopt	1-1-03
141-085-0415	1-15-03	Repeal	1-1-03	141-089-0245	1-15-03	Adopt	1-1-03
141-085-0421	1-15-03	Amend	1-1-03	141-089-0250	1-15-03	Adopt	1-1-03
141-085-0425	1-15-03	Amend	1-1-03	141-089-0255	1-15-03	Adopt	1-1-03
141-085-0430	1-15-03	Amend	1-1-03	141-089-0260	1-15-03	Adopt	1-1-03
141-085-0436	1-15-03	Amend	1-1-03	141-089-0265	1-15-03	Adopt	1-1-03
141-085-0440	1-15-03	Amend	1-1-03	141-089-0270	1-15-03	Adopt	1-1-03
141-085-0445	1-15-03	Amend	1-1-03	141-089-0275	1-15-03	Adopt	1-1-03
141-085-0610	1-15-03	Amend	1-1-03	141-089-0280	1-15-03	Adopt	1-1-03
141-085-0620	1-15-03	Amend	1-1-03	141-089-0285	1-15-03	Adopt	1-1-03
141-085-0630	1-15-03	Amend	1-1-03	141-089-0290	1-15-03	Adopt	1-1-03
141-085-0640	1-15-03	Amend	1-1-03	141-089-0295	1-15-03	Adopt	1-1-03
141-085-0650	1-15-03	Amend	1-1-03	141-089-0300	1-15-03	Adopt	1-1-03
141-085-0660	1-15-03	Amend	1-1-03	141-089-0305	1-15-03	Adopt	1-1-03
141-089-0005	1-15-03	Repeal	1-1-03	141-089-0310	1-15-03	Adopt	1-1-03
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
141-089-0100	1-15-03	Adopt	1-1-03	150-18.902(5)	12-31-02	Adopt	2-1-03
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
141-089-0115	1-15-03	Adopt	1-1-03	150-29.375	12-31-02	Repeal	2-1-03
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
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150-309.024-(B)	12-31-02	Repeal	2-1-03	177-010-0003	11-25-02	Adopt	1-1-03
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150-310.110	12-31-02	Amend	2-1-03	177-010-0040	11-25-02	Repeal	1-1-03
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150-314.280(3)	12-31-02	Adopt	2-1-03	177-010-0050	11-25-02	Amend	1-1-03
150-314.280-(N)	12-31-02	Amend	2-1-03	177-010-0055	11-25-02	Repeal	1-1-03
150-314.385(1)-(B)	12-31-02	Amend	2-1-03	177-010-0060	11-25-02	Repeal	1-1-03
150-314.525(1)-(A)	12-31-02	Amend	2-1-03	177-010-0065	11-25-02	Repeal	1-1-03
150-314.610(4)-(A)	12-31-02	Repeal	2-1-03	177-010-0070	11-25-02	Repeal	1-1-03
150-314.840	12-31-02	Amend	2-1-03	177-010-0080	11-25-02	Amend	1-1-03
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150-315.164	12-31-02	Amend	2-1-03	177-010-0096	11-25-02	Repeal	1-1-03
150-321.207(1)	12-31-02	Adopt	2-1-03	177-010-0100	11-25-02	Amend	1-1-03
150-323.140	12-31-02	Adopt	2-1-03	177-010-0110	11-25-02	Amend	1-1-03
150-323.160(2)	12-31-02	Adopt	2-1-03	177-010-0120	11-25-02	Amend	1-1-03
150-465.517(3)	12-20-02	Repeal	2-1-03	177-010-0300	11-25-02	Repeal	1-1-03
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166-475-0030	2-14-03	Amend	3-1-03	177-046-0050	11-25-02	Adopt	1-1-03
166-475-0035	2-14-03	Amend	3-1-03	177-046-0060	11-25-02	Adopt	1-1-03
166-475-0040	2-14-03	Amend	3-1-03	177-046-0070	11-25-02	Adopt	1-1-03
166-475-0045	2-14-03	Amend	3-1-03	177-046-0080	11-25-02	Adopt	1-1-03
166-475-0050	2-14-03	Amend	3-1-03	177-046-0090	11-25-02	Adopt	1-1-03
166-475-0055	2-14-03	Amend	3-1-03	177-046-0100	11-25-02	Adopt	1-1-03
166-475-0060	2-14-03	Amend	3-1-03	177-046-0110	11-25-02	Adopt	1-1-03
166-475-0065	2-14-03	Amend	3-1-03	177-046-0120	11-25-02	Adopt	1-1-03
166-475-0070	2-14-03	Amend	3-1-03	177-046-0130	11-25-02	Adopt	1-1-03
166-475-0075	2-14-03	Amend	3-1-03	177-046-0140	11-25-02	Adopt	1-1-03
166-475-0080	2-14-03	Amend	3-1-03	177-046-0150	11-25-02	Adopt	1-1-03
166-475-0085	2-14-03	Amend	3-1-03	177-046-0160	11-25-02	Adopt	1-1-03
166-475-0090	2-14-03	Amend	3-1-03	177-046-0170	11-25-02	Adopt	1-1-03
166-475-0095	2-14-03	Amend	3-1-03	177-050-0000	11-25-02	Repeal	1-1-03
166-475-0100	2-14-03	Amend	3-1-03	177-050-0002	11-25-02	Amend	1-1-03

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OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
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	177-085-0010	2-3-03	Amend	3-1-03
177-050-0025	11-25-02	Amend	1-1-03	177-085-0015	2-3-03	Amend	3-1-03
177-050-0027	11-25-02	Amend	1-1-03	177-085-0020	2-3-03	Amend	3-1-03
177-050-0037	11-25-02	Amend	1-1-03	177-085-0025	2-3-03	Amend	3-1-03
177-050-0045	11-25-02	Repeal	1-1-03	177-085-0030	2-3-03	Amend	3-1-03
177-050-0051	11-25-02	Repeal	1-1-03	177-085-0035	2-3-03	Amend	3-1-03
177-050-0055	11-25-02	Repeal	1-1-03	177-085-0040	2-3-03	Amend	3-1-03
177-050-0065	11-25-02	Repeal	1-1-03	177-085-0045	2-3-03	Amend	3-1-03
177-050-0075	11-25-02	Repeal	1-1-03	177-085-0050	2-3-03	Amend	3-1-03
177-065-0000	11-25-02	Repeal	1-1-03	177-085-0055	2-3-03	Repeal	3-1-03
177-065-0005	11-25-02	Amend	1-1-03	177-085-0065	2-3-03	Amend	3-1-03
177-065-0015	11-25-02	Amend	1-1-03	177-094-0000	11-25-02	Amend	1-1-03
177-065-0020	11-25-02	Amend	1-1-03	177-094-0010	11-25-02	Amend	1-1-03
177-065-0025	11-25-02	Amend	1-1-03	177-094-0020	11-25-02	Amend	1-1-03
177-065-0030	11-25-02	Amend	1-1-03	177-094-0030	11-25-02	Amend	1-1-03
177-065-0035	11-25-02	Amend	1-1-03	177-094-0035	11-25-02	Repeal	1-1-03
177-065-0040	11-25-02	Amend	1-1-03	177-094-0040	11-25-02	Amend	1-1-03
177-065-0045	11-25-02	Amend	1-1-03	177-094-0050	11-25-02	Amend	1-1-03
177-065-0055	11-25-02	Amend	1-1-03	177-094-0060	11-25-02	Amend	1-1-03
177-065-0065	11-25-02	Amend	1-1-03	177-094-0085	11-25-02	Amend	1-1-03
177-065-0075	11-25-02	Amend	1-1-03	177-094-0090	11-25-02	Repeal	1-1-03
177-065-0080	11-25-02	Amend	1-1-03	177-094-0095	11-25-02	Repeal	1-1-03
177-065-0100	11-25-02	Repeal	1-1-03	177-099-0000	11-25-02	Amend	1-1-03
177-070-0000	11-25-02	Repeal	1-1-03	177-099-0010	11-25-02	Amend	1-1-03
177-070-0005	11-25-02	Amend	1-1-03	177-099-0020	11-25-02	Amend	1-1-03
177-070-0010	11-25-02	Repeal	1-1-03	177-099-0030	11-25-02	Amend	1-1-03
177-070-0015	11-25-02	Repeal	1-1-03	177-099-0035	11-25-02	Repeal	1-1-03
177-070-0025	11-25-02	Amend	1-1-03	177-099-0040	11-25-02	Amend	1-1-03
177-070-0035	11-25-02	Amend	1-1-03	177-099-0050	11-25-02	Amend	1-1-03
177-070-0055	11-25-02	Repeal	1-1-03	177-099-0060	11-25-02	Amend	1-1-03
177-070-0060	11-25-02	Repeal	1-1-03	177-099-0080	11-25-02	Amend	1-1-03
177-070-0065	11-25-02	Repeal	1-1-03	177-099-0090	11-25-02	Amend	1-1-03
177-070-0070	11-25-02	Repeal	1-1-03	177-099-0100	11-25-02	Amend	1-1-03
177-070-0075	11-25-02	Repeal	1-1-03	177-099-0110	11-25-02	Repeal	1-1-03
177-070-0080	11-25-02	Amend	1-1-03	220-005-0010	1-1-03	Amend	1-1-03
177-075-0000	11-25-02	Amend	1-1-03	250-001-0020	1-14-03	Amend	2-1-03
177-075-0005	11-25-02	Amend	1-1-03	250-020-0380	1-14-03	Repeal	2-1-03
177-075-0010	11-25-02	Amend	1-1-03	259-008-0000	11-18-02	Amend	1-1-03
177-075-0015	11-25-02	Amend	1-1-03	259-008-0005	11-18-02	Amend	1-1-03
177-075-0020	11-25-02	Amend	1-1-03	259-008-0010	11-21-02	Amend	1-1-03
177-075-0027	11-25-02	Amend	1-1-03	259-008-0010	1-22-03	Amend	3-1-03
177-075-0030	11-25-02	Amend	1-1-03	259-008-0020	11-18-02	Amend	1-1-03
177-075-0035	11-25-02	Amend	1-1-03	259-008-0035	11-18-02	Amend	1-1-03
177-075-0045	11-25-02	Repeal	1-1-03	259-008-0060	11-21-02	Amend	1-1-03
177-075-0050	11-25-02	Repeal	1-1-03	259-008-0062	11-18-02	Repeal	1-1-03
177-081-0000	11-25-02	Amend	1-1-03	259-008-0063	11-18-02	Repeal	1-1-03
177-081-0010	11-25-02	Amend	1-1-03	259-008-0065	11-18-02	Amend	1-1-03
177-081-0020	11-25-02	Amend	1-1-03	259-008-0070	11-18-02	Amend	1-1-03
177-081-0030	11-25-02	Amend	1-1-03	259-008-0080	11-18-02	Amend	1-1-03
177-081-0035	11-25-02	Repeal	1-1-03	259-008-0085	11-18-02	Amend	1-1-03
177-081-0040	11-25-02	Amend	1-1-03	259-008-0087	11-18-02	Repeal	1-1-03
177-081-0050	11-25-02	Amend	1-1-03	259-009-0000	11-18-02	Adopt	1-1-03
177-081-0060	11-25-02	Amend	1-1-03	259-009-0005	11-18-02	Adopt	1-1-03

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259-009-0010	11-18-02	Adopt	1-1-03	291-203-0030	2-7-03	Adopt(T)	3-1-03
259-009-0020	11-18-02	Adopt	1-1-03	309-018-0120	3-10-03	Amend(T)	3-1-03
259-009-0025	11-18-02	Adopt	1-1-03	309-018-0130	3-10-03	Amend(T)	3-1-03
259-009-0030	11-18-02	Adopt	1-1-03	309-018-0180	3-10-03	Amend(T)	3-1-03
259-009-0035	11-18-02	Adopt	1-1-03	330-130-0030	1-10-03	Amend	2-1-03
259-009-0062	11-18-02	Adopt	1-1-03	330-130-0040	1-10-03	Amend	2-1-03
259-009-0063	11-18-02	Adopt	1-1-03	330-130-0050	1-10-03	Amend	2-1-03
259-009-0067	11-18-02	Adopt	1-1-03	330-130-0060	1-10-03	Amend	2-1-03
259-009-0070	11-18-02	Adopt	1-1-03	330-130-0080	1-10-03	Amend	2-1-03
259-009-0072	11-18-02	Adopt	1-1-03	331-400-0010	2-1-03	Amend	3-1-03
259-009-0080	11-18-02	Adopt	1-1-03	331-405-0020	2-1-03	Amend	3-1-03
259-009-0085	11-18-02	Adopt	1-1-03	331-410-0000	2-1-03	Amend	3-1-03
259-009-0087	11-18-02	Adopt	1-1-03	331-420-0000	2-1-03	Amend	3-1-03
259-009-0090	11-18-02	Adopt	1-1-03	331-420-0010	2-1-03	Amend	3-1-03
259-009-0100	11-18-02	Adopt	1-1-03	331-420-0020	2-1-03	Amend	3-1-03
259-020-0005	1-21-03	Amend	3-1-03	331-705-0060	1-1-03	Amend	2-1-03
259-020-0010	1-21-03	Amend	3-1-03	333-050-0010	12-13-02	Amend	1-1-03
259-020-0015	1-21-03	Amend	3-1-03	333-050-0020	12-13-02	Amend	1-1-03
259-020-0025	1-21-03	Amend	3-1-03	333-050-0030	12-13-02	Amend	1-1-03
259-025-0000	11-21-02	Amend	1-1-03	333-050-0040	12-13-02	Amend	1-1-03
259-060-0010	1-22-03	Amend	3-1-03	333-050-0050	12-13-02	Amend	1-1-03
259-060-0015	1-22-03	Amend	3-1-03	333-050-0060	12-13-02	Amend	1-1-03
259-060-0070	1-22-03	Amend	3-1-03	333-050-0080	12-13-02	Amend	1-1-03
259-060-0120	1-22-03	Amend	3-1-03	333-050-0090	12-13-02	Amend	1-1-03
259-060-0130	1-22-03	Amend	3-1-03	333-050-0100	12-13-02	Amend	1-1-03
259-060-0300	1-22-03	Amend	3-1-03	333-050-0130	12-13-02	Amend	1-1-03
259-060-0450	1-22-03	Amend	3-1-03	333-050-0140	12-13-02	Amend	1-1-03
274-020-0341	1-21-03	Amend(T)	3-1-03	333-054-0000	12-24-02	Amend	2-1-03
274-020-0341(T)	1-21-03	Suspend	3-1-03	333-054-0010	12-24-02	Amend	2-1-03
274-040-0030	1-1-03	Amend(T)	2-1-03	333-054-0020	12-24-02	Amend	2-1-03
291-019-0010	3-1-03	Am. & Ren.	3-1-03	333-054-0030	12-24-02	Amend	2-1-03
291-024-0005	2-5-03	Amend	3-1-03	333-054-0040	12-24-02	Amend	2-1-03
291-024-0010	2-5-03	Amend	3-1-03	333-054-0050	12-24-02	Amend	2-1-03
291-024-0015	2-5-03	Amend	3-1-03	333-054-0060	12-24-02	Amend	2-1-03
291-024-0016	2-5-03	Amend	3-1-03	333-054-0070	12-24-02	Amend	2-1-03
291-024-0017	2-5-03	Repeal	3-1-03	333-054-0090	12-24-02	Repeal	2-1-03
291-024-0020	2-5-03	Amend	3-1-03	333-157-0045	1-1-03	Amend	1-1-03
291-024-0025	2-5-03	Amend	3-1-03	333-162-1005	1-1-03	Adopt	1-1-03
291-024-0055	2-5-03	Amend	3-1-03	333-500-0010	12-10-02	Amend	1-1-03
291-024-0060	2-5-03	Amend	3-1-03	333-500-0050	12-10-02	Amend	1-1-03
291-024-0070	2-5-03	Am. & Ren.	3-1-03	333-500-0056	12-10-02	Adopt	1-1-03
291-024-0080	2-5-03	Amend	3-1-03	333-500-0057	12-10-02	Adopt	1-1-03
291-025-0065	2-5-03	Am. & Ren.	3-1-03	333-505-0005	12-10-02	Amend	1-1-03
291-109-0005	3-1-03	Repeal	3-1-03	333-510-0045	12-10-02	Amend	1-1-03
291-109-0015	3-1-03	Repeal	3-1-03	333-515-0060	12-10-02	Amend	1-1-03
291-109-0020	3-1-03	Repeal	3-1-03	333-536-0000	2-1-03	Adopt	1-1-03
291-109-0030	3-1-03	Repeal	3-1-03	333-536-0005	2-1-03	Adopt	1-1-03
291-109-0040	3-1-03	Repeal	3-1-03	333-536-0010	2-1-03	Adopt	1-1-03
291-109-0050	3-1-03	Repeal	3-1-03	333-536-0015	2-1-03	Adopt	1-1-03
291-109-0060	3-1-03	Repeal	3-1-03	333-536-0020	2-1-03	Adopt	1-1-03
291-109-0100	3-1-03	Adopt	3-1-03	333-536-0025	2-1-03	Adopt	1-1-03
291-109-0120	3-1-03	Adopt	3-1-03	333-536-0030	2-1-03	Adopt	1-1-03
291-109-0130	3-1-03	Adopt	3-1-03	333-536-0035	2-1-03	Adopt	1-1-03
291-109-0140	3-1-03	Adopt	3-1-03	333-536-0040	2-1-03	Adopt	1-1-03
291-203-0010	2-7-03	Adopt(T)	3-1-03	333-536-0045	2-1-03	Adopt	1-1-03
291-203-0020	2-7-03	Adopt(T)	3-1-03	333-536-0050	2-1-03	Adopt	1-1-03

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333-536-0055	2-1-03	Adopt	1-1-03	340-047-0210	1-31-03	Repeal	3-1-03
333-536-0060	2-1-03	Adopt	1-1-03	340-047-0220	1-31-03	Repeal	3-1-03
333-536-0065	2-1-03	Adopt	1-1-03	340-047-0230	1-31-03	Repeal	3-1-03
333-536-0070	2-1-03	Adopt	1-1-03	340-047-0240	1-31-03	Repeal	3-1-03
333-536-0075	2-1-03	Adopt	1-1-03	340-108-0001	1-31-03	Repeal	3-1-03
333-536-0080	2-1-03	Adopt	1-1-03	340-108-0002	1-31-03	Repeal	3-1-03
333-536-0085	2-1-03	Adopt	1-1-03	340-108-0010	1-31-03	Repeal	3-1-03
333-536-0090	2-1-03	Adopt	1-1-03	340-108-0020	1-31-03	Repeal	3-1-03
333-536-0095	2-1-03	Adopt	1-1-03	340-108-0030	1-31-03	Repeal	3-1-03
334-001-0060	1-24-03	Amend	3-1-03	340-108-0040	1-31-03	Repeal	3-1-03
334-010-0005	1-24-03	Amend	3-1-03	340-108-0050	1-31-03	Repeal	3-1-03
334-010-0010	1-24-03	Amend	3-1-03	340-108-0070	1-31-03	Repeal	3-1-03
334-010-0015	1-24-03	Amend	3-1-03	340-108-0080	1-31-03	Repeal	3-1-03
334-010-0016	1-24-03	Amend	3-1-03	340-122-0210	2-14-03	Amend	3-1-03
334-010-0017	1-24-03	Amend	3-1-03	340-141-0001	1-31-03	Adopt	3-1-03
334-010-0025	1-24-03	Amend	3-1-03	340-141-0005	1-31-03	Adopt	3-1-03
334-010-0033	1-24-03	Amend	3-1-03	340-141-0010	1-31-03	Adopt	3-1-03
334-010-0050	1-24-03	Amend	3-1-03	340-141-0100	1-31-03	Adopt	3-1-03
337-010-0030	11-18-02	Amend	1-1-03	340-141-0130	1-31-03	Adopt	3-1-03
337-010-0060	11-18-02	Amend	1-1-03	340-141-0140	1-31-03	Adopt	3-1-03
337-021-0040	11-18-02	Amend	1-1-03	340-141-0150	1-31-03	Adopt	3-1-03
337-021-0070	11-18-02	Adopt	1-1-03	340-141-0160	1-31-03	Adopt	3-1-03
337-021-0080	11-18-02	Adopt	1-1-03	340-141-0170	1-31-03	Adopt	3-1-03
340-012-0045	1-31-03	Amend	3-1-03	340-141-0180	1-31-03	Adopt	3-1-03
340-012-0049	1-31-03	Amend	3-1-03	340-141-0190	1-31-03	Adopt	3-1-03
340-012-0067	2-14-03	Amend	3-1-03	340-141-0200	1-31-03	Adopt	3-1-03
340-012-0069	1-31-03	Repeal	3-1-03	340-141-0210	1-31-03	Adopt	3-1-03
340-012-0081	1-31-03	Adopt	3-1-03	340-141-0220	1-31-03	Adopt	3-1-03
340-012-0082	1-31-03	Adopt	3-1-03	340-141-0230	1-31-03	Adopt	3-1-03
340-012-0083	1-31-03	Adopt	3-1-03	340-141-0240	1-31-03	Adopt	3-1-03
340-012-0090	1-31-03	Amend	3-1-03	340-142-0001	1-31-03	Adopt	3-1-03
340-042-0025	12-20-02	Adopt	2-1-03	340-142-0005	1-31-03	Adopt	3-1-03
340-042-0030	12-20-02	Adopt	2-1-03	340-142-0030	1-31-03	Adopt	3-1-03
340-042-0040	12-20-02	Adopt	2-1-03	340-142-0040	1-31-03	Adopt	3-1-03
340-042-0050	12-20-02	Adopt	2-1-03	340-142-0050	1-31-03	Adopt	3-1-03
340-042-0060	12-20-02	Adopt	2-1-03	340-142-0060	1-31-03	Adopt	3-1-03
340-042-0070	12-20-02	Adopt	2-1-03	340-142-0070	1-31-03	Adopt	3-1-03
340-042-0080	12-20-02	Adopt	2-1-03	340-142-0080	1-31-03	Adopt	3-1-03
340-047-0005	1-31-03	Repeal	3-1-03	340-142-0090	1-31-03	Adopt	3-1-03
340-047-0010	1-31-03	Repeal	3-1-03	340-142-0100	1-31-03	Adopt	3-1-03
340-047-0015	1-31-03	Repeal	3-1-03	340-142-0120	1-31-03	Adopt	3-1-03
340-047-0020	1-31-03	Repeal	3-1-03	340-142-0130	1-31-03	Adopt	3-1-03
340-047-0025	1-31-03	Repeal	3-1-03	340-150-0001	2-14-03	Amend	3-1-03
340-047-0035	1-31-03	Repeal	3-1-03	340-150-0002	2-14-03	Repeal	3-1-03
340-047-0040	1-31-03	Repeal	3-1-03	340-150-0003	2-14-03	Repeal	3-1-03
340-047-0100	1-31-03	Repeal	3-1-03	340-150-0006	2-14-03	Adopt	3-1-03
340-047-0110	1-31-03	Repeal	3-1-03	340-150-0008	2-14-03	Adopt	3-1-03
340-047-0120	1-31-03	Repeal	3-1-03	340-150-0010	2-14-03	Amend	3-1-03
340-047-0130	1-31-03	Repeal	3-1-03	340-150-0015	2-14-03	Repeal	3-1-03
340-047-0140	1-31-03	Repeal	3-1-03	340-150-0016	2-14-03	Repeal	3-1-03
340-047-0150	1-31-03	Repeal	3-1-03	340-150-0019	2-14-03	Repeal	3-1-03
340-047-0160	1-31-03	Repeal	3-1-03	340-150-0020	2-14-03	Amend	3-1-03
340-047-0170	1-31-03	Repeal	3-1-03	340-150-0021	2-14-03	Amend	3-1-03
340-047-0180	1-31-03	Repeal	3-1-03	340-150-0030	2-14-03	Repeal	3-1-03
340-047-0190	1-31-03	Repeal	3-1-03	340-150-0040	2-14-03	Repeal	3-1-03
340-047-0200	1-31-03	Repeal	3-1-03	340-150-0050	2-14-03	Repeal	3-1-03

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OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
340-150-0052	2-14-03	Adopt	3-1-03	340-151-0020	2-14-03	Adopt	3-1-03
340-150-0060	2-14-03	Repeal	3-1-03	340-151-0025	2-14-03	Adopt	3-1-03
340-150-0070	2-14-03	Repeal	3-1-03	340-160-0005	2-14-03	Amend	3-1-03
340-150-0080	2-14-03	Amend	3-1-03	340-160-0010	2-14-03	Amend	3-1-03
340-150-0090	2-14-03	Repeal	3-1-03	340-160-0020	2-14-03	Amend	3-1-03
340-150-0100	2-14-03	Repeal	3-1-03	340-160-0025	2-14-03	Amend	3-1-03
340-150-0102	2-14-03	Adopt	3-1-03	340-160-0030	2-14-03	Amend	3-1-03
340-150-0110	2-14-03	Amend	3-1-03	340-160-0035	2-14-03	Amend	3-1-03
340-150-0112	2-14-03	Repeal	3-1-03	340-160-0040	2-14-03	Amend	3-1-03
340-150-0115	2-14-03	Am. & Ren.	3-1-03	340-160-0054	2-14-03	Amend	3-1-03
340-150-0125	2-14-03	Am. & Ren.	3-1-03	340-160-0150	2-14-03	Amend	3-1-03
340-150-0130	2-14-03	Repeal	3-1-03	340-200-0040	2-6-03	Amend	3-1-03
340-150-0135	2-14-03	Adopt	3-1-03	340-230-0010	2-6-03	Amend	3-1-03
340-150-0140	2-14-03	Amend	3-1-03	340-230-0020	2-6-03	Amend	3-1-03
340-150-0150	2-14-03	Amend	3-1-03	340-230-0030	2-6-03	Amend	3-1-03
340-150-0152	2-14-03	Adopt	3-1-03	340-230-0120	2-6-03	Amend	3-1-03
340-150-0156	2-14-03	Adopt	3-1-03	340-230-0300	2-6-03	Amend	3-1-03
340-150-0160	2-14-03	Amend	3-1-03	340-230-0310	2-6-03	Amend	3-1-03
340-150-0163	2-14-03	Amend	3-1-03	340-230-0320	2-6-03	Amend	3-1-03
340-150-0166	2-14-03	Amend	3-1-03	340-230-0330	2-6-03	Amend	3-1-03
340-150-0167	2-14-03	Adopt	3-1-03	340-230-0340	2-6-03	Amend	3-1-03
340-150-0168	2-14-03	Adopt	3-1-03	340-230-0350	2-6-03	Amend	3-1-03
340-150-0180	2-14-03	Adopt	3-1-03	340-230-0360	2-6-03	Repeal	3-1-03
340-150-0200	2-14-03	Adopt	3-1-03	340-230-0365	2-6-03	Adopt	3-1-03
340-150-0250	2-14-03	Adopt	3-1-03	340-230-0370	2-6-03	Adopt	3-1-03
340-150-0300	2-14-03	Adopt	3-1-03	340-230-0373	2-6-03	Adopt	3-1-03
340-150-0302	2-14-03	Adopt	3-1-03	340-230-0375	2-6-03	Adopt	3-1-03
340-150-0310	2-14-03	Adopt	3-1-03	340-230-0377	2-6-03	Adopt	3-1-03
340-150-0320	2-14-03	Adopt	3-1-03	340-230-0380	2-6-03	Adopt	3-1-03
340-150-0325	2-14-03	Adopt	3-1-03	340-230-0383	2-6-03	Adopt	3-1-03
340-150-0350	2-14-03	Adopt	3-1-03	340-230-0385	2-6-03	Adopt	3-1-03
340-150-0352	2-14-03	Adopt	3-1-03	340-230-0387	2-6-03	Adopt	3-1-03
340-150-0354	2-14-03	Adopt	3-1-03	340-230-0390	2-6-03	Adopt	3-1-03
340-150-0360	2-14-03	Adopt	3-1-03	340-230-0395	2-6-03	Adopt	3-1-03
340-150-0400	2-14-03	Adopt	3-1-03	340-238-0040	2-6-03	Amend	3-1-03
340-150-0410	2-14-03	Adopt	3-1-03	340-238-0050	2-6-03	Amend	3-1-03
340-150-0420	2-14-03	Adopt	3-1-03	340-238-0060	2-6-03	Amend	3-1-03
340-150-0430	2-14-03	Adopt	3-1-03	340-244-0200	2-6-03	Amend	3-1-03
340-150-0435	2-14-03	Adopt	3-1-03	340-244-0210	2-6-03	Amend	3-1-03
340-150-0440	2-14-03	Adopt	3-1-03	340-244-0220	2-6-03	Amend	3-1-03
340-150-0445	2-14-03	Adopt	3-1-03	340-244-0230	2-6-03	Amend	3-1-03
340-150-0450	2-14-03	Adopt	3-1-03	340-248-0010	12-23-02	Amend	2-1-03
340-150-0455	2-14-03	Adopt	3-1-03	340-248-0100	12-23-02	Amend	2-1-03
340-150-0460	2-14-03	Adopt	3-1-03	340-248-0120	12-23-02	Amend	2-1-03
340-150-0465	2-14-03	Adopt	3-1-03	340-248-0130	12-23-02	Amend	2-1-03
340-150-0470	2-14-03	Adopt	3-1-03	340-248-0140	12-23-02	Amend	2-1-03
340-150-0500	2-14-03	Adopt	3-1-03	340-248-0150	12-23-02	Amend	2-1-03
340-150-0510	2-14-03	Adopt	3-1-03	340-248-0180	12-23-02	Amend	2-1-03
340-150-0520	2-14-03	Adopt	3-1-03	340-248-0205	12-23-02	Amend	2-1-03
340-150-0540	2-14-03	Adopt	3-1-03	340-248-0210	12-23-02	Amend	2-1-03
340-150-0550	2-14-03	Adopt	3-1-03	340-248-0220	12-23-02	Amend	2-1-03
340-150-0555	2-14-03	Adopt	3-1-03	340-248-0240	12-23-02	Amend	2-1-03
340-150-0560	2-14-03	Adopt	3-1-03	340-248-0250	12-23-02	Amend	2-1-03
340-151-0001	2-14-03	Adopt	3-1-03	340-248-0260	12-23-02	Amend	2-1-03
340-151-0010	2-14-03	Adopt	3-1-03	340-248-0270	12-23-02	Amend	2-1-03
340-151-0015	2-14-03	Adopt	3-1-03	340-248-0275	12-23-02	Amend	2-1-03

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340-248-0290	12-23-02	Amend	2-1-03	410-127-0080	2-1-03	Amend	3-1-03
345-026-0390	12-3-02	Amend	1-1-03	410-127-0120	1-1-03	Amend	2-1-03
410-001-0030	11-22-02	Adopt	1-1-03	410-129-0120	1-1-03	Amend	2-1-03
410-120-0000	2-1-03	Amend	3-1-03	410-129-0140	1-1-03	Amend	2-1-03
410-120-1190	2-1-03	Adopt	3-1-03	410-129-0190	1-1-03	Adopt	2-1-03
410-120-1200	2-1-03	Amend	3-1-03	410-129-0195	2-1-03	Adopt	3-1-03
410-120-1230	1-1-03	Adopt	2-1-03	410-129-0260	2-1-03	Amend	3-1-03
410-120-1235	2-1-03	Adopt	3-1-03	410-130-0010	1-1-03	Amend	2-1-03
410-120-1280	1-1-03	Amend	2-1-03	410-130-0040	1-1-03	Amend	2-1-03
410-120-1280	2-1-03	Amend	3-1-03	410-130-0960	1-1-03	Adopt	2-1-03
410-120-1340	2-1-03	Amend	3-1-03	410-130-0965	2-1-03	Adopt	3-1-03
410-121-0000	2-1-03	Amend	3-1-03	410-131-0220	1-1-03	Amend	2-1-03
410-121-0146	1-1-03	Amend	2-1-03	410-131-0240	1-1-03	Amend	2-1-03
410-121-0153	2-1-03	Adopt	3-1-03	410-131-0270	1-1-03	Adopt	2-1-03
410-121-0154	1-1-03	Adopt	2-1-03	410-131-0275	2-1-03	Adopt	3-1-03
410-121-0157	2-14-03	Amend(T)	3-1-03	410-132-0050	1-1-03	Adopt	2-1-03
410-121-0157(T)	2-14-03	Suspend	3-1-03	410-132-0055	2-1-03	Adopt	3-1-03
410-121-0300	12-1-02	Amend(T)	1-1-03	410-132-0140	1-1-03	Amend	2-1-03
410-121-0300(T)	12-1-02	Suspend	1-1-03	410-136-0045	2-1-03	Adopt	3-1-03
410-121-0320	2-14-03	Amend(T)	3-1-03	410-140-0060	1-1-03	Amend	2-1-03
410-121-0320(T)	2-14-03	Suspend	3-1-03	410-140-0110	1-1-03	Adopt	2-1-03
410-122-0020	12-24-02	Amend(T)	2-1-03	410-140-0115	2-1-03	Adopt	3-1-03
410-122-0701	2-1-03	Adopt	3-1-03	410-141-0000	2-1-03	Amend	3-1-03
410-123-1085	1-1-03	Adopt	2-1-03	410-141-0080	2-1-03	Amend	3-1-03
410-123-1085	2-1-03	Amend	3-1-03	410-141-0420	2-1-03	Amend	3-1-03
410-123-1220	2-1-03	Amend	3-1-03	410-141-0480	1-1-03	Amend	2-1-03
410-123-1240	1-1-03	Amend	2-1-03	410-141-0500	1-1-03	Amend	2-1-03
410-123-1260	2-1-03	Amend	3-1-03	410-141-0500	2-1-03	Amend	3-1-03
410-123-1280	2-1-03	Repeal	3-1-03	410-141-0520	1-1-03	Amend	2-1-03
410-123-1290	2-1-03	Repeal	3-1-03	410-141-0520(T)	1-1-03	Repeal	2-1-03
410-123-1300	2-1-03	Repeal	3-1-03	410-142-0080	2-1-03	Amend	3-1-03
410-123-1310	2-1-03	Repeal	3-1-03	410-142-0100	2-1-03	Amend	3-1-03
410-123-1320	2-1-03	Repeal	3-1-03	410-142-0200	2-1-03	Amend	3-1-03
410-123-1330	2-1-03	Repeal	3-1-03	410-142-0240	2-1-03	Amend	3-1-03
410-123-1340	2-1-03	Repeal	3-1-03	410-142-0320	2-1-03	Amend	3-1-03
410-123-1360	2-1-03	Repeal	3-1-03	410-146-0075	1-1-03	Adopt	2-1-03
410-123-1380	2-1-03	Repeal	3-1-03	410-146-0075	2-1-03	Amend	3-1-03
410-123-1400	2-1-03	Repeal	3-1-03	410-146-0080	2-1-03	Amend	3-1-03
410-123-1420	2-1-03	Repeal	3-1-03	410-146-0320	1-1-03	Amend	2-1-03
410-123-1440	2-1-03	Repeal	3-1-03	410-147-0085	1-1-03	Adopt	2-1-03
410-123-1460	2-1-03	Repeal	3-1-03	410-147-0085	2-1-03	Amend	3-1-03
410-123-1480	2-1-03	Repeal	3-1-03	410-147-0120	2-1-03	Amend	3-1-03
410-123-1500	2-1-03	Repeal	3-1-03	410-147-0600	1-1-03	Amend	2-1-03
410-124-0000	2-1-03	Amend	3-1-03	410-148-0090	2-1-03	Adopt	3-1-03
410-124-0020	2-1-03	Amend	3-1-03	410-148-0095	1-1-03	Adopt	2-1-03
410-124-0040	2-1-03	Amend	3-1-03	410-148-0100	2-1-03	Amend	3-1-03
410-124-0140	2-1-03	Amend	3-1-03	410-148-0180	1-1-03	Amend	2-1-03
410-124-0160	2-1-03	Amend	3-1-03	410-148-0200	1-1-03	Amend	2-1-03
410-125-0050	1-1-03	Adopt	2-1-03	410-149-0000	2-1-03	Adopt	3-1-03
410-125-0055	2-1-03	Adopt	3-1-03	410-149-0020	2-1-03	Adopt	3-1-03
410-125-0680	1-1-03	Amend	2-1-03	410-149-0040	2-1-03	Adopt	3-1-03
410-125-0700	1-1-03	Amend	2-1-03	410-149-0060	2-1-03	Adopt	3-1-03
410-127-0000	2-1-03	Amend	3-1-03	410-149-0080	2-1-03	Adopt	3-1-03
410-127-0020	2-1-03	Amend	3-1-03	411-015-0000	12-6-02	Amend(T)	1-1-03
410-127-0050	1-1-03	Adopt	2-1-03	411-015-0005	12-6-02	Amend(T)	1-1-03

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411-015-0015	12-6-02	Amend(T)	1-1-03	413-020-0200	1-7-03	Amend	2-1-03
411-015-0015	2-1-03	Amend	2-1-03	413-020-0210	1-7-03	Amend	2-1-03
411-015-0015	2-18-03	Amend(T)	3-1-03	413-020-0220	1-7-03	Amend	2-1-03
411-015-0015(T)	2-18-03	Suspend	3-1-03	413-020-0230	1-7-03	Amend	2-1-03
411-015-0100	12-6-02	Amend(T)	1-1-03	413-020-0240	1-7-03	Amend	2-1-03
411-015-0100	2-1-03	Amend	2-1-03	413-020-0250	1-7-03	Amend	2-1-03
411-030-0040	2-1-03	Amend(T)	3-1-03	413-020-0260	1-7-03	Amend	2-1-03
411-030-0080	2-1-03	Amend(T)	3-1-03	413-020-0270	1-7-03	Amend	2-1-03
411-300-0100	12-28-02	Adopt	2-1-03	413-020-0275	1-23-03	Adopt(T)	3-1-03
411-300-0110	12-28-02	Adopt	2-1-03	413-020-0280	1-23-03	Adopt(T)	3-1-03
411-300-0120	12-28-02	Adopt	2-1-03	413-020-0285	1-23-03	Adopt(T)	3-1-03
411-300-0130	12-28-02	Adopt	2-1-03	413-020-0335	1-23-03	Amend(T)	3-1-03
411-300-0140	12-28-02	Adopt	2-1-03	413-020-0335(T)	1-23-03	Suspend	3-1-03
411-300-0150	12-28-02	Adopt	2-1-03	413-020-0345	1-23-03	Adopt(T)	3-1-03
411-300-0160	12-28-02	Adopt	2-1-03	413-020-0395	1-23-03	Amend(T)	3-1-03
411-300-0170	12-28-02	Adopt	2-1-03	413-020-0395(T)	1-23-03	Suspend	3-1-03
411-300-0180	12-28-02	Adopt	2-1-03	413-030-0200	1-7-03	Amend	2-1-03
411-300-0190	12-28-02	Adopt	2-1-03	413-030-0205	1-7-03	Adopt	2-1-03
411-300-0200	12-28-02	Adopt	2-1-03	413-030-0210	1-7-03	Amend	2-1-03
411-300-0210	12-28-02	Adopt	2-1-03	413-030-0220	1-7-03	Amend	2-1-03
411-300-0220	12-28-02	Adopt	2-1-03	413-040-0400	1-7-03	Amend	2-1-03
413-010-0700	1-7-03	Amend	2-1-03	413-040-0410	1-7-03	Amend	2-1-03
413-010-0705	1-7-03	Amend	2-1-03	413-040-0420	1-7-03	Amend	2-1-03
413-010-0712	1-7-03	Amend	2-1-03	413-040-0430	1-7-03	Amend	2-1-03
413-010-0714	1-7-03	Amend	2-1-03	413-040-0440	1-7-03	Amend	2-1-03
413-010-0715	1-7-03	Amend	2-1-03	413-040-0450	1-7-03	Amend	2-1-03
413-010-0716	1-7-03	Amend	2-1-03	413-050-0000	1-7-03	Amend	2-1-03
413-010-0717	1-7-03	Amend	2-1-03	413-050-0005	1-7-03	Adopt	2-1-03
413-010-0718	1-7-03	Amend	2-1-03	413-050-0010	1-7-03	Amend	2-1-03
413-010-0719	1-7-03	Amend	2-1-03	413-050-0020	1-7-03	Amend	2-1-03
413-010-0720	1-7-03	Amend	2-1-03	413-050-0030	1-7-03	Amend	2-1-03
413-010-0721	1-7-03	Amend	2-1-03	413-050-0040	1-7-03	Amend	2-1-03
413-010-0722	1-7-03	Amend	2-1-03	413-050-0050	1-7-03	Amend	2-1-03
413-010-0723	1-7-03	Amend	2-1-03	413-050-0200	12-19-02	Amend(T)	2-1-03
413-010-0732	1-7-03	Amend	2-1-03	413-050-0210	12-19-02	Amend(T)	2-1-03
413-010-0735	1-7-03	Amend	2-1-03	413-050-0220	12-19-02	Amend(T)	2-1-03
413-010-0738	1-7-03	Amend	2-1-03	413-050-0230	12-19-02	Amend(T)	2-1-03
413-010-0740	1-7-03	Amend	2-1-03	413-050-0240	12-19-02	Amend(T)	2-1-03
413-010-0743	1-7-03	Amend	2-1-03	413-050-0250	12-19-02	Amend(T)	2-1-03
413-010-0745	1-7-03	Amend	2-1-03	413-050-0260	12-19-02	Amend(T)	2-1-03
413-010-0746	1-7-03	Amend	2-1-03	413-050-0261	12-19-02	Adopt(T)	2-1-03
413-010-0750	1-7-03	Amend	2-1-03	413-050-0270	12-19-02	Amend(T)	2-1-03
413-020-0000	1-7-03	Amend	2-1-03	413-050-0280	12-19-02	Amend(T)	2-1-03
413-020-0005	1-7-03	Amend	2-1-03	413-050-0290	12-19-02	Amend(T)	2-1-03
413-020-0010	1-7-03	Amend	2-1-03	413-050-0300	12-19-02	Amend(T)	2-1-03
413-020-0020	1-7-03	Amend	2-1-03	413-050-0301	12-19-02	Adopt(T)	2-1-03
413-020-0040	1-7-03	Amend	2-1-03	413-050-0430	1-9-03	Amend	2-1-03
413-020-0050	1-7-03	Amend	2-1-03	413-050-0440	1-9-03	Amend	2-1-03
413-020-0100	1-9-03	Amend	2-1-03	413-050-0500	1-7-03	Amend	2-1-03
413-020-0110	1-9-03	Amend	2-1-03	413-050-0510	1-7-03	Amend	2-1-03
413-020-0120	1-9-03	Amend	2-1-03	413-050-0515	1-7-03	Amend	2-1-03
413-020-0130	1-9-03	Amend	2-1-03	413-050-0530	1-7-03	Amend	2-1-03
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413-020-0150	1-9-03	Amend	2-1-03	413-050-0540	1-7-03	Amend	2-1-03
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413-050-0560	1-7-03	Amend	2-1-03	414-600-0040	11-24-02	Adopt	1-1-03
413-050-0565	1-7-03	Amend	2-1-03	414-600-0050	11-24-02	Adopt	1-1-03
413-050-0575	1-7-03	Amend	2-1-03	414-600-0060	11-24-02	Adopt	1-1-03
413-050-0580	1-7-03	Amend	2-1-03	414-600-0070	11-24-02	Adopt	1-1-03
413-050-0585	1-7-03	Amend	2-1-03	414-600-0080	11-24-02	Adopt	1-1-03
413-070-0905	1-9-03	Amend	2-1-03	414-600-0090	11-24-02	Adopt	1-1-03
413-070-0915	1-9-03	Amend	2-1-03	414-600-0100	11-24-02	Adopt	1-1-03
413-070-0920	1-9-03	Amend	2-1-03	416-430-0050	1-16-03	Amend	3-1-03
413-070-0930	1-9-03	Amend	2-1-03	436-035-0001	2-1-03	Amend	2-1-03
413-070-0940	1-9-03	Amend	2-1-03	436-035-0003	2-1-03	Amend	2-1-03
413-070-0945	1-9-03	Amend	2-1-03	436-035-0005	2-1-03	Amend	2-1-03
413-070-0945	1-23-03	Amend(T)	3-1-03	436-035-0007	2-1-03	Amend	2-1-03
413-070-0950	1-9-03	Amend	2-1-03	436-035-0010	2-1-03	Amend	2-1-03
413-070-0980	1-23-03	Adopt(T)	3-1-03	436-035-0030	2-1-03	Amend	2-1-03
413-070-0981	2-1-03	Adopt(T)	3-1-03	436-035-0040	2-1-03	Amend	2-1-03
413-080-0000	1-7-03	Amend	2-1-03	436-035-0050	2-1-03	Amend	2-1-03
413-080-0010	1-7-03	Amend	2-1-03	436-035-0060	2-1-03	Amend	2-1-03
413-080-0020	1-7-03	Amend	2-1-03	436-035-0070	2-1-03	Amend	2-1-03
413-080-0030	1-7-03	Amend	2-1-03	436-035-0075	2-1-03	Amend	2-1-03
413-080-0200	1-9-03	Amend	2-1-03	436-035-0080	2-1-03	Amend	2-1-03
413-080-0205	1-9-03	Adopt	2-1-03	436-035-0100	2-1-03	Amend	2-1-03
413-080-0210	1-9-03	Amend	2-1-03	436-035-0110	2-1-03	Amend	2-1-03
413-080-0240	1-9-03	Amend	2-1-03	436-035-0150	2-1-03	Amend	2-1-03
413-080-0250	1-9-03	Amend	2-1-03	436-035-0160	2-1-03	Amend	2-1-03
413-080-0260	1-9-03	Amend	2-1-03	436-035-0170	2-1-03	Amend	2-1-03
413-080-0270	1-9-03	Amend	2-1-03	436-035-0190	2-1-03	Amend	2-1-03
413-090-0000	1-7-03	Amend	2-1-03	436-035-0200	2-1-03	Amend	2-1-03
413-090-0005	1-7-03	Amend	2-1-03	436-035-0220	2-1-03	Amend	2-1-03
413-090-0010	1-7-03	Amend	2-1-03	436-035-0230	2-1-03	Amend	2-1-03
413-090-0010	2-1-03	Amend(T)	3-1-03	436-035-0250	2-1-03	Amend	2-1-03
413-090-0030	1-7-03	Amend	2-1-03	436-035-0260	2-1-03	Amend	2-1-03
413-090-0040	1-7-03	Amend	2-1-03	436-035-0270	2-1-03	Amend	2-1-03
413-090-0050	1-7-03	Amend	2-1-03	436-035-0280	2-1-03	Amend	2-1-03
413-090-0160	2-1-03	Amend(T)	3-1-03	436-035-0300	2-1-03	Amend	2-1-03
413-090-0300	1-7-03	Amend	2-1-03	436-035-0310	2-1-03	Amend	2-1-03
413-090-0310	1-7-03	Amend	2-1-03	436-035-0320	2-1-03	Amend	2-1-03
413-090-0320	1-7-03	Amend	2-1-03	436-035-0330	2-1-03	Amend	2-1-03
413-090-0330	1-7-03	Amend	2-1-03	436-035-0340	2-1-03	Amend	2-1-03
413-090-0340	1-7-03	Amend	2-1-03	436-035-0360	2-1-03	Amend	2-1-03
413-090-0355	1-7-03	Amend	2-1-03	436-035-0370	2-1-03	Amend	2-1-03
413-090-0365	1-7-03	Amend	2-1-03	436-035-0390	2-1-03	Amend	2-1-03
413-090-0370	1-7-03	Amend	2-1-03	436-035-0395	2-1-03	Amend	2-1-03
413-090-0380	1-7-03	Amend	2-1-03	436-035-0420	2-1-03	Amend	2-1-03
413-090-0400	1-7-03	Amend	2-1-03	436-035-0430	2-1-03	Amend	2-1-03
413-090-0405	1-7-03	Adopt	2-1-03	436-035-0440	2-1-03	Amend	2-1-03
413-090-0410	1-7-03	Amend	2-1-03	436-035-0500	1-15-03	Amend(T)	2-1-03
413-090-0420	1-7-03	Amend	2-1-03	436-035-0500	2-1-03	Amend	2-1-03
413-090-0430	1-7-03	Amend	2-1-03	436-105-0003	12-11-02	Amend(T)	1-1-03
413-130-0120	2-1-03	Amend	3-1-03	436-105-0500	12-11-02	Amend(T)	1-1-03
413-130-0125	2-1-03	Adopt	3-1-03	436-105-0510	12-11-02	Amend(T)	1-1-03
413-130-0126	2-1-03	Adopt(T)	3-1-03	437-002-0223	1-30-03	Amend	3-1-03
413-200-0371	12-19-02	Amend(T)	2-1-03	437-003-0001	1-30-03	Amend	3-1-03
414-600-0000	11-24-02	Adopt	1-1-03	437-003-0001	4-30-03	Amend	3-1-03
414-600-0010	11-24-02	Adopt	1-1-03	437-003-0017	4-30-03	Adopt	3-1-03
414-600-0020	11-24-02	Adopt	1-1-03	437-003-0420	1-30-03	Amend	3-1-03

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442-004-0010	12-6-02	Amend(T)	1-1-03	461-155-0235	2-1-03	Amend	3-1-03
459-009-0350	1-15-03	Adopt	2-1-03	461-155-0250	1-1-03	Amend	2-1-03
459-035-0000	11-18-02	Amend	1-1-03	461-155-0270	1-1-03	Amend	2-1-03
459-035-0001	11-18-02	Amend	1-1-03	461-155-0295	1-1-03	Amend	2-1-03
459-035-0010	11-18-02	Amend	1-1-03	461-155-0295	1-1-03	Amend(T)	1-1-03
459-035-0020	11-18-02	Amend	1-1-03	461-155-0295(T)	1-1-03	Repeal	2-1-03
459-035-0030	11-18-02	Amend	1-1-03	461-155-0300	1-1-03	Amend	2-1-03
459-035-0040	11-18-02	Amend	1-1-03	461-155-0360	2-1-03	Amend	3-1-03
459-035-0050	11-18-02	Amend	1-1-03	461-155-0680	1-1-03	Amend	2-1-03
459-035-0070	11-18-02	Amend	1-1-03	461-160-0010	2-1-03	Amend	3-1-03
459-035-0080	11-18-02	Amend	1-1-03	461-160-0015	2-1-03	Amend	3-1-03
459-035-0090	11-18-02	Amend	1-1-03	461-160-0580	1-1-03	Amend	2-1-03
459-035-0200	11-18-02	Amend	1-1-03	461-160-0620	1-1-03	Amend	2-1-03
459-035-0210	11-18-02	Repeal	1-1-03	461-160-0700	2-1-03	Amend	3-1-03
459-035-0220	11-18-02	Adopt	1-1-03	461-160-0810	1-1-03	Amend	2-1-03
461-006-0452	1-1-03	Amend	2-1-03	461-165-0030	2-1-03	Amend	3-1-03
461-025-0310	1-1-03	Amend(T)	2-1-03	461-165-0180	1-1-03	Amend	2-1-03
461-025-0315	1-1-03	Amend	2-1-03	461-170-0015	1-1-03	Amend(T)	2-1-03
461-025-0315	1-1-03	Amend(T)	2-1-03	461-170-0020	1-1-03	Amend(T)	2-1-03
461-101-0010	2-1-03	Amend	3-1-03	461-170-0030	1-1-03	Amend(T)	2-1-03
461-110-0110	2-1-03	Amend	3-1-03	461-170-0035	2-1-03	Amend	3-1-03
461-110-0115	1-1-03	Amend	2-1-03	461-175-0010	1-1-03	Amend(T)	2-1-03
461-110-0750	2-1-03	Amend	3-1-03	461-180-0097	2-1-03	Amend	3-1-03
461-115-0530	2-1-03	Amend	3-1-03	461-180-0100	2-1-03	Amend	3-1-03
461-115-0705	2-1-03	Amend	3-1-03	461-193-0560	1-1-03	Amend(T)	2-1-03
461-120-0120	1-1-03	Amend	2-1-03	461-193-0560	2-14-03	Amend(T)	3-1-03
461-120-0210	2-1-03	Amend	3-1-03	461-193-0560(T)	2-14-03	Suspend	3-1-03
461-120-0345	2-1-03	Amend	3-1-03	461-195-0521	1-1-03	Amend	2-1-03
461-125-0600	1-1-03	Amend	2-1-03	461-200-1070	1-1-03	Adopt	2-1-03
461-135-0010	2-1-03	Amend	3-1-03	462-110-0010	1-1-03	Amend	1-1-03
461-135-0301	1-1-03	Adopt(T)	2-1-03	462-110-0020	1-1-03	Amend	1-1-03
461-135-0401	1-1-03	Adopt	2-1-03	462-120-0020	1-1-03	Amend	1-1-03
461-135-0401(T)	1-1-03	Repeal	2-1-03	462-120-0040	1-1-03	Amend	1-1-03
461-135-0505	2-7-03	Amend(T)	3-1-03	462-120-0050	1-1-03	Amend	1-1-03
461-135-0701	12-30-02	Adopt(T)	2-1-03	462-120-0100	1-1-03	Amend	1-1-03
461-135-0721	1-1-03	Adopt(T)	2-1-03	462-130-0010	1-1-03	Amend	1-1-03
461-135-0730	1-1-03	Amend	2-1-03	462-130-0050	1-1-03	Amend	1-1-03
461-135-0730	1-1-03	Amend(T)	1-1-03	462-140-0030	1-1-03	Amend	1-1-03
461-135-0730(T)	1-1-03	Repeal	2-1-03	462-140-0040	1-1-03	Amend	1-1-03
461-135-0900	1-1-03	Amend	2-1-03	462-140-0100	1-1-03	Amend	1-1-03
461-135-0990	2-1-03	Amend	3-1-03	462-140-0130	1-1-03	Amend	1-1-03
461-135-1070	2-1-03	Amend	3-1-03	462-140-0250	1-1-03	Amend	1-1-03
461-135-1100	2-1-03	Amend	3-1-03	462-140-0370	1-1-03	Amend	1-1-03
461-135-1110	2-1-03	Amend	3-1-03	462-150-0010	1-1-03	Amend	1-1-03
461-135-1120	2-1-03	Amend	3-1-03	462-150-0050	1-1-03	Amend	1-1-03
461-135-1130	2-1-03	Amend	3-1-03	462-150-0070	1-1-03	Amend	1-1-03
461-135-1180	2-1-03	Adopt	3-1-03	462-150-0080	1-1-03	Amend	1-1-03
461-145-0255	1-1-03	Amend	2-1-03	462-160-0010	1-1-03	Amend	1-1-03
461-145-0540	11-19-02	Amend(T)	1-1-03	462-160-0020	1-1-03	Amend	1-1-03
461-150-0055	2-1-03	Amend	3-1-03	462-160-0030	1-1-03	Amend	1-1-03
461-155-0035	1-1-03	Amend(T)	2-1-03	471-010-0040	2-9-03	Amend	3-1-03
461-155-0150	1-1-03	Amend(T)	2-1-03	471-010-0054	12-1-02	Amend(T)	1-1-03
461-155-0150	2-7-03	Amend(T)	3-1-03	471-020-0035	2-16-03	Adopt	3-1-03
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471-030-0050	2-9-03	Amend	3-1-03	603-054-0017	1-7-03	Amend	2-1-03
471-030-0076	2-9-03	Amend	3-1-03	603-054-0018	1-7-03	Amend	2-1-03
471-030-0080	11-24-02	Amend	1-1-03	603-054-0020	1-7-03	Adopt	2-1-03
471-031-0010	2-9-03	Amend	3-1-03	603-054-0024	1-7-03	Adopt	2-1-03
471-031-0035	2-9-03	Amend	3-1-03	603-054-0030	1-7-03	Amend	2-1-03
471-031-0040	2-9-03	Amend	3-1-03	603-054-0080	1-7-03	Adopt	2-1-03
471-031-0055	2-9-03	Amend	3-1-03	603-056-0165	1-14-03	Amend	2-1-03
471-031-0075	2-9-03	Amend	3-1-03	603-057-0410	12-4-02	Amend(T)	1-1-03
471-031-0095	2-9-03	Amend	3-1-03	603-059-0055	1-1-03	Adopt	1-1-03
543-040-0040	12-16-02	Amend(T)	1-1-03	603-059-0070	1-1-03	Adopt	1-1-03
573-070-0011	12-30-02	Amend	2-1-03	603-059-0080	1-1-03	Adopt	1-1-03
584-017-0170	1-13-03	Amend	2-1-03	603-059-0100	1-1-03	Adopt	1-1-03
584-036-0055	1-13-03	Amend	2-1-03	603-095-0200	1-7-03	Amend	2-1-03
584-060-0061	1-13-03	Amend	2-1-03	603-095-0220	1-7-03	Amend	2-1-03
584-065-0050	1-13-03	Adopt	2-1-03	603-095-0240	1-7-03	Amend	2-1-03
589-001-0000	1-9-03	Amend	2-1-03	603-095-0280	1-7-03	Amend	2-1-03
589-002-0100	12-16-02	Amend(T)	2-1-03	603-095-0600	1-7-03	Amend	2-1-03
589-002-0200	1-9-03	Amend	2-1-03	603-095-0640	1-7-03	Amend	2-1-03
589-002-0300	1-9-03	Amend	2-1-03	603-095-0660	1-7-03	Amend	2-1-03
589-002-0400	1-9-03	Repeal	2-1-03	603-095-2000	1-7-03	Adopt	2-1-03
589-002-0500	1-9-03	Amend	2-1-03	603-095-2020	1-7-03	Adopt	2-1-03
589-002-0600	1-9-03	Amend	2-1-03	603-095-2040	1-7-03	Adopt	2-1-03
589-002-0700	1-9-03	Amend	2-1-03	603-095-2060	1-7-03	Adopt	2-1-03
589-002-0800	1-9-03	Amend	2-1-03	603-095-2300	1-7-03	Adopt	2-1-03
589-003-0100	1-9-03	Amend	2-1-03	603-095-2320	1-7-03	Adopt	2-1-03
589-005-0100	1-9-03	Amend	2-1-03	603-095-2340	1-7-03	Adopt	2-1-03
589-005-0200	1-9-03	Amend	2-1-03	603-095-2360	1-7-03	Adopt	2-1-03
589-005-0300	1-9-03	Amend	2-1-03	603-095-2400	1-7-03	Adopt	2-1-03
589-005-0400	1-9-03	Amend	2-1-03	603-095-2420	1-7-03	Adopt	2-1-03
589-005-0500	1-9-03	Amend	2-1-03	603-095-2440	1-7-03	Adopt	2-1-03
589-006-0050	1-9-03	Adopt	2-1-03	603-095-2460	1-7-03	Adopt	2-1-03
589-006-0100	1-9-03	Amend	2-1-03	603-105-0010	12-23-02	Adopt	2-1-03
589-006-0150	1-9-03	Adopt	2-1-03	621-001-0005	2-1-03	Adopt	2-1-03
589-006-0200	1-9-03	Amend	2-1-03	621-001-0010	2-1-03	Adopt	2-1-03
589-006-0300	1-9-03	Amend	2-1-03	622-001-0000	1-16-03	Amend	2-1-03
589-006-0350	1-9-03	Adopt	2-1-03	622-001-0005	1-16-03	Amend	2-1-03
589-006-0400	1-9-03	Amend	2-1-03	622-001-0010	1-16-03	Repeal	2-1-03
589-007-0200	1-9-03	Amend	2-1-03	622-010-0000	1-16-03	Amend	2-1-03
589-007-0300	1-9-03	Amend	2-1-03	622-010-0006	1-16-03	Amend	2-1-03
589-008-0100	1-9-03	Amend	2-1-03	622-010-0011	1-16-03	Amend	2-1-03
589-008-0200	1-9-03	Amend	2-1-03	622-020-0001	1-16-03	Amend	2-1-03
589-009-0100	1-9-03	Amend	2-1-03	622-020-0140	1-16-03	Amend	2-1-03
589-020-0270	12-4-02	Adopt(T)	1-1-03	622-020-0141	1-16-03	Amend	2-1-03
603-001-0005	1-7-03	Amend	2-1-03	622-020-0142	1-16-03	Amend	2-1-03
603-011-0376	1-17-03	Adopt(T)	3-1-03	622-020-0144	1-16-03	Amend	2-1-03
603-014-0095	1-15-03	Amend	2-1-03	622-020-0145	1-16-03	Amend	2-1-03
603-025-0010	1-1-03	Amend	2-1-03	622-020-0147	1-16-03	Amend	2-1-03
603-025-0020	1-1-03	Amend	2-1-03	622-020-0149	1-16-03	Amend	2-1-03
603-025-0030	1-1-03	Amend	2-1-03	622-020-0151	1-16-03	Repeal	2-1-03
603-025-0180	1-1-03	Amend	2-1-03	622-020-0153	1-16-03	Amend	2-1-03
603-025-0190	1-1-03	Amend	2-1-03	622-030-0005	1-16-03	Amend	2-1-03
603-025-0220	1-1-03	Repeal	2-1-03	622-030-0010	1-16-03	Amend	2-1-03
603-052-1150	1-14-03	Adopt	2-1-03	622-045-0000	1-16-03	Amend	2-1-03
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622-045-0019	1-16-03	Amend	2-1-03	635-004-0025	1-1-03	Amend	2-1-03
622-050-0000	1-16-03	Repeal	2-1-03	635-004-0027	2-10-03	Amend(T)	3-1-03
622-050-0010	1-16-03	Repeal	2-1-03	635-004-0029	1-1-03	Amend	2-1-03
622-050-0020	1-16-03	Repeal	2-1-03	635-004-0033	1-1-03	Amend	2-1-03
622-050-0030	1-16-03	Repeal	2-1-03	635-004-0050	1-1-03	Amend	2-1-03
622-050-0040	1-16-03	Repeal	2-1-03	635-005-0045	11-20-02	Amend(T)	1-1-03
622-050-0050	1-16-03	Repeal	2-1-03	635-005-0045	11-25-02	Amend(T)	1-1-03
622-050-0060	1-16-03	Repeal	2-1-03	635-005-0045	12-6-02	Amend(T)	1-1-03
622-055-0003	1-16-03	Adopt	2-1-03	635-005-0045(T)	12-6-02	Suspend	1-1-03
622-055-0005	1-16-03	Amend	2-1-03	635-006-0232	2-1-03	Amend	3-1-03
622-055-0010	1-16-03	Adopt	2-1-03	635-006-0850	1-1-03	Amend	2-1-03
622-055-0015	1-16-03	Adopt	2-1-03	635-006-1010	2-10-03	Amend(T)	3-1-03
622-055-0020	1-16-03	Adopt	2-1-03	635-006-1035	2-10-03	Amend(T)	3-1-03
622-055-0025	1-16-03	Adopt	2-1-03	635-006-1085	2-10-03	Amend(T)	3-1-03
622-065-0001	1-16-03	Amend	2-1-03	635-007-0501	11-22-02	Amend	1-1-03
622-065-0002	1-16-03	Amend	2-1-03	635-007-0502	11-22-02	Adopt	1-1-03
622-065-0003	1-16-03	Amend	2-1-03	635-007-0503	11-22-02	Adopt	1-1-03
622-065-0004	1-16-03	Repeal	2-1-03	635-007-0504	11-22-02	Adopt	1-1-03
622-065-0010	1-16-03	Amend	2-1-03	635-007-0505	11-22-02	Adopt	1-1-03
622-065-0011	1-16-03	Amend	2-1-03	635-007-0506	11-22-02	Adopt	1-1-03
622-065-0012	1-16-03	Repeal	2-1-03	635-011-0101	1-1-03	Amend	1-1-03
629-600-0100	1-1-03	Amend	1-1-03	635-013-0003	1-1-03	Amend	1-1-03
629-606-0200	1-1-03	Amend	1-1-03	635-013-0004	1-1-03	Amend	1-1-03
629-606-0600	1-1-03	Amend	1-1-03	635-014-0080	1-1-03	Amend	1-1-03
629-623-0000	1-1-03	Adopt	1-1-03	635-014-0090	1-1-03	Amend	1-1-03
629-623-0100	1-1-03	Adopt	1-1-03	635-016-0080	1-1-03	Amend	1-1-03
629-623-0200	1-1-03	Adopt	1-1-03	635-016-0090	1-1-03	Amend	1-1-03
629-623-0250	1-1-03	Adopt	1-1-03	635-017-0080	1-1-03	Amend	1-1-03
629-623-0300	1-1-03	Adopt	1-1-03	635-017-0090	1-1-03	Amend	1-1-03
629-623-0400	1-1-03	Adopt	1-1-03	635-018-0080	1-1-03	Amend	1-1-03
629-623-0450	1-1-03	Adopt	1-1-03	635-018-0090	1-1-03	Amend	1-1-03
629-623-0500	1-1-03	Adopt	1-1-03	635-019-0080	1-1-03	Amend	1-1-03
629-623-0550	1-1-03	Adopt	1-1-03	635-019-0090	1-1-03	Amend	1-1-03
629-623-0600	1-1-03	Adopt	1-1-03	635-021-0080	1-1-03	Amend	1-1-03
629-623-0700	1-1-03	Adopt	1-1-03	635-021-0090	1-1-03	Amend	1-1-03
629-623-0800	1-1-03	Adopt	1-1-03	635-021-0100	1-1-03	Repeal	1-1-03
629-625-0100	1-1-03	Amend	1-1-03	635-023-0080	1-1-03	Amend	1-1-03
629-625-0200	1-1-03	Amend	1-1-03	635-023-0090	1-1-03	Amend	1-1-03
629-625-0310	1-1-03	Amend	1-1-03	635-023-0090	2-14-03	Amend	3-1-03
629-625-0330	1-1-03	Amend	1-1-03	635-039-0080	1-1-03	Amend	1-1-03
629-625-0600	1-1-03	Amend	1-1-03	635-039-0090	1-1-03	Amend	1-1-03
629-625-0700	1-1-03	Adopt	1-1-03	635-041-0065	12-19-02	Amend(T)	2-1-03
629-630-0100	1-1-03	Amend	1-1-03	635-042-0020	2-14-03	Amend	3-1-03
629-630-0150	1-1-03	Adopt	1-1-03	635-042-0110	2-14-03	Amend	3-1-03
629-630-0500	1-1-03	Amend	1-1-03	635-042-0130	12-19-02	Amend(T)	2-1-03
629-630-0500	1-29-03	Amend(T)	3-1-03	635-042-0135	12-19-02	Amend(T)	2-1-03
632-007-0000	1-1-03	Adopt	2-1-03	635-042-0135	1-28-03	Amend(T)	3-1-03
632-007-0000	1-1-03	Suspend	2-1-03	635-042-0135	2-3-03	Amend(T)	3-1-03
632-007-0010	1-1-03	Adopt	2-1-03	635-042-0145	2-14-03	Amend	3-1-03
632-007-0010	1-1-03	Suspend	2-1-03	635-042-0160	2-14-03	Amend	3-1-03
632-007-0020	1-1-03	Adopt	2-1-03	635-042-0170	2-14-03	Amend	3-1-03
632-007-0020	1-1-03	Suspend	2-1-03	635-043-0056	1-14-03	Adopt(T)	2-1-03
632-007-0030	1-1-03	Adopt	2-1-03	635-045-0000	1-17-02	Amend	3-1-03
632-007-0030	1-1-03	Suspend	2-1-03	635-045-0002	1-17-02	Amend	3-1-03
635-004-0005	1-1-03	Amend	2-1-03	635-060-0000	1-17-02	Amend	3-1-03

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635-065-0001	1-17-02	Amend	3-1-03	731-010-0030	1-16-03	Amend(T)	3-1-03
635-065-0001	1-28-03	Amend(T)	3-1-03	734-070-0020	12-13-02	Adopt	1-1-03
635-065-0015	1-17-02	Amend	3-1-03	734-070-0020(T)	12-13-02	Repeal	1-1-03
635-065-0090	1-17-02	Amend	3-1-03	734-071-0010	12-13-02	Amend	1-1-03
635-065-0101	1-17-02	Amend	3-1-03	735-010-0045	11-18-02	Amend	1-1-03
635-065-0301	1-17-02	Amend	3-1-03	735-050-0110	1-1-03	Amend	1-1-03
635-065-0401	1-17-02	Amend	3-1-03	735-050-0115	1-1-03	Adopt	1-1-03
635-065-0625	1-17-02	Amend	3-1-03	735-050-0120	1-1-03	Amend	1-1-03
635-065-0625	1-28-03	Amend(T)	3-1-03	735-062-0135	2-13-03	Adopt	3-1-03
635-065-0735	1-17-02	Amend	3-1-03	735-074-0005	1-1-03	Adopt	1-1-03
635-065-0740	1-17-02	Amend	3-1-03	735-074-0010	1-1-03	Amend	1-1-03
635-065-0760	7-1-03	Amend	3-1-03	735-074-0020	1-1-03	Amend	1-1-03
635-065-0765	1-17-02	Amend	3-1-03	735-090-0000	11-18-02	Amend	1-1-03
635-066-0000	1-17-02	Amend	3-1-03	735-090-0010	11-18-02	Repeal	1-1-03
635-066-0020	1-17-02	Amend	3-1-03	735-090-0020	11-18-02	Amend	1-1-03
635-067-0000	1-17-02	Amend	3-1-03	735-090-0030	11-18-02	Repeal	1-1-03
635-067-0004	1-17-02	Amend	3-1-03	735-090-0040	11-18-02	Amend	1-1-03
635-067-0015	1-17-02	Amend	3-1-03	735-090-0050	11-18-02	Repeal	1-1-03
635-067-0032	1-17-02	Amend	3-1-03	735-090-0060	11-18-02	Repeal	1-1-03
635-067-0034	1-17-02	Amend	3-1-03	735-090-0070	11-18-02	Repeal	1-1-03
635-067-0040	1-17-02	Amend	3-1-03	735-090-0080	11-18-02	Repeal	1-1-03
635-068-0000	1-20-03	Amend	3-1-03	735-090-0090	11-18-02	Repeal	1-1-03
635-069-0000	2-1-03	Amend	3-1-03	735-090-0100	11-18-02	Repeal	1-1-03
635-069-0010	1-17-02	Amend	3-1-03	735-090-0110	11-18-02	Amend	1-1-03
635-070-0000	1-17-02	Amend	3-1-03	735-150-0060	11-18-02	Amend	1-1-03
635-070-0000	1-28-03	Amend(T)	3-1-03	736-100-0000	2-1-03	Adopt	3-1-03
635-071-0000	1-17-02	Amend	3-1-03	736-100-0010	2-1-03	Adopt	3-1-03
635-071-0000	1-28-03	Amend(T)	3-1-03	736-100-0020	2-1-03	Adopt	3-1-03
635-071-0030	1-17-02	Amend	3-1-03	736-100-0030	2-1-03	Adopt	3-1-03
635-072-0000	1-17-02	Amend	3-1-03	736-100-0040	2-1-03	Adopt	3-1-03
635-073-0000	1-20-03	Amend	3-1-03	736-100-0050	2-1-03	Adopt	3-1-03
635-073-0001	1-17-02	Amend	3-1-03	736-100-0060	2-1-03	Adopt	3-1-03
635-073-0070	1-17-02	Amend	3-1-03	736-100-0070	2-1-03	Adopt	3-1-03
635-073-0080	1-17-02	Amend	3-1-03	736-100-0080	2-1-03	Adopt	3-1-03
635-073-0090	1-17-02	Amend	3-1-03	738-001-0035	12-1-02	Amend	1-1-03
635-075-0020	4-1-03	Amend	3-1-03	738-010-0025	12-1-02	Amend	1-1-03
635-078-0008	1-17-02	Amend	3-1-03	738-020-0020	12-1-02	Amend	1-1-03
635-080-0070	1-17-02	Amend	3-1-03	738-020-0025	12-1-02	Amend	1-1-03
635-160-0000	2-14-03	Amend	3-1-03	738-020-0030	12-1-02	Amend	1-1-03
635-160-0010	2-14-03	Amend	3-1-03	738-020-0040	12-1-02	Amend	1-1-03
635-160-0020	2-14-03	Amend	3-1-03	738-020-0045	12-1-02	Amend	1-1-03
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635-190-0020	2-14-03	Amend	3-1-03	738-040-0010	12-1-02	Amend	1-1-03
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644-001-0010	1-6-03	Repeal	2-1-03	738-050-0060	12-1-02	Amend	1-1-03
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660-026-0010	1-17-03	Adopt	3-1-03	738-060-0050	12-1-02	Amend	1-1-03
660-026-0020	1-17-03	Adopt	3-1-03	738-070-0010	12-1-02	Amend	1-1-03
660-026-0030	1-17-03	Adopt	3-1-03	738-070-0020	12-1-02	Amend	1-1-03
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738-070-0070	12-1-02	Amend	1-1-03	806-010-0145	1-15-03	Amend	2-1-03
738-070-0080	12-1-02	Amend	1-1-03	808-001-0000	2-1-03	Amend	3-1-03
738-070-0100	12-1-02	Amend	1-1-03	808-001-0005	2-1-03	Amend	3-1-03
738-070-0160	12-1-02	Amend	1-1-03	808-001-0020	12-4-02	Amend	1-1-03
738-070-0170	12-1-02	Amend	1-1-03	808-001-0020	2-1-03	Amend	3-1-03
738-070-0180	12-1-02	Amend	1-1-03	808-001-0030	12-4-02	Amend	1-1-03
738-070-0210	12-1-02	Amend	1-1-03	808-001-0040	2-1-03	Repeal	3-1-03
738-070-0230	12-1-02	Amend	1-1-03	808-002-0220	12-4-02	Amend	1-1-03
738-080-0030	12-1-02	Amend	1-1-03	808-002-0290	12-4-02	Adopt	1-1-03
738-090-0030	12-1-02	Amend	1-1-03	808-002-0670	12-4-02	Amend	1-1-03
738-090-0040	12-1-02	Amend	1-1-03	808-002-0670	12-4-02	Renumber	1-1-03
738-090-0050	12-1-02	Amend	1-1-03	808-002-0680	12-4-02	Amend	1-1-03
738-100-0010	12-1-02	Amend	1-1-03	808-003-0015	2-1-03	Amend	3-1-03
738-100-0035	12-1-02	Amend	1-1-03	808-003-0020	2-1-03	Amend	3-1-03
740-035-0200	11-18-02	Amend	1-1-03	808-003-0025	12-4-02	Amend	1-1-03
740-035-0210	11-18-02	Repeal	1-1-03	808-003-0035	2-1-03	Amend	3-1-03
740-035-0220	11-18-02	Repeal	1-1-03	808-003-0040	2-1-03	Amend	3-1-03
740-035-0230	11-18-02	Repeal	1-1-03	808-003-0045	2-1-03	Amend	3-1-03
740-035-0240	11-18-02	Repeal	1-1-03	808-003-0055	12-4-02	Amend	1-1-03
740-035-0250	11-18-02	Amend	1-1-03	808-003-0060	2-1-03	Amend	3-1-03
740-035-0260	11-18-02	Amend	1-1-03	808-003-0065	2-1-03	Amend	3-1-03
740-055-0120	2-13-03	Amend	3-1-03	808-003-0070	12-4-02	Amend	1-1-03
740-200-0010	11-18-02	Amend	1-1-03	808-003-0075	12-4-02	Amend	1-1-03
740-200-0020	11-18-02	Amend	1-1-03	808-003-0081	12-4-02	Adopt	1-1-03
740-200-0040	11-18-02	Adopt	1-1-03	808-003-0085	12-4-02	Adopt	1-1-03
801-001-0000	1-1-03	Amend	2-1-03	808-003-0095	2-1-03	Amend	3-1-03
801-001-0005	1-1-03	Amend	2-1-03	808-003-0100	12-4-02	Amend	1-1-03
801-001-0010	1-1-03	Amend	2-1-03	808-003-0105	2-1-03	Amend	3-1-03
801-001-0020	1-1-03	Amend	2-1-03	808-003-0130	2-1-03	Amend	3-1-03
801-001-0030	1-1-03	Adopt	2-1-03	808-004-0120	12-4-02	Adopt	1-1-03
801-005-0010	1-1-03	Amend	2-1-03	808-004-0180	12-4-02	Amend	1-1-03
801-010-0010	1-1-03	Amend	2-1-03	808-004-0200	12-4-02	Am. & Ren.	1-1-03
801-010-0045	1-1-03	Amend	2-1-03	808-004-0250	12-4-02	Amend	1-1-03
801-010-0050	1-1-03	Amend	2-1-03	808-004-0260	12-4-02	Adopt	1-1-03
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801-010-0065	1-1-03	Amend	2-1-03	808-004-0340	12-4-02	Amend	1-1-03
801-010-0075	1-1-03	Amend	2-1-03	808-004-0440	12-4-02	Amend	1-1-03
801-010-0078	1-1-03	Amend	2-1-03	808-004-0440	2-1-03	Amend	3-1-03
801-010-0079	1-1-03	Amend	2-1-03	808-004-0450	12-4-02	Adopt	1-1-03
801-010-0080	1-1-03	Amend	2-1-03	808-004-0460	12-4-02	Amend	1-1-03
801-010-0085	1-1-03	Amend	2-1-03	808-004-0480	12-4-02	Amend	1-1-03
801-010-0100	1-1-03	Amend	2-1-03	808-004-0500	12-4-02	Amend	1-1-03
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801-010-0340	1-1-03	Amend	2-1-03	808-004-0550	12-4-02	Amend	1-1-03
801-020-0620	1-1-03	Amend	2-1-03	808-004-0560	12-4-02	Amend	1-1-03
801-020-0690	1-1-03	Amend	2-1-03	808-004-0560	2-1-03	Amend	3-1-03
801-020-0710	1-1-03	Amend	2-1-03	808-004-0580	12-4-02	Am. & Ren.	1-1-03
801-020-0720	1-1-03	Amend	2-1-03	808-004-0590	2-1-03	Adopt	3-1-03
801-030-0020	1-1-03	Amend	2-1-03	808-004-0600	12-4-02	Amend	1-1-03
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801-040-0050	1-1-03	Amend	2-1-03	808-008-0020	2-1-03	Amend	3-1-03
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808-008-0080	2-1-03	Amend	3-1-03	813-008-0015	12-5-02	Amend	1-1-03
808-008-0085	2-1-03	Adopt	3-1-03	813-008-0020	12-5-02	Amend	1-1-03
808-008-0090	2-1-03	Adopt	3-1-03	813-008-0025	12-5-02	Amend	1-1-03
808-008-0100	2-1-03	Amend	3-1-03	813-008-0030	12-5-02	Amend	1-1-03
808-008-0110	2-1-03	Amend	3-1-03	813-008-0040	12-5-02	Adopt	1-1-03
808-008-0120	2-1-03	Amend	3-1-03	813-047-0001	11-20-02	Amend(T)	1-1-03
808-008-0140	2-1-03	Amend	3-1-03	813-047-0005	11-20-02	Amend(T)	1-1-03
808-008-0160	2-1-03	Amend	3-1-03	813-047-0006	11-20-02	Adopt(T)	1-1-03
808-008-0180	2-1-03	Amend	3-1-03	813-047-0010	11-20-02	Amend(T)	1-1-03
808-008-0220	2-1-03	Amend	3-1-03	813-047-0015	11-20-02	Amend(T)	1-1-03
808-008-0300	2-1-03	Amend	3-1-03	813-047-0020	11-20-02	Amend(T)	1-1-03
808-008-0400	2-1-03	Amend	3-1-03	813-047-0025	11-20-02	Amend(T)	1-1-03
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808-008-0425	2-1-03	Adopt	3-1-03	813-140-0000(T)	11-25-02	Repeal	1-1-03
808-008-0430	2-1-03	Adopt	3-1-03	813-140-0010	11-25-02	Adopt	1-1-03
808-008-0440	2-1-03	Amend	3-1-03	813-140-0010(T)	11-25-02	Repeal	1-1-03
808-008-0460	2-1-03	Amend	3-1-03	813-140-0020	11-25-02	Adopt	1-1-03
808-008-0480	2-1-03	Amend	3-1-03	813-140-0020(T)	11-25-02	Repeal	1-1-03
808-009-0020	12-4-02	Amend	1-1-03	813-140-0030	11-25-02	Adopt	1-1-03
808-009-0020	2-1-03	Amend	3-1-03	813-140-0030(T)	11-25-02	Repeal	1-1-03
808-009-0070	12-4-02	Amend	1-1-03	813-140-0040	11-25-02	Adopt	1-1-03
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808-009-0140	12-18-02	Amend	2-1-03	813-140-0050(T)	11-25-02	Repeal	1-1-03
808-009-0160	12-4-02	Amend	1-1-03	813-140-0060	11-25-02	Adopt	1-1-03
808-009-0160	2-1-03	Amend	3-1-03	813-140-0060(T)	11-25-02	Repeal	1-1-03
808-009-0200	2-1-03	Adopt	3-1-03	813-140-0070	11-25-02	Adopt	1-1-03
808-009-0220	12-4-02	Amend	1-1-03	813-140-0070(T)	11-25-02	Repeal	1-1-03
808-009-0400	12-4-02	Amend	1-1-03	813-140-0080	11-25-02	Adopt	1-1-03
808-009-0400	2-1-03	Amend	3-1-03	813-140-0080(T)	11-25-02	Repeal	1-1-03
808-009-0420	12-4-02	Amend	1-1-03	813-140-0090	11-25-02	Adopt	1-1-03
808-009-0420	2-1-03	Amend	3-1-03	813-140-0090(T)	11-25-02	Repeal	1-1-03
808-009-0430	12-4-02	Adopt	1-1-03	813-140-0100	11-25-02	Adopt	1-1-03
808-009-0440	12-4-02	Amend	1-1-03	813-140-0100(T)	11-25-02	Repeal	1-1-03
809-050-0030	12-2-02	Suspend	1-1-03	813-140-0110	11-25-02	Adopt	1-1-03
812-001-0020	12-23-02	Amend	2-1-03	813-140-0110(T)	11-25-02	Repeal	1-1-03
812-004-0360	11-20-02	Amend	1-1-03	813-200-0000	11-20-02	Am. & Ren.(T)	1-1-03
812-004-0540	11-20-02	Amend	1-1-03	813-200-0001	11-20-02	Adopt(T)	1-1-03
812-004-0560	11-20-02	Amend	1-1-03	813-200-0010	11-20-02	Amend(T)	1-1-03
812-004-0560(T)	11-20-02	Repeal	1-1-03	813-200-0020	11-20-02	Amend(T)	1-1-03
812-008-0072	11-20-02	Amend	1-1-03	813-200-0030	11-20-02	Amend(T)	1-1-03
812-008-0110	1-14-03	Amend(T)	2-1-03	813-200-0040	11-20-02	Amend(T)	1-1-03
812-009-0020	11-20-02	Amend	1-1-03	813-200-0050	11-20-02	Amend(T)	1-1-03
812-009-0160	11-20-02	Amend	1-1-03	813-200-0060	11-20-02	Amend(T)	1-1-03
812-010-0100	11-20-02	Amend	1-1-03	813-205-0000	12-13-02	Adopt	1-1-03
812-010-0100(T)	11-20-02	Repeal	1-1-03	813-205-0000(T)	12-13-02	Repeal	1-1-03
812-010-0110	11-20-02	Amend	1-1-03	813-205-0010	12-13-02	Adopt	1-1-03
812-010-0110(T)	11-20-02	Repeal	1-1-03	813-205-0010(T)	12-13-02	Repeal	1-1-03
812-010-0120	11-20-02	Amend	1-1-03	813-205-0020	12-13-02	Adopt	1-1-03
812-010-0120(T)	11-20-02	Repeal	1-1-03	813-205-0020(T)	12-13-02	Repeal	1-1-03
812-010-0220	11-20-02	Amend	1-1-03	813-205-0030	12-13-02	Adopt	1-1-03
812-010-0420	11-20-02	Amend	1-1-03	813-205-0030(T)	12-13-02	Repeal	1-1-03
812-010-0440	11-20-02	Amend	1-1-03	813-205-0040	12-13-02	Adopt	1-1-03
812-010-0440(T)	11-20-02	Repeal	1-1-03	813-205-0040(T)	12-13-02	Repeal	1-1-03
813-008-0005	12-5-02	Amend	1-1-03	813-205-0050	12-13-02	Adopt	1-1-03

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813-205-0051	12-13-02	Adopt	1-1-03	836-011-0510	11-27-02	Adopt	1-1-03
813-205-0060	12-13-02	Adopt	1-1-03	836-011-0515	11-27-02	Adopt	1-1-03
813-205-0060(T)	12-13-02	Repeal	1-1-03	836-011-0520	11-27-02	Adopt	1-1-03
813-205-0070	12-13-02	Adopt	1-1-03	836-011-0525	11-27-02	Adopt	1-1-03
813-205-0070(T)	12-13-02	Repeal	1-1-03	836-011-0530	11-27-02	Adopt	1-1-03
813-205-0080	12-13-02	Adopt	1-1-03	836-011-0535	11-27-02	Adopt	1-1-03
813-205-0080(T)	12-13-02	Repeal	1-1-03	836-011-0540	11-27-02	Adopt	1-1-03
813-205-0090	12-13-02	Adopt	1-1-03	836-011-0545	11-27-02	Adopt	1-1-03
813-205-0090(T)	12-13-02	Repeal	1-1-03	836-011-0550	11-27-02	Adopt	1-1-03
813-280-0000	12-13-02	Adopt	1-1-03	836-012-0000	11-27-02	Amend	1-1-03
813-280-0000(T)	12-13-02	Repeal	1-1-03	836-012-0011	11-27-02	Amend	1-1-03
813-280-0010	12-13-02	Adopt	1-1-03	836-012-0021	11-27-02	Amend	1-1-03
813-280-0010(T)	12-13-02	Repeal	1-1-03	836-012-0031	11-27-02	Amend	1-1-03
813-280-0020	12-13-02	Adopt	1-1-03	836-012-0041	11-27-02	Amend	1-1-03
813-280-0020(T)	12-13-02	Repeal	1-1-03	836-012-0051	11-27-02	Amend	1-1-03
813-280-0030	12-13-02	Adopt	1-1-03	836-012-0060	11-27-02	Amend	1-1-03
813-280-0030(T)	12-13-02	Repeal	1-1-03	836-012-0070	11-27-02	Amend	1-1-03
813-280-0040	12-13-02	Adopt	1-1-03	836-012-0080	11-27-02	Amend	1-1-03
813-280-0040(T)	12-13-02	Repeal	1-1-03	836-012-0090	11-27-02	Amend	1-1-03
813-280-0050	12-13-02	Adopt	1-1-03	836-012-0100	11-27-02	Amend	1-1-03
813-280-0050(T)	12-13-02	Repeal	1-1-03	836-020-0900	11-27-02	Am. & Ren.	1-1-03
813-280-0060	12-13-02	Adopt	1-1-03	836-043-0024	1-17-03	Amend	3-1-03
813-280-0060(T)	12-13-02	Repeal	1-1-03	836-043-0044	1-17-03	Amend	3-1-03
813-280-0070	12-13-02	Adopt	1-1-03	836-052-0142	12-13-02	Amend	1-1-03
813-280-0070(T)	12-13-02	Repeal	1-1-03	836-053-0021	11-27-02	Amend	1-1-03
820-010-0200	1-28-03	Amend	3-1-03	836-053-0430	11-27-02	Amend	1-1-03
820-010-0305	12-3-02	Amend	1-1-03	836-053-0440	11-27-02	Amend	1-1-03
820-010-0635	1-28-03	Amend	3-1-03	836-054-0300	11-27-02	Amend	1-1-03
820-040-0040	1-28-03	Adopt	3-1-03	836-080-0425	6-1-03	Adopt	2-1-03
833-020-0015	12-16-02	Amend(T)	1-1-03	836-080-0430	6-1-03	Adopt	2-1-03
833-020-0040	12-16-02	Amend(T)	1-1-03	836-080-0432	6-1-03	Adopt	2-1-03
833-020-0060	12-16-02	Amend(T)	1-1-03	836-080-0435	6-1-03	Adopt	2-1-03
833-020-0090	12-16-02	Amend(T)	1-1-03	836-080-0440	6-1-03	Adopt	2-1-03
833-020-0111	12-16-02	Amend(T)	1-1-03	837-012-0021	2-10-03	Repeal	3-1-03
833-020-0130	12-16-02	Suspend	1-1-03	837-012-0610	2-10-03	Amend	3-1-03
833-025-0001	12-16-02	Amend(T)	1-1-03	837-012-0615	2-10-03	Amend	3-1-03
833-025-0005	12-16-02	Amend(T)	1-1-03	837-012-0630	2-10-03	Amend	3-1-03
833-025-0006	12-16-02	Amend(T)	1-1-03	837-012-0635	2-10-03	Amend	3-1-03
833-040-0001	12-16-02	Amend(T)	1-1-03	837-012-0645	2-10-03	Amend	3-1-03
833-040-0010	12-16-02	Amend(T)	1-1-03	837-012-0720	2-10-03	Amend	3-1-03
836-011-0100	11-27-02	Amend	1-1-03	837-012-0740	2-10-03	Amend	3-1-03
836-011-0110	11-27-02	Amend	1-1-03	837-012-0760	2-10-03	Amend	3-1-03
836-011-0120	11-27-02	Amend	1-1-03	837-012-0780	2-10-03	Amend	3-1-03
836-011-0130	11-27-02	Amend	1-1-03	837-012-0790	2-10-03	Amend	3-1-03
836-011-0140	11-27-02	Amend	1-1-03	837-012-0810	2-10-03	Amend	3-1-03
836-011-0150	11-27-02	Amend	1-1-03	837-012-0820	2-10-03	Amend	3-1-03
836-011-0160	11-27-02	Amend	1-1-03	837-012-0830	2-10-03	Amend	3-1-03
836-011-0170	11-27-02	Amend	1-1-03	837-012-0835	2-10-03	Amend	3-1-03
836-011-0180	11-27-02	Amend	1-1-03	837-012-0860	2-10-03	Amend	3-1-03
836-011-0190	11-27-02	Amend	1-1-03	837-012-0865	2-10-03	Amend	3-1-03
836-011-0200	11-27-02	Amend	1-1-03	837-012-0940	2-10-03	Amend	3-1-03
836-011-0210	11-27-02	Amend	1-1-03	837-020-0040	12-6-02	Amend	1-1-03
836-011-0220	11-27-02	Amend	1-1-03	837-020-0050	12-6-02	Amend	1-1-03
836-011-0230	11-27-02	Amend	1-1-03	837-020-0060	12-6-02	Amend	1-1-03
836-011-0500	11-27-02	Adopt	1-1-03	837-020-0080	12-6-02	Amend	1-1-03



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837-110-0007	2-1-03	Adopt	2-1-03	851-050-0131	12-17-02	Amend	2-1-03
837-110-0060	2-1-03	Amend	2-1-03	852-010-0027	12-18-02	Amend	2-1-03
837-110-0070	2-1-03	Amend	2-1-03	852-010-0051	12-18-02	Amend	2-1-03
837-110-0075	2-1-03	Adopt	2-1-03	852-050-0005	12-18-02	Amend	2-1-03
837-110-0140	2-1-03	Amend	2-1-03	852-050-0018	12-18-02	Adopt	2-1-03
837-110-0150	2-1-03	Amend	2-1-03	855-041-0065	1-14-03	Amend	2-1-03
837-110-0155	2-1-03	Adopt	2-1-03	855-041-0205	3-1-03	Amend	2-1-03
839-016-0700	1-1-03	Amend	2-1-03	855-080-0021	1-14-03	Amend	2-1-03
839-016-0700	2-14-03	Amend	3-1-03	855-110-0005	1-14-03	Amend	2-1-03
845-004-0005	2-1-03	Amend	3-1-03	860-012-0010	12-9-02	Amend	1-1-03
845-006-0450	1-1-03	Amend	2-1-03	860-014-0023	12-6-02	Adopt(T)	1-1-03
845-015-0007	2-1-03	Am. & Ren.	3-1-03	860-016-0050	12-9-02	Amend	1-1-03
845-015-0010	2-1-03	Am. & Ren.	3-1-03	860-021-0335	12-9-02	Amend	1-1-03
845-015-0012	2-1-03	Am. & Ren.	3-1-03	860-027-0052	12-20-02	Amend	2-1-03
845-015-0020	2-1-03	Am. & Ren.	3-1-03	860-032-0001	2-12-03	Amend	3-1-03
845-015-0022	2-1-03	Am. & Ren.	3-1-03	860-032-0020	2-12-03	Amend	3-1-03
845-015-0025	2-1-03	Am. & Ren.	3-1-03	860-032-0610	12-9-02	Adopt	1-1-03
845-015-0027	2-1-03	Am. & Ren.	3-1-03	860-032-0620	12-9-02	Adopt	1-1-03
845-015-0028	2-1-03	Am. & Ren.	3-1-03	860-032-0630	12-9-02	Adopt	1-1-03
845-015-0030	2-1-03	Am. & Ren.	3-1-03	860-032-0640	12-9-02	Adopt	1-1-03
845-015-0032	2-1-03	Am. & Ren.	3-1-03	860-032-0650	12-9-02	Adopt	1-1-03
845-015-0035	2-1-03	ReNUMBER	3-1-03	860-032-0660	12-9-02	Adopt	1-1-03
845-015-0045	2-1-03	ReNUMBER	3-1-03	860-034-0250	12-9-02	Amend	1-1-03
845-015-0050	2-1-03	ReNUMBER	3-1-03	860-034-0394	12-20-02	Amend	2-1-03
845-015-0055	2-1-03	Am. & Ren.	3-1-03	860-034-0740	12-20-02	Amend	2-1-03
845-015-0060	2-1-03	ReNUMBER	3-1-03	860-036-0080	12-9-02	Amend	1-1-03
845-015-0065	2-1-03	Am. & Ren.	3-1-03	860-037-0075	12-9-02	Amend	1-1-03
845-015-0070	2-1-03	Am. & Ren.	3-1-03	918-001-0010	1-1-03	Amend	2-1-03
845-015-0075	2-1-03	Am. & Ren.	3-1-03	918-001-0036	1-1-03	Adopt	2-1-03
845-015-0078	2-1-03	Am. & Ren.	3-1-03	918-008-0100	1-1-03	Repeal	2-1-03
845-015-0080	2-1-03	Am. & Ren.	3-1-03	918-090-0900	1-1-03	Repeal	2-1-03
845-015-0085	2-1-03	Repeal	3-1-03	918-225-0610	1-1-03	Amend	2-1-03
845-015-0086	2-1-03	Am. & Ren.	3-1-03	918-225-0610(T)	1-1-03	Repeal	2-1-03
845-015-0090	2-1-03	ReNUMBER	3-1-03	918-225-0670	2-3-03	Amend	3-1-03
845-015-0091	2-1-03	Am. & Ren.	3-1-03	918-225-0760	1-1-03	Repeal	2-1-03
845-015-0092	2-1-03	Am. & Ren.	3-1-03	918-225-0900	2-3-03	Adopt	3-1-03
845-015-0093	2-1-03	ReNUMBER	3-1-03	918-225-0910	2-3-03	Adopt	3-1-03
845-015-0095	2-1-03	ReNUMBER	3-1-03	918-225-0920	2-3-03	Adopt	3-1-03
845-015-0096	2-1-03	ReNUMBER	3-1-03	918-225-0930	2-3-03	Adopt	3-1-03
845-015-0100	2-1-03	ReNUMBER	3-1-03	918-225-0940	2-3-03	Adopt	3-1-03
847-001-0010	1-27-03	Amend	3-1-03	918-225-0950	2-3-03	Adopt	3-1-03
847-008-0005	1-27-03	Amend	3-1-03	918-225-0960	2-3-03	Adopt	3-1-03
847-010-0051	1-27-03	Amend	3-1-03	918-225-0970	2-3-03	Adopt	3-1-03
847-010-0052	1-27-03	Amend	3-1-03	918-251-0090	1-1-03	Amend	2-1-03
847-010-0056	1-27-03	Amend	3-1-03	918-251-0090(T)	1-1-03	Repeal	2-1-03
847-020-0170	1-27-03	Amend	3-1-03	918-282-0017	1-1-03	Adopt	2-1-03
847-035-0030	1-27-03	Amend	3-1-03	918-282-0017(T)	1-1-03	Repeal	2-1-03
847-050-0020	1-27-03	Amend	3-1-03	918-282-0185	1-1-03	Adopt	2-1-03
847-050-0029	1-27-03	Amend	3-1-03	918-282-0185(T)	1-1-03	Repeal	2-1-03
847-050-0042	1-27-03	Amend	3-1-03	918-282-0290	1-1-03	Amend	2-1-03
847-080-0022	1-27-03	Amend	3-1-03	918-282-0290(T)	1-1-03	Repeal	2-1-03
848-030-0000	2-6-03	Amend	3-1-03	918-307-0000	1-1-03	Repeal	2-1-03
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850-010-0195	2-14-03	Adopt	3-1-03	918-308-0020(T)	1-1-03	Repeal	2-1-03
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918-308-0200	1-1-03	Amend	2-1-03	918-400-0380(T)	1-1-03	Repeal	2-1-03
918-308-0200(T)	1-1-03	Repeal	2-1-03	918-400-0385	1-1-03	Adopt	2-1-03
918-308-0210	1-1-03	Amend	2-1-03	918-400-0385(T)	1-1-03	Repeal	2-1-03
918-308-0210(T)	1-1-03	Repeal	2-1-03	918-400-0390	1-1-03	Adopt	2-1-03
918-400-0280	1-1-03	Amend	2-1-03	918-400-0390(T)	1-1-03	Repeal	2-1-03
918-400-0280(T)	1-1-03	Repeal	2-1-03	918-400-0395	1-1-03	Adopt	2-1-03
918-400-0333	1-1-03	Adopt	2-1-03	918-400-0395(T)	1-1-03	Repeal	2-1-03
918-400-0333(T)	1-1-03	Repeal	2-1-03	918-400-0780	1-1-03	Repeal	2-1-03
918-400-0335	1-1-03	Repeal	2-1-03	918-400-0800	1-1-03	Amend	2-1-03
918-400-0340	1-1-03	Amend	2-1-03	918-400-0800(T)	1-1-03	Repeal	2-1-03
918-400-0340(T)	1-1-03	Repeal	2-1-03	918-480-0005	4-1-03	Amend	2-1-03
918-400-0345	1-1-03	Repeal	2-1-03	918-480-0010	1-1-03	Amend	1-1-03
918-400-0350	1-1-03	Repeal	2-1-03	918-480-0010	1-10-03	Amend(T)	2-1-03
918-400-0355	1-1-03	Repeal	2-1-03	918-480-0010	4-1-03	Amend	2-1-03
918-400-0360	1-1-03	Repeal	2-1-03	918-480-0010(T)	1-1-03	Repeal	1-1-03
918-400-0365	1-1-03	Repeal	2-1-03	918-480-0020	4-1-03	Amend	2-1-03
918-400-0370	1-1-03	Repeal	2-1-03	918-650-0085	1-1-03	Repeal	2-1-03
918-400-0375	1-1-03	Repeal	2-1-03	918-785-0030	1-1-03	Repeal	2-1-03